


# Information Society Project Yale Law School

**2017-2018**

## **Accomplishment Book**

Compiled by Rebecca Crootof and Leah Ferentinos

A large, light blue, 3D geometric graphic that resembles a stylized, open book or a series of overlapping planes. It has a central rectangular area where the text is located. The graphic is composed of several flat, light blue surfaces that meet at sharp edges, creating a sense of depth and perspective. The overall shape is elongated horizontally.

**2017-2018**

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# People

# Information Society Project at Yale Law School

## 2017-2018 Directors, Staff, and Fellows

### **Directors and Staff**

- **Jack M. Balkin**, Director, Information Society Project; Knight Professor of Constitutional Law and the First Amendment, Yale Law School
- **Rebecca Crootof**, Executive Director, Information Society Project; Research Scholar and Lecturer in Law, Yale Law School
- **Heather Branch**, Program Administrator and Event Coordinator
- **Natasha Rentas**, Program Coordinator and Business Manager

### **Resident Fellows**

- |                      |                    |
|----------------------|--------------------|
| • Kamel Ajji         | • Alyssa King      |
| • Sandra Baron       | • Kate Klonick     |
| • Hannah Bloch-Webha | • John Langford    |
| • Antonio Davola     | • Tiffany Li       |
| • Nick Frisch        | • Anot Lior        |
| • Samantha Godwin    | • Asaf Lubin       |
| • Mateusz Grochowski | • Torey McMurdo    |
| • Claudia Haupt      | • Aradhya Sethiya  |
| • Thomas Kadri       | • Rupali Sharma    |
| • Cortelyou Kenney   | • Helena Ursic     |
| • Ido Kilovaty       | • Quirin Weinzierl |

## **Visiting Fellows**

- Maria Bastashevski
- Belabbes Benkredda
- Kiel Brennan-Marquez
- Andrew Burt
- Jonathan Cardenas
- Ignacio Cofone
- Roger Ford
- Kyle Gibson
- Shubha Gokhale
- Aaron Goldzimer
- Eric Hovenkamp
- Aditi Joshi
- Argyro Karanasiou
- Lina Khan
- David Kim
- Mike Kwet
- Andrew Losowsky
- Avi Marciano
- Mason Marks
- Peter Maybarduk
- William New
- Bilyana Petkova
- Baljeet Sandhu
- Joseph Schwerha
- Andrew Selbst
- Amada Shanor
- Priscilla Smith
- Ramesh Subramanian
- Nabiha Syed
- Nafees Syed
- Gabriel Teninbaum
- Stephanie Toti
- Patricia Vargas Leon
- Rebecca Wexler
- Shlomit Yanisky-Ravid
- Elana Zeide

### **ISP Student Fellows**

- Patrick Baker
- Miriam Becker-Cohen
- Simon Brewer
- John Brinkerhoff
- Eric Brooks
- Gabriella Capone
- Sara Cervantes
- Rebecca Chan
- Catherine Cooke
- Mark Dore
- Allison Douglis
- Sasha Dudding
- Alexandra Eynon
- Kyle Elliot Fees
- Mailyn Fidler
- Beth Mara Goldberg
- Anna Gonzalez
- Jeff Guo
- Christopher Haugh
- Bethany Hill
- Shlomo Klapper
- Aislinn Klos
- Meenu Krishnan
- Steven Lance
- Ruth Lazenby
- Diana Lee
- Brandon Levin
- Ned Levin
- Sarah Levine
- Nathan Leys
- Catherine Martinez
- Abby McCourt
- Laura McCreedy
- Michael Morse
- Brian Mund
- David Murdter
- Nora Niesielski-Eichner
- Paulina Perlin
- Shannon Price
- Varsha Raghavan
- Morgane Richer La Fleche
- Brandon Sadowsky
- Charlie Seidell
- Elliot Setzer
- Harrison Stark
- Delbert Tran
- Georgia Travers
- Camila Vega
- David Walchak
- George Wang
- Anna Windemuth
- Alda Yuan
- Chuhan Zhang

### **Knight Law and Media Scholars**

- Patrick Baker, 2018
- John Brinkerhoff, 2018
- Mark Dore, 2018
- Allison Douglass, 2018
- John Ehrett, 2017
- Anna Gonzalez, 2018
- Alexandra Gutierrez, 2018
- Bethany Hill, 2018
- Meenu Krishnan, 2018
- Steve Lance, 2018
- David Murdter, 2018
- Yuriy Melnyk, 2017
- Nora Niedzielski-Eichner, 2018
- Daniela Nogueria, 2017
- Ben Picozzi, 2017
- Rumela Roy, 2017
- Brandon Sadowsky, 2018
- Stephen Stich, 2017
- Delbert Tran, 2018
- Andrew Udelsman, 2017
- Corinne Waite, 2017
- David Walchak, 2018
- Beatrice Walton, 2018
- Ethan Wong, 2017
- Jacob Zionce, 2018

### **Yale University Affiliates**

- Logan Beirne
- Louisa deCossy
- Jason Eiseman
- Joan Feigenbaum
- Michael Fischer
- Vali Gazula
- Susan Gibbons
- Bonnie Kaplan
- Sean O'Brien
- Limor Peer
- Thomas Pogge
- Brad Rosen
- Christina Spiesel
- Xiyin Tang
- Graham Webster
- Tina Weiner

# Resident Fellow Accomplishments<sup>1</sup>

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<sup>1</sup> This section includes only information shared with the compilers; it is not a full listing of all ISP resident fellow accomplishments for this time period.



## **Law Review Articles**

Kamel Aji (trans.), *Frank Pasquale, Deux Récits du Capitalisme de Plateforme* (forthcoming 2018).

Rebecca Crootof, *An Internet of Torts* (manuscript).

Rebecca Crootof, [\*International Cybertorts: Expanding State Accountability in Cyberspace\*](#), 103 CORNELL L. REV. 565 (2018).

Rebecca Crootof, [\*Autonomous Weapon Systems and the Limits of Analogy\*](#), 9 HARV. NAT'L SEC. J. 51 (2018).

Hannah Bloch-Wehba, [\*Exposing Secret Searches: A First Amendment Right of Access to Electronic Surveillance Orders\*](#), 93 WASH. L. REV. 145 (2018).

Samantha Godwin, [\*Public Health and Equality in Driverless Car Regulation\*](#), 85 TENN. L. REV. (forthcoming 2018).

Mateusz Grochowski, [\*Spontaneous Order in the Sharing Economy? A Research Agenda\*](#), 13 STUD. IN PRIVATE LAW 75 (2015).

Kate Klonick, [\*The New Governors: The People, Rules, and Process Governing Online Speech\*](#), 131 HARV. L. REV. 1598 (2018).

Alyssa King, *Arbitration and the Federal Balance*, 94 INDIANA L.J. 1447 (forthcoming 2018).

Alyssa King, [\*Too Much Power and Not Enough: Arbitrators Face the Class Dilemma\*](#), 21 LEWIS & CLARK L. REV. 1031 (2018).

Tiffany Li, [\*Humans Forget, Machines Remember: Artificial Intelligence and the Right To Be Forgotten\*](#), 34 COMPUTER SECURITY L. REV. 2 (2018) (with Eduard Fosch Villaronga & Peter Kieseberg).

Asaf Lubin, [\*The Dragon-Kings Restraint: Proposing a Compromise for the EEZ Surveillance Conundrum\*](#), 57 WASHBURN L.J. 17 (2018).

Asaf Lubin, [\*'We Only Spy on Foreigners': The Myth of a Universal Right to Privacy and the Practice of Foreign Mass Surveillance\*](#), 18(2) CHI. J. INT'L L. 502 (2018).

Asaf Lubin, [\*A Principled Defence of the International Human Right to Privacy: A Response to Frédéric Sourgens\*](#), 42(2) YALE J. INT'L. L. ONLINE 1 (2018).

Asaf Lubin, *Queen's Gambit Accepted: The Sovereign Right to Spy*, AM. J. INT'L L. (forthcoming 2018).

Asaf Lubin, *Blind Oracles: Regulating Intelligence Gathering, Analysis, and Verification for Conducting Wartime Aerial Strikes* (manuscript).

Asaf Lubin, *Hacking in the Fight Against Terrorism: Israeli, Comparative, and International Perspectives*, HUKIM L. J. (forthcoming 2018) (in Hebrew).

## **Book Chapters**

Kamel Ajjī, *Saving French Democracy: The Fight Against Fake News Act*, in *FUNDAMENTAL RIGHTS ONLINE: THE FUTURE OF INTERMEDIARIES* (forthcoming 2018).

Rebecca Crootof, *Jurisprudential Space Junk: Treaties and New Technology*, in *LIBOR AMICORUM* (Chiara Giorgetti & Natalie Klein, eds.) (forthcoming 2019).

Rebecca Crootof, [\*Regulating New Weapons Technology\*](#), in *NEW TECHNOLOGIES AND THE LAW OF ARMED CONFLICT* (Eric Talbot Jensen, ed.) (forthcoming 2018).

Samantha Godwin, [\*A Liberal Response to Group Rights\*](#), in *EXPLORING THE POLITICAL ECONOMY & SOCIAL PHILOSOPHY OF F.A. HAYEK* (Peter J. Boettke, Jayme Lemke, Virgil Storr, eds., Rowman & Littlefield, 2018).

Asaf Lubin, [\*Cyber Law and Espionage Law as Communicating Vessels\*](#), in *PROCEEDINGS OF THE 10TH INTERNATIONAL CONFERENCE ON CYBER CONFLICT, CYCON X: MAXIMISING EFFECTS [203]* (T. Minárik, R. Jakschis & L. Lindström, eds., 2018).

Asaf Lubin, [\*Politics, Power Dynamics, and the Limits of Existing Self-Regulation and Oversight in ICC Preliminary Examinations\*](#), in *QUALITY CONTROL IN PRELIMINARY EXAMINATIONS: REVIEWING IMPACT, POLICIES, AND PRACTICES* (Morten Bergsmo & Carsten Stahn, eds., forthcoming 2018).

Asaf Lubin, *The Sovereign Right to Spy*, in *PROCEEDINGS OF THE 112<sup>TH</sup> ASIL ANNUAL MEETING* (forthcoming 2018).

## **Blogposts, Op-Eds, and Other Popular Writing**

Kamel Ajjī, [\*La Fiducie Informationnelle: Une Réponse Juridique Pertinente à l'Emprise des Géants du Numérique? Les Apports de la Théorie de Jack Balkin\*](#), *JUS POLITICUM* (2018), <http://blog.juspoliticum.com/2018/05/24/la-fiducie-informationnelle-une-reponse-juridique-pertinente-a-lemprise-des-geants-du-numerique-les-apports-de-la-theorie-de-jack-balkin-par-kamel-ajji/>.

Rebecca Crootof, [\*Accountability for the Internet of Torts\*](#), *LAW & POLITICAL ECONOMY* (2018), <https://lpeblog.org/2018/07/17/accountability-for-the-internet-of-torts/>.

Rebecca Crootof, [Introducing the Internet of Torts](https://lpeblog.org/2018/07/16/introducing-the-internet-of-torts/), LAW & POLITICAL ECONOMY BLOG (2018), <https://lpeblog.org/2018/07/16/introducing-the-internet-of-torts/>.

Hannah Bloch-Wehba, [How Much of Your Online Life Should Police Have Access To? SCOTUS Prepares to Weigh In](https://www.vox.com/the-big-idea/2017/11/22/16687420/fourth-amendment-online-searches-constitution-facebook-gag-orders), VOX (2017), <https://www.vox.com/the-big-idea/2017/11/22/16687420/fourth-amendment-online-searches-constitution-facebook-gag-orders>.

Nick Frisch, [The Bolsheviks in Beijing: What the Chinese Communist Party Learned From Lenin](https://www.foreignaffairs.com/articles/china/2017-10-18/bolsheviks-beijing), FOR. AFF. (2017), <https://www.foreignaffairs.com/articles/china/2017-10-18/bolsheviks-beijing>.

Nick Frisch, [For the Chinese Media, Trump's Visit Was the Easiest Since Nixon](https://www.newyorker.com/news/news-desk/chinese-media-trump-visit-easiest-since-nixon), NEW YORKER (2017), <https://www.newyorker.com/news/news-desk/chinese-media-trump-visit-easiest-since-nixon>.

Nick Frisch, [What if You Couldn't See This Page?](https://www.nytimes.com/2017/12/14/opinion/net-neutrality-china-internet.html), N.Y. TIMES (2017), <https://www.nytimes.com/2017/12/14/opinion/net-neutrality-china-internet.html>.

Nick Frisch, [The Gripping Stories, and Political Allegories, of China's Best-Selling Author](https://www.newyorker.com/books/page-turner/the-gripping-stories-and-political-allegories-of-chinas-best-selling-author), NEW YORKER (2018), <https://www.newyorker.com/books/page-turner/the-gripping-stories-and-political-allegories-of-chinas-best-selling-author>.

Thomas E. Kadri, [Speech vs. Speakers](https://slate.com/technology/2018/01/twitters-new-rules-blur-the-line-between-extremists-speakers-and-their-speech.html), SLATE (2018), <https://slate.com/technology/2018/01/twitters-new-rules-blur-the-line-between-extremists-speakers-and-their-speech.html>.

Kate Klonick, [The Supreme Court Takes on the Police Use of Cellphone Records](https://www.nytimes.com/2018/06/22/opinion/carpenter-supreme-court-cellphone-records.html), N.Y. TIMES (2018) (with Alex Abdo), <https://www.nytimes.com/2018/06/22/opinion/carpenter-supreme-court-cellphone-records.html>.

Kate Klonick, [Facebook Released Its Content Moderation Rules. Now What?](https://www.nytimes.com/2018/04/26/opinion/facebook-content-moderation-rules.html), N.Y. TIMES (2018), <https://www.nytimes.com/2018/04/26/opinion/facebook-content-moderation-rules.html>.

Kate Klonick, [The Civics of Facebook](https://slate.com/technology/2018/04/fixing-facebook-will-require-us-all-to-be-better-internet-citizens.html), SLATE (2018), <https://slate.com/technology/2018/04/fixing-facebook-will-require-us-all-to-be-better-internet-citizens.html>.

Kate Klonick, [Why the History of Content Moderation Matters](https://www.techdirt.com/articles/20180129/21074939116/why-history-content-moderation-matters.shtml), TECHDIRT (2018), <https://www.techdirt.com/articles/20180129/21074939116/why-history-content-moderation-matters.shtml>.

Kate Klonick, [Democratic Culture is More than Mere Voting](https://www.cato-unbound.org/2017/12/14/kate-klonick/democratic-culture-more-mere-voting), CATO UNBOUND (2017), <https://www.cato-unbound.org/2017/12/14/kate-klonick/democratic-culture-more-mere-voting>.

Kate Klonick, [The Terrifying Power of Internet Censors](https://www.nytimes.com/2017/09/13/opinion/cloudflare-daily-stormer-charlottesville.html), N.Y. TIMES (2017), <https://www.nytimes.com/2017/09/13/opinion/cloudflare-daily-stormer-charlottesville.html>.

Kate Klonick, [The Most Important Lesson From the Leaked Facebook Content Moderation Documents](http://www.slate.com/blogs/future_tense/2017/06/29/the_most_important_lesson_to_learn_about_facebook_content_moderation.html), SLATE (2017), [http://www.slate.com/blogs/future\\_tense/2017/06/29/the\\_most\\_important\\_lesson\\_to\\_learn\\_about\\_facebook\\_content\\_moderation.html](http://www.slate.com/blogs/future_tense/2017/06/29/the_most_important_lesson_to_learn_about_facebook_content_moderation.html).

Kate Klonick & Margot Kaminski, [Facebook, Free Expression and the Power of a Leak](#), N.Y. TIMES (2017).

Tiffany Li, [China's Influence on Digital Privacy Could be Global](https://www.washingtonpost.com/news/theworldpost/wp/2018/08/07/china-privacy/?utm_term=.4f27c002da6d), WASH. POST (2018), [https://www.washingtonpost.com/news/theworldpost/wp/2018/08/07/china-privacy/?utm\\_term=.4f27c002da6d](https://www.washingtonpost.com/news/theworldpost/wp/2018/08/07/china-privacy/?utm_term=.4f27c002da6d).

Tiffany Li & Mason Marks, [All Secrets Revealed in DNA Testing. Still Want to Do It?](https://www.houstonchronicle.com/opinion/outlook/article/All-secrets-revealed-in-DNA-testing-Still-want-13138998.php), HOUS. CHRON. (2018), <https://www.houstonchronicle.com/opinion/outlook/article/All-secrets-revealed-in-DNA-testing-Still-want-13138998.php>.

Tiffany Li & Mason Marks, [DNA Donors Must Demand Stronger Protection for Genetic Privacy](https://www.statnews.com/2018/05/30/dna-donors-genetic-privacy-nih/), STAT NEWS (2018), <https://www.statnews.com/2018/05/30/dna-donors-genetic-privacy-nih/>.

Tiffany Li, [The Net Neutrality Vote Was About the Future of American Democracy and the Fate of Fake News](https://www.nbcnews.com/think/opinion/net-neutrality-vote-about-future-american-democracy-fate-fake-news-ncna874691), NBC NEWS (2018), <https://www.nbcnews.com/think/opinion/net-neutrality-vote-about-future-american-democracy-fate-fake-news-ncna874691>.

Tiffany Li, [Tips for Privacy Pros After the Cambridge Analytica Revelations](https://iapp.org/news/a/tips-for-privacy-pros-after-cambridge-analytica-revelations/), IAPP PRIVACY ADVISOR (2018), <https://iapp.org/news/a/tips-for-privacy-pros-after-cambridge-analytica-revelations/>.

Tiffany Li, [After the Cambridge Analytica Facebook Scandal, Here's What Mark Zuckerberg Must Do to Save His Company](https://www.nbcnews.com/think/opinion/after-cambridge-analytica-facebook-scandal-here-s-what-mark-zuckerberg-ncna861496), NBC NEWS (2018), <https://www.nbcnews.com/think/opinion/after-cambridge-analytica-facebook-scandal-here-s-what-mark-zuckerberg-ncna861496>.

Tiffany Li, [Who Is to Blame for the Cambridge Analytica-Facebook Scandal?](https://slate.com/technology/2018/03/who-is-to-blame-for-the-cambridge-analytica-facebook-scandal.html), SLATE (2018), *available at* <https://slate.com/technology/2018/03/who-is-to-blame-for-the-cambridge-analytica-facebook-scandal.html>.

Tiffany Li, [That Netflix Tweet Wasn't Creepy. Reality Is](https://www.washingtonpost.com/news/posteverything/wp/2017/12/14/that-netflix-tweet-wasnt-creepy-reality-is/), THE WASHINGTON POST (2017), <https://www.washingtonpost.com/news/posteverything/wp/2017/12/14/that-netflix-tweet-wasnt-creepy-reality-is/>.

Anat Lior, [The Technological "Gaydar" – The Problems with Facial Recognition AI](https://yjolt.org/blog/technological-gaydar-problems-facial-recognition-ai), YALE J. L. & TECH. WEBSITE (2018), <https://yjolt.org/blog/technological-gaydar-problems-facial-recognition-ai>.

Asaf Lubin, [Newly Disclosed Documents on the Five Eyes Alliance and What They Tell Us about Intelligence-Sharing Agreements](https://www.lawfareblog.com/newly-disclosed-documents-five-eyes-alliance-and-what-they-tell-us-about-intelligence-sharing), LAWFARE (2018) (with others), <https://www.lawfareblog.com/newly-disclosed-documents-five-eyes-alliance-and-what-they-tell-us-about-intelligence-sharing>.

Asaf Lubin, [A Roadmap for the Cross-Border Data Transfers Debate](https://csrcl.huji.ac.il/people/roadmap-cross-border-data-transfers-debate), HUJI CYBER SECURITY RESEARCH CENTER BLOG (2017), <https://csrcl.huji.ac.il/people/roadmap-cross-border-data-transfers-debate>.

Asaf Lubin, [Foreign Surveillance and Anti-Discrimination: The Justifications for Applying Different Safeguards for Extraterritorial Surveillance](https://csrcl.huji.ac.il/people/foreign-surveillance-and-anti-discrimination-justifications-applying-different), HUJI CYBER SECURITY RESEARCH CENTER BLOG (2017), <https://csrcl.huji.ac.il/people/foreign-surveillance-and-anti-discrimination-justifications-applying-different>.

Asaf Lubin, [The Complete Guide to International Law and Surveillance](#), PRIVACY INTERNATIONAL (2017).

Asaf Lubin, [The European Court of Human Rights Legitimizes Foreign Mass Surveillance](#), JUST SECURITY (2018, forthcoming).

## **Reports**

Rebecca Crotoft, [The Malicious Use of Artificial Intelligence](#) (2018) (with Miles Brundage et al.).

Nicholas Frisch, Valerie Belair-Gagnon, Colin Agur, et. al., [Mobile Sourcing: A Case Study of Journalistic Norms and Usage of Chat Apps](#) (2017).

Tiffany Li, [Beyond Intermediary Liability: The Future of Information Platforms Workshop Report](#) (2018).

## **Presentations**

Kamel Aji, [\*Facebook, Cambridge Analytica and Information Fiduciaries with Jack Balkin and Kamel Aji\*](#), TECH EMPIRE, 2018.

Kamel Aji, *Le Concept de Fiducie Informationnelle, La Théorie Juridique au Bénéfice de la Régulation des Plateformes Numériques*, Rencontres Perelman—Villey 2018, Université Libre de Bruxelles, 2018 (panelist).

Kamel Aji, *Reining in the Digital Sovereigns: A Proposal*, Yale Whitney Humanities Center, 2018.

Kamel Aji, Bilyana Petkova's "Privacy as Europe's First Amendment," Freedom of Expression Scholars Conference (FESC VI), Yale Law School, 2018 (discussant).

Rebecca Crootof, *An Internet of Torts*, Data & Society, 2018 (paper presentation).

Rebecca Crootof, *An Internet of Torts*, We Robot, Stanford Law School, 2018 (paper presentation).

Rebecca Crootof, *The Challenges of Regulating New Technologies*, Yale Young Global Scholars, Yale University, 2018.

Rebecca Crootof, *The Challenges of Regulating New Technologies*, International Relations Symposium, Yale University, 2018.

Rebecca Crootof, *Digital Fiduciaries Act of 2018 – Drafting Workshop*, Berkman Klein Center and Information Society Project, Harvard Law School, 2018 (organizer and participant).

Rebecca Crootof, [\*Army of None: Autonomous Weapons and the Future of War by Paul Scharre\*](#), Book Launch, Center for a New American Security, 2018 (panelist).

Rebecca Crootof, *The Limits of the Law*, We Robot, Stanford Law School, 2018 (panelist).

Rebecca Crootof, *Torts and New Technologies*, Political Economy of Technology Roundtable, Yale Law School, 2018 (organizer and paper presentation).

Rebecca Crootof, *Lethal Autonomous Weapon Systems and International Law: The Next Frontier*, Brookings Institution, the Hague Municipality, and the Embassy of the Netherlands, 2018 (participant).

Rebecca Crootof, *Is Existing Law Sufficient? A Debate on How Best to Regulate Autonomous Weapon Systems*, Center for Global Legal Challenges, Yale Law School, 2018 (debating Maj. Gen. Charles Dunlap, Jr.).



Rebecca Crootof, [\*High-Level Hearing on “Public Policy for Artificial Intelligence”\*](#), European Political Strategy Centre, European Commission Headquarters, 2018 (invited expert).

Rebecca Crootof, *Autonomy in Context*, Defining Autonomous Weapon Systems Workshop, Permanent Representations of Germany and France to the Conference on Disarmament, Geneva, 2018 (panelist).

Rebecca Crootof, [\*Cyberspace and the Law of Armed Conflict\*](#), 27th National Security Law Conference, American Bar Association Standing Committee on Law and National Security, 2017 (panelist).

Rebecca Crootof, [\*Regulating Artificial Intelligence\*](#), Artificial Intelligence and Global Security Summit, Center for a New American Security, 2017.

Rebecca Crootof, *Regulating New Weapons Technologies*, Impact of Emerging Technologies on the Law of Armed Conflict, Lieber Institute for Law and Land Warfare, U.S. Military Academy at West Point, 2017 (paper presentation).

Rebecca Crootof, *Targeted Trust: A Workshop on the Nature and Role of Trust in Autonomous Weapon System Development*, University of Ottawa, 2017 (invited expert).

Hannah Bloch-Wehba, *Fourth Amendment Transparency*, Privacy Law Scholars Conference, George Washington University Law School, 2018.

Hannah Bloch-Wehba, *Access to Algorithms*, Mid-Atlantic Junior Faculty Forum, University of Richmond School of Law, 2018.

Hannah Bloch-Wehba, *Access to Algorithms*, Artificial Intelligence and the Law Conference, Seton Hall Law School, 2018 (panelist).

Hannah Bloch-Wehba, *Global Speech Governance*, All Things in Moderation: The People, Practices and Politics of Online Content Review – Human and Machine, UCLA, 2017 (panelist).

Hannah Bloch-Wehba, *Global Speech Governance*, Freedom of Expression Scholars Conference, Yale Law School, 2018.

Hannah Bloch-Wehba, *Global Speech Governance*, Internet Law Scholars Work-In-Progress Conference, New York Law School, 2018.

Hannah Bloch-Wehba, *Secrecy and Accountability in the Age of Algorithms*, Trade Secrets Institute Symposium, Brooklyn Law School, 2018 (panelist).

Hannah Bloch-Wehba, *Law Enforcement Accountability*, Access & Accountability Conference, Yale Law School, 2017 (panelist).

Hannah Bloch-Wehba, *Nuts and Bolts of FOIA Litigation*, Progressive Litigation Roundtable FOIA Training, Lawyers Committee for Civil Rights Under Law, 2017 (panelist).

Hannah Bloch-Wehba, *Principles of the Law, Data Economy*, American Law Institute/European Law Institute, 2018 (adviser).

Samantha Godwin, *Pathologizing or Rationalizing: Investigating Theories of Diminished Agency and Paternalist Policy Preferences*, Institution for Social Policy Studies, Yale University, 2018 (paper presentation).

Samantha Godwin, *Children, Parents and Democratic Rights*, Family Law Teachers and Scholars, Cardozo Law School, 2018 (paper presentation).

Samantha Godwin, *Moral Universalism and Identitarianism*, Law and Society Association, Feminist Legal Theory Collaborative Research Network, 2018 (paper presentation).

Samantha Godwin, *Moral Universalism and Identitarianism*, Association for the Study of Law, Culture, and the Humanities, Georgetown University Law Center, 2018 (paper presentation).

Samantha Godwin, *Moral Universalism and Identitarianism*, American Political Science Association, Normative Political Theory division, 2017 (paper presentation).

Mateusz Grochowski, *Sharing Economy and Privately-Created Default Rules*, Barry Law School, 2018 (panelist).

Mateusz Grochowski, *Allies or Rivals? Blockchain, Smart Contracts and Default Rules*, The ABCs of Modern Technological Challenges: AI, Blockchain, Cyber, and More, Yale Law School, 2018 (panelist).

Mateusz Grochowski, *Symposium on Personalized Law*, The University of Chicago Law School, 2018 (moderator).

Thomas E. Kadri, *Digital Fiduciaries Act of 2018 – Drafting Workshop*, Berkman Klein Center and Information Society Project, Harvard Law School, 2018 (participant).

Thomas E. Kadri, *Cybercrime*, New York Law School London Program, New York Law School, 2018.



Thomas E. Kadri, *Drawing Trump Naked: Curbing the Right of Publicity to Protect Cultural Democracy*, Freedom of Expression Scholars Conference, Yale Law School, 2018 (panelist and discussant).

Thomas E. Kadri, *Graffiti, Speech, and Crime*, Freedom of Expression Scholars Conference, Yale Law School, 2018 (discussant).

Thomas E. Kadri, *The Right of Publicity*, Trademark Seminar, Seton Hall Law School, 2018 (guest speaker).

Alyssa King, *Arbitration and the Federal Balance*, Younger Comparativists Conference, 2018.

Kate Klonick, *State of Field Workshop on Digital Technology*, Columbia School of International & Public Affairs, 2018 (panelist).

Kate Klonick, *Information Disorder*, Harvard Law School, 2018.

Kate Klonick, *AI & Algorithms*, European University Institute, 2018.

Kate Klonick, *Facebook v. Sullivan*, Freedom of Expression Scholars Conference, Yale Law School, 2018.

Kate Klonick, *Hackathon on Harmful Speech*, Harvard Law School, 2018 (invited discussion leader).

Kate Klonick, *Privacy's Blueprint Book Workshop*, Notre Dame Law School, 2018 (participant).

Kate Klonick, *Social Media and National Security*, Stanford Law School & Hoover Inst., 2018.

Kate Klonick, *Content Moderation and Removal at Scale*, University of Santa Cruz Law School, 2018 (moderator).

Kate Klonick, *Who's Afraid of Online Speech?*, New America and Future Tense, 2018 (panelist).

Kate Klonick, *Hearing on Algorithms and Content Moderation in Online Speech Platforms*, United States House Subcommittee on Communications and Technology, 2017, Official Witness Testimony.

Kate Klonick, *Digital Impact: New York City*, Stanford Digital Civil Society Lab, 2017 (panelist).

Kate Klonick, *Free Speech, Hate Speech: Regulating Online Conversations*, New School, 2017 (panelist).

Kate Klonick, *New Governors: The People, Rules, and Processes Governing Online Speech*, Academic Workshop, Northwestern Law School, 2017 (paper presentation).

Kate Klonick, *New Governors: The People, Rules, and Processes Governing Online Speech*, Academic Workshop, University of Chicago Law School, 2017 (paper presentation).

Kate Klonick, *New Governors: The People, Rules, and Processes Governing Online Speech*, Fellows Workshop, Georgetown University Law Center, 2017 (paper presentation).

Kate Klonick, *New Governors: The People, Rules, and Processes Governing Online Speech*, Data & Society, 2017 (paper presentation).

Tiffany Li, *Twitter Email Cambridge Analytica Scandal Causes Trouble for Facebook*, Radio Times, WHYY Philadelphia, 2018.

Tiffany Li, *The Legal and Public Policy Framework for Content Moderation*, Content Moderation at Scale (COMO) Summit, 2018 (keynote speaker).

Tiffany Li, *Facebook, Cambridge Analytica, and the Law*, Yale Law School, 2018 (panelist and organizer).

Tiffany Li, *Brave New World: Providing Advice When Innovation Outpaces the Law*, Brands and Innovation Conference, International Trademark Association, 2018 (panelist).

Tiffany Li, *The “Monkey Selfie” Case: Can Non-Humans Hold Copyrights?*, Berkman Klein Luncheon Series, Harvard Law School, 2018 (panelist).

Tiffany Li, *Beyond Intermediary Liability Workshop*, Yale Law School, 2018 (organizer).

Tiffany Li, *Internet Speech: Truth, Trust, Transparency, and Tribalism*, State of the Net Conference, Internet Education Foundation, 2018 (moderator).

Tiffany Li, *Fake News, Free Speech, and Foreign Influence: The Smart Way the United States Can Combat Disinformation*, Human Rights First, 2018 (panelist).

Tiffany Li, *DNA Kits and You: How a Fourth Cousin Puts Your Genetic Data at Risk*, Technology for Normal People, 2018.

Tiffany Li, *Intermediaries in a Nutshell*, TechFreedom Tech Policy Podcast, 2018.

Tiffany Li, *Medium-Size It*, This Week in Law, This Week in Tech Network, 2018.

Tiffany Li, *Navigating Disruptive Technologies*, Intellectual Property Law – West, American Bar Association, 2017 (panelist).

Tiffany Li, *Introducing the Wikimedia/YLS Initiative on Intermediaries and Information*, ISP Ideas Talks, Yale Law School, 2017 (speaker).

Tiffany Li, *New ISP Initiatives*, ISP 20<sup>th</sup> Anniversary Reunion, Yale Law School, 2017 (panelist).

Tiffany Li, *Nobody Deletes Tiffany Li*, Tech Policy Grind, 2017.

Tiffany Li, *AI and Memory*, Inside Out Security, 2017.

Tiffany Li, *Artificial Intelligence – A Survey of the Policy Landscape*, WashingTech Policy Podcast, 2017 (featured guest).

Tiffany Li, *Partying with The Big Hairy Guy*, This Week in Law, This Week in Tech Network, 2017.

Tiffany Li, *The Right to Be Forgotten with Yale Law School's Tiffany Li*, The CyberWire, 2017.

Asaf Lubin, *Cyber Law and Espionage Law as Communicating Vessels*, 10<sup>th</sup> International Conference on Cyber Conflict (CyCon), NATO Cooperative Cyber Defence Centre of Excellence, 2018 (panelist).

Asaf Lubin, *Espionage and International Law*, Yale Naval Reserve Officers Training Course (NROTC) Leadership Conference, NROTC, 2018 (workshop leader and invited speaker).

Asaf Lubin, *The Sovereign Right to Spy*, 112<sup>th</sup> Annual Meeting New Voices Panel, American Society of International Law (ASIL), 2018 (panelist).

Asaf Lubin, *Human Rights and International Law*, International Relations Symposium at Yale, Yale International Relations Association, 2018.

Asaf Lubin, *Comity and the Information Society*, Internet Law Works-in-Progress Conference, The Innovation Center for Law and Technology, New York Law School & the HighTech Law Institute, Santa Clara University School of Law, 2018 (panelist).

Asaf Lubin & Sandra Baron, *Extraterritorial Enforcement: Developing Norms for the Information Society*, Yale Information Society Project, 2018 (event organizer and panel moderator for “Clashing Visions for Control Over the Internet”).

Asaf Lubin, *Introduction to International Law*, Yale Day Master Lecture, Yale Model United Nations XLIV Conference, Yale International Relations Association, 2018.

Asaf Lubin, *Blind Oracles: Regulating Intelligence Gathering, Analysis, and Verification for Conducting Wartime Aerial Strikes*, 8<sup>th</sup> Midyear Meeting, American Society of International Law (ASIL), 2017 (panelist).

Asaf Lubin, *Tinker, Tailor, Lawyer, Spy: Espionage and International Law*, Residential College Seminar, Yale College, 2017-2018.

# Conferences

# ISP 20th Year Reunion

October 6-7, 2017

## New ISP Initiatives

Moderator: **Rebecca Crootof**  
**Nimrod Kozlovski**, ISP Israel  
**Tiffany Li**, Will  
**Sean O'Brien**, Privacy Lab

## Express Yourself

Moderator: **Claudia Haupt**  
**Colin Agur**, *Mobile Social Media, Activism, and Social Change*  
**Ignacio Cofone**, *Anti-discriminatory Privacy*  
**Jean-Philippe Foegle**, *Whistleblowing, Leaks, and Official Secrecy*  
**Ramesh Subramanian**, *The Jallikattu Protests of Tamil Nadu*

## Robots, Algorithms, and AI, Oh My!

Moderator: **Kate Klonick**  
**Robert Heverly**, *Cyborgs: Law and Human Augmentation*  
**Nimrod Kozlovski**, *Algorithmic Scoring*  
**Christina Mulligan**, *Revenge Against Robots*  
**Shlomit Yanisky Ravid**, *Generating Rembrandt*

## New Techs, New Harms

Moderator: **Ido Kilovaty**  
**BJ Ard**, *Fair Use as Penalty Default*  
**Caio Pereira Neto**, *The Brazilian Plan for the IoT*  
**David Thaw**, *Managing Electoral Cyber Risk*  
**Rebecca Wexler**, *Life, Liberty, and Trade Secrets*

# Access and Accountability Conference: A Conference for Transparency Advocates

**October 27-28, 2017**

This conference brought together transparency advocates of all stripes to identify current impediments to government openness and to develop strategies for addressing them. Law school clinicians from around the country, together with investigative journalists, academics, practicing lawyers and law students, explored some of the most urgent transparency issues in the areas of law enforcement, national security and surveillance, government data and personal privacy, and newsgathering rights. The conference was designed to facilitate the development of ongoing relationships, cooperation, and collaboration among practitioners, journalists, and law school faculties to promote accountability and transparency in government.

*Sponsored by the Democracy Fund, the John S. and James L. Knight Foundation, the Lodestar Foundation, and the Oscar M. Ruebhausen Fund.*

**October 27, 2017**

## **Rethinking Oversight & Accountability (Keynote)**

**David Pozen**, Columbia University  
Discussant: **Jen Bishop**, Hearst

## **Newsgathering Rights**

A discussion of access litigation as a tool for investigative reporting, effective and innovative theories to enable news gatherers and protect their sources, and to facilitate the use of new technologies, including the use of cameras and drones in newsgathering.

Moderator: **David Schulz**, MFIA Clinic  
**Seth Kreimer**, University of Pennsylvania  
**Thomas Leatherbury**, Vinson & Elkins  
**Ronnell Anderson Jones**, University of Utah College of Law  
**Lee Rowland**, ACLU

### **Law Enforcement Accountability**

A discussion of ways to improve transparency of law enforcement agencies and activities, including methods to achieve access to police cameras, police disciplinary proceedings, prisons and local-federal fusion centers, immigration detention centers, and law enforcement policies and practices generally; effective uses of information obtained.

Moderator: **David McCraw**, *New York Times*  
**Hannah Bloch-Wehba**, MFIA Clinic  
**Peter Hermann**, Washington Post  
**Bernard Rhodes**, Lathrop & Gage

### **National Security & Surveillance**

A discussion on disclosing secret law, limiting secret courts and promoting transparency in the intelligence-industrial complex; facilitating public knowledge of national security investigative techniques and their impact on privacy.

Moderator: **Jonathan Manes**, University at Buffalo School of Law  
**Lynn Oberlander**, *Gizmodo*  
**Charlie Savage**, *New York Times*  
**Hina Shamsi**, ACLU  
**Steve Vladeck**, University of Texas School of Law

### **Open Data, Privacy and Algorithmic Transparency**

A review of legal and practical restrictions on access to data collected by government and corporations, privacy protections and use limitations; as well as of legal theories to achieve open data and algorithmic transparency.

Moderator: **Beth Noveck**, GovLab  
**Jack Balkin**, Yale Law School  
**Aaron Mackey**, EFF  
**Kendall Taggart**, *BuzzFeed*



**October 28, 2017**

**Government Accountability and Experiential Learning (Keynote)**

**Michael Wishnie**, Yale Law School

**Accountability Pedagogy**

Moderator: **Ann Shalleck**, American University, Washington College of Law

**Muneer Ahmad**, Yale Law School

**Chris Bavitz**, Harvard Law School

**Brendan Roediger**, St. Louis University Law

**Michael Wishnie**, Yale Law School

**Leveraging Impact I: Developing and Implementing A High-Impact Agenda**

Moderator: **Jameel Jaffer**, Knight Institute

**Catherine Crump**, University of California, Berkeley Law

**Ramzi Kassem**, CUNY School of Law

**John Langford**, MFIA Clinic

**Adrienna Wong**, ACLU of Southern California

**Break out Groups**

**Clinic Nuts & Bolts**

**Marianne Engelman Lado**, Yale School of Public Health

**Patrick Kabat**, Case Western Reserve University School of Law

**Heidi Kitrosser**, University of Minnesota Law School

**Promising Legal Theories**

**Dale Cohen**, WGBH

**Jameel Jaffer**, Knight Institute

**Jack Lerner**, University of California, Irvine, School of Law

## **Leverage Opportunities**

**Brian Black**, Civil Beat

**Bruce Brown**, Reporters Committee for Freedom of the Press

**John Langford**, MFIA Clinic

### **Leveraging Impact II: Coordination & Shared Resources**

Facilitated discussion addressing ways to act collectively on the opportunities and strategies developed in the small group discussions; clarifying opportunities for coordinated efforts; defining action steps to facilitate joint projects and sharing of resources, and identifying other opportunities to leverage work through a network of coordinated clinics.

# Hijacking Information: Software Vulnerabilities, Ransomware, and Law

**November 14, 2017**

This conference focused on the pervasiveness of software vulnerabilities, the emerging threat of ransomware enabled by the growing value of cryptocurrency, and the legal and policy implications of these phenomena. The aim of the conference was to identify emerging attack vectors in cyberspace and to highlight relevant regulations and regulatory gaps. The Conference convened legal, policy, computer security, and technology experts..

*Sponsored by Center for Global Legal Challenges, the Information Society Project, and The Oscar M. Ruebhausen Fund.*

## **Software, Vulnerabilities, and Law**

This panel discussed recent data breaches enabled by unpatched vulnerabilities, vendor management, and risks associated with patching, particularly in the critical infrastructure context. This panel considered the roles law and policy play in shaping the vulnerability landscape.

**Annie Anton**, Professor, Georgia Tech School of Computing

**Andrea Matwyshyn**, Professor, Northeastern Law

**Rebekah Lewis**, AU Kogod Cybersecurity Governance Center

Moderated by **Scott Shapiro**, Professor, Yale Law School

## **Ransomware and Cryptocurrency**

This panel explored the proliferation of ransomware attacks; the risks posed to hospitals, power plants, and other critical infrastructure systems; and whether blockchain technology and cryptocurrency incentivizes malicious hackers to further create and spread ransomware.

**Kim Zetter**, *Wired*

**Scott Shackelford**, Professor, Indiana University

**Josephine Wolff**, Professor, Rochester Institute of Technology

Moderated by **Ido Kilovaty**, Resident Fellow, Yale Law School

# A Law Stories Convening: Reproductive Rights and Justice

**December 1, 2017**

This conference convened with the editors and chapter authors of the forthcoming book of essays titled, *Reproductive Rights and Justice Stories*.

*Sponsored by the Oscar M. Ruebhausen Fund and the Program for the Study of Reproductive Justice at the Information Society Project.*

## **Panel 1**

Moderator: **Priscilla Smith**

### **Griswold v. Connecticut**

Speaker: **Melissa Murray**

Commentator: **Cary Franklin**

### **Struck v. Secretary of Defense**

Speaker: **Neil Siegel**

Commentator: **Serena Mayeri**

### **Roe v. Wade**

Speaker: **Reva Siegel**

Commentator: **Samuel Bagenstos**

## **Panel 2**

Moderator: **Melissa Murray**

### **Harris v. McRae**

Speaker: **Khiara Bridges**

Commentator: **Katherine Shaw**

### **Planned Parenthood v. Casey**

Speaker: **Serena Mayeri**

Commentator: **Reva Siegel**

### **Whole Woman's Health v. Hellerstedt**

Speaker: **Cary Franklin**

Commentator: **Neil Siegel**

### **Panel 3**

Moderator: **Reva Siegel**

#### **Geduldig v. Aiello**

Speaker: **Deborah Dinner**

Commentator: **Priscilla Ocen**

#### **Nevada Department of Human Resources v. Hibbs**

Speaker: **Samuel Bagenstos**

Commentator: **Deborah Dinner**

#### **Young v. UPS**

Speaker: **Katherine Shaw**

Commentator: **Douglas NeJaime**

### **Panel 4**

Moderator: **Katherine Shaw**

#### **Ferguson v. City of Charleston**

Speaker: **Priscilla Ocen**

Commentator: **Khiara Bridges**

#### **Madrigal v. Quilligan**

Speaker: **Maya Manian**

Commentator: **Melissa Murray**

#### **Brooke SB v. Elizabeth ACC**

Speaker: **Douglas NeJaime**

Commentator: **Maya Manian**

# The Policy, Politics, and Law of Cancer

**February 8-9, 2018**

The Solomon Center for Health Law and Policy, in collaboration with Smilow Cancer Hospital and Yale Cancer Center, hosted a major interdisciplinary conference addressing topics at the cutting edge of cancer policy. This event brought together leading figures in the worlds of cancer care, research, regulation, and policymaking to assess the current state of cancer policy and discuss ways in which law can influence its development.

Speakers examined the role Washington, D.C. plays in cancer research and treatment—through politics, legislation, and lobbying as well as by incentivizing and protecting research—and the ways cancer is shaped outside the federal government, including through private entities such as cancer centers and insurance companies, and through state governments.

The conference addressed special challenges in drug development and pricing as well as how cutting-edge advances in cancer treatment—including precision medicine, immunotherapy, and improvements in the genetic profiling of tumors—interface with existing and proposed government regulations. Speakers also considered how disparities and inequalities impact cancer research, regulation, and treatment.

*Sponsored by the Solomon Center for Health Law and Policy, Yale Cancer Center, Smilow Cancer Hospital at Yale New Haven, Yale Health Law and Policy Society (YHeLPS), Yale Journal of Health Policy, Law, and Ethics, the Oscar M. Ruebhausen Fund, and the Information Society Project.*

**February 8, 2018**

**Opening Remarks: Heather Gerken**, Dean and Sol & Lillian Goldman Professor of Law, Yale Law School

**Is the Federal Government a Productive Partner in Cancer Policy?**

Moderator: **Abbe Gluck**, Professor of Law and Faculty Director, Solomon Center for Health Law and Policy, Yale Law School

Panelists:

**Erik Fatemi**, Senior Vice President, Cornerstone Government Affairs

**Nancy Goodman**, Executive Director, Kids v Cancer

**Peggy Hamburg**, Former Commissioner, FDA

**Richard Schilsky**, Chief Medical Officer, American Society of Clinical Oncology

**Harold Varmus**, Lewis Thomas University Professor of Medicine, Weill Cornell Medicine; Former Director, National Cancer Institute and the National Institute of Health; Former President and CEO, Memorial Sloan Kettering Cancer Center

Invited Commentators:

**Robert Bazell**, Professor of Molecular, Cellular, and Developmental Biology, Yale University

**Patricia LoRusso**, Professor of Medicine (Medical Oncology), Yale School of Medicine; Associate Director of Experimental Therapeutics, Yale Cancer Center

**Keynote Address: Siddhartha Mukherjee**, Pulitzer Prize-Winning Author of *The Emperor of All Maladies* and Assistant Professor of Medicine, Columbia University Medical Center

Introduction: **Charles Fuchs**, Director, Yale Cancer Center; Physician-in-Chief, Smilow Cancer Hospital

**Friday, February 9, 2018**

## **The Business of Cancer**

Moderator: **Howard Forman**, Professor of Radiology and Biomedical Imaging, Public Health (Health Policy), Management, and Economics, Yale University

### **Panelists:**

**Ed Benz**, President and CEO Emeritus, Dana-Farber Cancer Institute

**Abe Lopman**, Senior Vice President, Operations; Executive Director, Smilow Cancer Hospital at Yale New Haven

**Barbara McAneny**, Co-Founder and CEO, New Mexico Oncology Hematology Consultants; President-Elect, American Medical Association

**Lee Newcomer**, Senior Vice President, Oncology, Genetics and Women's Health, UnitedHealthcare

**Randall Oyer**, Medical Director, Oncology Program, Lancaster General Hospital

### **Invited Commentators:**

**Rogério Lilenbaum**, Professor of Medicine (Medical Oncology), Yale School of Medicine; Chief Medical Officer of Smilow Cancer Hospital

**Gregory Raskin**, Vice President, Technology Development, Memorial Sloan Kettering Cancer Center; Lecturer, Yale College

## **Cancer, Health Justice, and Disparities**

### **Moderators:**

**Cary Gross**, Professor of Medicine (General Medicine) and of Epidemiology (Chronic Diseases), Yale School of Medicine

**Eugene Rusyn**, Yale Law School

### **Panelists:**

**Otis Brawley**, Chief Medical Officer, American Cancer Society

**Dayna Bowen Matthew**, William J. Matheson and Robert M. Morgenthau Distinguished Professor of Law, University of Virginia School of Law

**Blase Polite**, Associate Professor of Medicine, University of Chicago Medical Center

**Deborah Schrag**, Chief, Division of Population Sciences, Department of Medical Oncology, Dana-Farber Cancer Institute; Professor of Medicine, Harvard Medical School

**Lindsay Wiley**, Professor of Law and Director, Health Law and Policy, Program, American University Washington College of Law



Invited Commentators:

**Melinda Irwin**, Professor of Epidemiology (Chronic Diseases), Yale School of Public Health; Associate Director (Population Sciences), Yale Cancer Center; Co-Program Leader, Cancer Prevention and Control, Yale Cancer Center

**Katerina Politi**, Associate Professor, Yale School of Medicine

**Lunch Keynote: Norman Sharpless**, Director, National Cancer Institute

### **Drug Development and the Cost of Researching and Treating Cancer**

Moderator/Panelist: **Charles Fuchs**, Director of Yale Cancer Center and Physician-in-Chief of Smilow Cancer Hospital

Panelists:

**Peter Bach**, Director of the Center for Health Policy and Outcomes, Memorial Sloan Kettering Cancer Center

**Gideon Blumenthal**, Deputy Director, Office of Hematology Oncology Products, U.S. Food and Drug Administration

**Levi Garraway**, Senior Vice President, Global Development & Medical Affairs, Eli Lilly; Director, Joint Center for Cancer Precision Medicine

**Amy Kapczynski**, Professor of Law and Faculty Director, Global Health Justice Partnership, Yale Law School

**Jeffrey Schwartz**, Managing Director, Bain Capital Life Sciences

**Ellen Sigal**, Chairperson and Founder, Friends of Cancer Research

Invited Commentators:

**Joseph Schlessinger**, William H. Prusoff Professor of Pharmacology and Chair, Department of Pharmacology, Yale School of Medicine; Co-Director, Yale Cancer Biology Institute

**James Stansel**, Executive Vice President and General Counsel, PhRMA

### **Legal and Policy Issues Associated with Cutting-Edge Cancer Treatments**

Moderators:

**Abbe Gluck**, Professor of Law and Faculty Director, Solomon Center for Health Law and Policy, Yale Law School

**Joseph Ross**, Associate Professor of Medicine (General Medicine) and Associate Professor of Public Health (Health Policy), Yale School of Medicine

Panelists:

**Roy Herbst**, Chief of Medical Oncology, Yale Cancer Center and Smilow Cancer Hospital

**Jorge Lopez**, Executive Vice President and General Counsel, Memorial Sloan Kettering Cancer Center

**Nicholson Price**, Assistant Professor of Law, University of Michigan Law School

**Jessica Roberts**, Associate Professor and Director, Health Law & Policy Institute, University of Houston Law Center

**Charles Sawyers**, Chair, Human Oncology and Pathogenesis Program, Memorial Sloan Kettering Cancer Center

Invited Commentator: **Mark Barnes**, Partner, Ropes & Gray LLP; Visiting Lecturer, Yale Law School

# Beyond Intermediary Liability: The Future of Information Platforms

**February 13, 2018**

Information platforms (e.g., Facebook, Google, and Twitter) are some of the strongest forces shaping global society today. Information platforms have fueled global social and political movements that have changed the world, from the “Arab Spring” revolutionary movements to the “#MeToo” social movement. Intermediary liability laws allow these information platforms to offer neutral venues for the free flow of communication and information. However, these information platforms are now facing increased legislative threats to intermediary liability protections, particularly in the wake of the 2016 U.S. election and allegations of foreign election interference. This day-long academic workshop on intermediary liability featured experts from academia, industry, and civil society.

*Sponsored by the Oscar M. Ruebhausen Fund, the Information Society Project, and the Wikimedia Foundation.*

## **Welcome**

**Tiffany Li**, Wikimedia/Yale Law School Initiative on Information and Intermediaries

## **Information Platforms & Global Speech Norms**

The United States plays a unique role in the intermediary debate. Most major intermediary companies are based in the United States, and the United States has a strong valuation of free speech. Increasingly, governing bodies in the European Union have been calling for intermediaries to moderate content based on E.U. regulations. Meanwhile, restrictive government regimes regularly shut down access to intermediaries and demand that intermediaries take down content based on the speech goals for those regimes. How can or should intermediaries uphold free speech values in a global marketplace? What are the roles and responsibilities of intermediaries in navigating shifting international and transnational norms?

**Elizabeth Banker**, Twitter  
**Rebecca McKinnon**, Ranking Digital Rights

## **"Content Neutral" Speech Standards**

Intermediaries provide venues for online speech and access to information. However, intermediaries have also been facing increasing regulatory scrutiny in recent years, and there is a growing potential for future regulation that may impact the ability of intermediaries to support online speech. Given the controversial and complicated nature of free speech online, one possible avenue for finding consensus is to focus on standards that are relatively content-neutral (for example, standards for regulating bots, automated content, and political advertisements). Is the development of content-neutral standards a practicable and beneficial path forward? Are there content-neutral principles that can or should be implemented? How will these principles impact intermediary liability?

**Paul Siemenski**, Automattic  
**Morgan Weiland**, Stanford University

## **Community Self-Governance on Wikipedia**

**Stephen LaPorte**, Wikimedia Foundation

## **Intermediary Liability in a Changing World**

New technologies, like Artificial Intelligence and Virtual and Augmented Reality, present new challenges to existing intermediary liability frameworks. At the same time, new tech-enabled societal changes are also challenging intermediary roles and responsibilities. In a world where people are increasingly more logged-on than off, how should intermediaries shape the digital public sphere? Are current intermediary liability frameworks sufficient, or will they quickly become outdated? Can we "future-proof" intermediary liability to address the new technologies and new social changes?

**Nick Bramble**, Google  
**Anupam Chander**, University of California Davis

# Political Economy of Technology Workshop

**April 6, 2018**

A sense of crisis pervades both our political system and our economy. Populist and illiberal movements are fundamentally challenging core democratic commitments and practices. Rising inequality, and increasing concentrations of wealth, combined with racial, religious, and gender discrimination, give more and more people the sense that they are excluded and abandoned, even in the world's wealthiest democracies.

Many people blame technology for economic and social stagnation, and for new threats to democracy. According to critics, bots and social media undermine elections and the public sphere. Robots, gig-economy platforms, surveillance capitalism, and global networks have helped generate rising inequality and made gainful employment increasingly insecure.

But technology doesn't operate outside of a social or legal context. Technology has a political economy, deeply shaped by law. Politics orders technology through many different decisions made in code and in law. These include decisions about the scope and ownership over immaterial and material property, about the permissible degree of concentration in industries, and about who will be allowed to access the outputs and inputs of technology.

Law, together with social norms, shapes the diffusion and adoption of technology—for example, through labor and employment regulations, tax and transfer policies, and securities laws. How does law interact with technology to increase control and decrease freedom? How does it exacerbate inequality? And how might people revise law to make technology more democratic? This event investigated these and related questions of how technology influences political organization, mobilization, and communication and how technology affects inequality.

This event brought together leading scholars to facilitate legal scholarship, broadly addressing topics of significant importance to our collective political future. The workshop invited participants to consider the impact new technology has had on economic and social inequality through a political economy lens, focusing on the interaction between forms of economic and political power, and tracing the role of law in constructing and revising this relationship. Our aim was twofold: first, to develop scholarship analyzing two key challenges that modern technology poses to our politics, and second, to help us explore the value of political economy approaches to law.

Political economy approaches bring to the center set of questions about the relationship between market structures, power, and politics. They recognize markets as constructed through political choices and as having political implications, in particular via their influence on distribution of wealth and social status. They ask us to think not about what is efficient, but about what kind of economic order might be necessary to make our society more democratic and egalitarian. Like critical legal studies, law and political economy approaches seek to demystify domains and decisions that are described as apolitical – especially the economy or the market – by identifying the particular political choices that construct them. They also seek to identify the discourses or habits of thought that make choices, for example about markets and economics, appear as neutral or natural. Unlike critical legal studies, however, law and political economy approaches seek to articulate means to reform our economy and politics to render them more democratic and egalitarian.

*Sponsored by the Oscar M. Ruebhausen Fund.*

**Friday, April 6**

### **Defining the Political Economy Problem**

**Yochai Benkler**, Harvard Law School (commenting on Markovits)

**Julie Cohen**, Georgetown Law (commenting on Benkler)

**Daniel Markovits**, Yale Law School (commenting on Cohen)

*Moderated by Amy Kapczynski*, Yale Law School

### **Labor, Race, and Technology**

**Veena Dubal**, University of California Hastings (commenting on Rogers)

**Brishen Rogers**, Temple Law School (commenting on Dubal)

**Dorian Warren**, National Employment Law Project (commenting on both)

*Moderated by Yochai Benkler*

**Saturday, April 7**

### **Defining the Political Economy Problem II**

**Amy Kapczynski** (commenting on Pasquale)

**Frank Pasquale**, University of Maryland Law (commenting on Kapczynski)

*Moderated by Rebecca Crootof*

## Case Studies

**Rebecca Crootof** (commenting on Joh)

**Elizabeth Joh**, University of California Davis School of Law (commenting on Crootof)

**Talha Syed**, University of California Berkley School of Law (presenting his own)

*Moderated by **Jack Balkin***

## Platform Power

**Lina Khan**, Columbia Law School (commenting on Sitaraman)

**Ganesh Sitaraman**, Vanderbilt Law School (commenting on Khan)

*Moderated by **Amy Kapczynski***

## Regulating Platforms

**Jack Balkin**, Director/Founder of ISP, Yale Law School (commenting on Rahman)

**Sabeel Rahman**, Brooklyn Law School (commenting on Balkin)

*Moderated by **Yochai Benkler***

## Concluding Discussion: Problems and Solutions Through a Political Economy Lens

*Moderated by **Amy Kapczynski***

# Language and Authority: A Conference

**April 20, 2018**

How does language mediate social rank, power, and authority? This is a central topic of the philosophical work of Rae Langton. In this conference, we brought together philosophers who have been working on these themes over the past two decades, together with theorists outside philosophy who have contributed significantly to this topic. Besides initiating an interdisciplinary discussion, the goal of this event was to help further systematic work on language and authority in the field of philosophy.

*Sponsored by Edward J. and Dorothy Clarke Kempf Memorial Fund, Whitney Humanities Center, and Yale Philosophy Department.*

April 20, 2018

**Cydney Dupree**, *Crossing Status Divides: Stereotypes, Strategies, and Solutions*

**Jack Balkin**, *Why are Americans Originalists? Using History to Establish Authority in American Constitutional Law*

**Sally McConnell Ginet**, *Semantic Authority: Learning from Humpty Dumpty*

April 21, 2018

**Eric Swanson**, *Implicature, Authority, and the Social*

**Ishani Maitra**, *Authoritative Speech versus Authoritative Speakers*

**KEYNOTE: Rae Langton**, *Blocking as Counter-Speech*

**Mary Kate McGowan**, *On the Role of Authority and its Recognition*

**Luvell Anderson**, *Racial Realities*

April 22, 2018

**B. R. George**, *Painfully Literal Dudes*

**David Beaver**, *Presupposing Practices*



# Freedom of Expression Scholars Conference (FESC) 6

**April 28-29, 2018**

The Freedom of Expression Scholars Conference (FESC) is an annual event at Yale Law School hosted by the Abrams Institute for Freedom of Expression.

Scholars and practitioners come together to discuss works-in-progress on the freedoms of speech, expression, press, association, petition, and assembly; as well as on related issues of knowledge and information policy. FESC has become a fixture on the calendar of leading First Amendment thinkers nationwide. Over fifty leading First Amendment scholars and practitioners attended this year's event.

April 28, 2019

**Floyd Abrams**, Welcome Remarks

*First Session (Breakout Session)*

**Alan Chen**, *Free Speech, Rational Deliberation, and Some Truths About Lies*  
**Joseph Blocher**, Discussant

**Cristina Tilley**, *(Re)categorizing Defamation*  
**Floyd Abrams**, Discussant

**Bilyana Petkova**, *Privacy as Europe's First Amendment*  
**Kamel Ajji**, Discussant

*Second Session (Breakout Session)*

**Alex Tsesis**, *Speech, Privacy, and Digital Audiences*  
**Ashutosh Bhagwat**, Discussant

**Luiz Krassuski & Eduardo Mendonça**, *The "Marco Civil da Internet" and Precedents from The Brazilian Superior Court of Justice*  
**Morgan Weiland**, Discussant

**Genevieve Lakier**, *Imagining an Antisubordinating First Amendment*  
**John Langford**, Discussant

*Third Session (Breakout Session)*

**Bendor Ariel & Michal Tamir**, *Prior Restraint in the Digital Age*  
**Sonja R. West**, Discussant

**Ashutosh Bhagwat**, *The First Amendment and Democratic Citizenship*  
**Christina Koningisor**, Discussant

*Fourth Session (Plenary Panel) – The First Amendment Online*

**Kate Klonick**, *Facebook versus Sullivan*  
**Anna Wennakoski**, *The Paradox Called Information Neutrality and The Politicization of Information Infrastructures*  
**Morgan Weiland**, *The Paradox for Platforms-As-Press: Unwinding This Analogy to Solve the Problem of Platform Accountability*  
**Jack Balkin**, Discussant

*Fourth Session (Breakout Session)*

**Sarah C. Haan**, *The Post-Truth First Amendment*  
**RonNell Andersen Jones**, Discussant

**Scott Skinner-Thompson**, *Recording as Heckling*  
**Jonathan Manes**, Discussant

*Fourth Session (Breakout Session)*

**Ronald J. Krotoszynski, Jr.**, *The Disappearing First Amendment: On the Decline of Freedom of Speech and the Growing Problem of Inequality Among Speakers*  
**Genevieve Lakier**, Discussant

**Claudia Haupt**, *Licensing Knowledge*  
**Helen Norton**, Discussant

**Jenny E. Carroll**, *Graffiti, Speech, and Crime*  
**Thomas Kadri**, Discussant

*Seventh Session (Plenary) – The Right of Publicity*

**Jennifer Rothman**, *The Right of Publicity: Privacy Reimagined for a Public World*

**Thomas Kadri**, *Drawing Trump Naked: Curbing the Right of Publicity to Protect Cultural Democracy*

**Patrick Kabat**, Discussant

*Eighth Session (Breakout Session)*

**Hannah Bloch-Wehba**, *Global Speech Governance*

**Jane Kirtley**, Discussant

**Brian Hutler**, *Speaker Anonymity as a Shield or a Sword*

**David Pozen**, Discussant

**Helen Norton**, *Discrimination, Information, and the First Amendment*

**Claudia Haupt**, Discussant

*Ninth Session (Breakout Session)*

**Enrique Armijo**, *The Freedom of Non-Speech*

**Alan Chen**, Discussant

**Jacob Hutt**, *After Packingham: Challenging Social Media Bans on Parolees and Probationers Convicted of Sex Offenses*

**Hannah Bloch-Wehba**, Discussant

**Frank D. LoMonte & Clay Calvert**, *The Open Mic, Unplugged: Challenges to Viewpoint-Based Constraints on Public-Comment Periods*

**Rachael L. Jones**, Discussant

*Tenth Session (Lunchtime Plenary Panel) – Candidate, Presidential, and Government Speech*

**Josh Blackman**, *Presidential Free Speech*

**Cynthia Boyer**, *The U.S. President's Exercise of Free Speech on Social Media: Constitutional Issues and Challenges*

**Caroline Mala Corbin**, *Limits on Government Speech*

**James Weinstein**, *Free Speech and Domain Allocation: A Suggested Framework for Analyzing the Constitutionality of Prohibition of Lies in Political Campaigns*

**David Schulz**, Discussant

# Commercial Speech III: Does the Right of Publicity Transcend Commercial Speech?

**June 4, 2018**

This conference considered the appropriate definition of “commercial speech” and provided a multi-faceted look at how the absence of a coherent definition impacts First Amendment protections with regards to the content creation community, creativity in advertising, and other areas of corporate speech.

*Sponsored by Debevoise & Plimpton, Ballard Spahr LLP, Davis Wright Tremaine LLP, and Frankfurt Kurnit Klein & Selz PC.*

## **Keynote, Jennifer Rothman**

Rothman discussed her book, *The Right of Publicity: Privacy Reimagined for a Public World*, addressing First Amendment limits, litigation and legislative strategies, and imperatives for legislative initiatives.

## **Does the First Amendment Have Anything to Say Here?**

**Robert C. Post**, Sterling Professor of Law, Yale Law School

**Jennifer Rothman**, Professor of Law, Joseph Scott Fellow, Loyola Law School

**Rebecca Tushnet**, Frank Stanton Professor of the First Amendment, Harvard Law School

Moderated by **Jeremy Feigelson**, Debevoise & Plimpton

## **Litigating the Claims**

**Annie Pell**, NFL

**David Schulz**, Ballard Spahr LLP

**Nathan Siegel**, Davis Wright Tremaine LLP

Moderated by **Stacey Dogan**, Professor, Boston University School of Law

## **Legislative Initiatives: What Matters**

**Gena Feist**, Take Two Interactive Software, Inc.

**Edward Rosenthal**, Frankfurt Kurnit Klein & Selz PC

**Vans Stevenson**, Motion Picture Association of American, Inc.

Moderated by **Daniel Kummer**, NBCUniversal Media, LLC

# The ABCs of Modern Technological Challenges: AI, Blockchain, Cyber, and More

**June 4, 2018**

*Sponsored by the Shalom Comparative Research Institute, OAC, Israel (SCLRI, I-L) and the Information Society Project.*

*The Reasonable Robot Autonomous Machine and The Law*  
**Ryan Abbot**, University of Surrey School of Law

*The Use of AI to Infer Consumer Health Data*  
**Mason Marks**, ISP, Yale Law School

*Health Apps*  
**Bonnie Kaplan**, Yale School of Medicine

*Advanced Technology as a Black Mirror*  
**Christina Spiesel**, ISP, Yale Law School

*The Internet Kill Switch: The Ultimate Form of Cybersecurity Control*  
**Patricia Vargas**, ISP, Yale Law School

## **Blockchain Technology: The Promised Land or The Dark Side of The Moon?**

*Intellectual Property: The Shift from Property Regime to Digital Contracts: The Promised Land or The Dark Side of The Moon?!*  
**Shlomit Yanisky Ravid**, ONO Law School, Israel

*Allies or Rivals? Blockchain, Smart Contracts and Default Rules*  
**Mateusz Grochowski**, ISP, Yale Law School

*The Cryptographic Origins of Blockchain*  
**Ramesh Subramanian**, ISP, Yale Law School

*Is Blockchain Underlying Cryptography Secure?*  
**Michael Fischer**, Yale University

*Challenges to Freedom of Expression and Privacy in The Digital Age*  
**Steve Wizner**, Yale Law School

# Activities



# Knight Law and Media Program

The Knight Law and Media Program (Knight LAMP) is designed to foster a deeper understanding of the issues at the intersection of law, media, and journalism and to encourage Yale Law School students to pursue careers in media law. It is focused on providing support and programming for students who plan to be journalists, journalist advocates, and policy makers or leaders in the media industry; for working journalists who seek a deeper understanding of law, media, and policy; and scholars who focus on media law issues. Professor [Jack Balkin](#) serves as the Program's director.

Knight LAMP supports the work of ISP Resident Fellows and [Knight LAMP Student Fellows](#) (Yale Law School students with summer internships focused on media law, defending the First Amendment, or working for the protection of journalism or journalists). The Knight LAMP program also sponsors various [events](#), including conferences, academic roundtables, speakers, and writing workshops.

Knight LAMP is made possible by a generous contribution from the John S. and James L. Knight Foundation, which also enables Yale Law School to bring working journalists in for training programs and conferences.

## **Speaker Series**

**Book Talk: Just a Journalist: On the Press, Life, and the Spaces Between,**  
November 13, 2017

**Linda J. Greenhouse**, Lecturer, Yale Law School  
Co-sponsored with the Lillian Goldman Law Library

**“Bedlam Behind Bars” Screening and Discussion**, November 15, 2017

**Hilary Andersson**, Filmmaker and Journalist  
Co-sponsored with the Visual Law Project

**The First Amendment on Campus: Constitutional Reflections on Recent Campus Speech Controversies**, February 1, 2018

**Catherine Ross**, Professor, George Washington University Law School  
Co-sponsored with ACS and the Abrams Institute

**Presidential Rhetoric from Clinton, to Obama, to Trump**, February 6, 2018

**Vinca LaFleur**, speechwriter, President Clinton  
**Terry Szuplat**, speechwriter, President Obama

**Sarada Peri**, speechwriter, President Obama  
Co-sponsored by Journalists and Writers at Yale Law and the Yale Law  
National Security Group

**Defeating Censorship with Collaborative Journalism**, February 20, 2018  
**Laurent Richard**, Founder, Freedom Voices Network

**Poynter Speaker: Jon Ronson**, March 28, 2018  
**Jon Ronson**, Contributor, *New York Times Magazine* and *This American Life*

**Afternoon Tea with Jay Carney**, April 9, 2018  
**Jay Carney**, former White House Press Secretary, Obama Administration  
Co-sponsored by Journalists and Writers at Yale Law

**Poynter Speaker: Fake News, Bogus Science, and Bad Math: A Journalist's  
Advice for Cutting Through BS**, April 11, 2018  
**Charles Seife**, Professor, New York University

### **Workshops**

**How to Write an Op-Ed**, November 28, 2017  
**Nick Frisch**, ISP Resident Fellow



# LAW & TECHNOLOGY

## Law & Tech Speaker Series

The Law & Tech Speaker Series on Information Law and Information Policy hosts leading experts in the field of information law, speaking about their latest papers or projects. Sponsored by the Oscar M. Ruebhausen Fund.

**Borders and Bits**, August 29, 2017

**Jennifer Daskal**, Associate Professor, American University Washington College of Law

**Internet Facilitated Justice Panel**, September 5, 2017

**Ben Kinney**, Founder/CEO, CrowdSuit

**Eva Shang**, Co-founder, Legalist

**Kip Wainscott**, Legal and External Relations Director, Crowd Justice

**Online Governance Delivery in India & South East Asia - Are Platforms Succeeding Where Governments are Failing?**, September 12, 2017

**Raheel Khursheed**, Twitter India

**From Narrative to Transparency - How General Counsels (esp. from Silicon Valley) are Leading the Evolution of Law**, September 19, 2017

**Paul Lippe**, Advisory Board of Elevate Services

**Beyond Snowden: Mass Surveillance in the Shadow of Trump**, September 26, 2017

**Timothy Edgar**, former Intelligence official for President Bush and President Obama

**The Law is Adapting to a Software-driven World**, October 5, 2017

**Andrew Burt**, Visiting Fellow, Yale Law School; former Advisor, FBI Cyber Division

**A Conversation with Carrie Cordero**, October 10, 2017

**Carrie Cordero**, Counsel, ZwillGen PLLC

**Patent Exhaustion at the Supreme Court: *Impression v. Lexmark***, October 17, 2017

**Amy Kapczynski**, Professor, Yale Law School

**Jason Schultz**, Director, Technology Law & Policy Clinic

**Timothy Holbrook**, Professor, Emory Law

**Free Speech & Security in the Age of Social Media**, October 23, 2017  
**Monika Bickert**, Product Policy and Counterterrorism, Facebook

**Extremist Speech, Compelled Conformity, and Censorship Creep**, October 31, 2017  
**Danielle Citron**, Professor, University of Maryland Francis King Carey School of Law

**Patenting Movement: The Case of Surgical Robotics**, November 7, 2017  
**Andrew Chin**, Professor, University of North Carolina Law School

**The Perpetual Line-Up: Unregulated Police Face Recognition in America**, November 28, 2017  
**Alvaro Bedoya & Clare Garvie**, Center on Privacy & Technology, Georgetown Law

**The Political Economy of Killer Robots: Rethinking the Supply and Distribution of Lethal Autonomous Weapons Systems**, January 23, 2018  
**Frank Pasquale**, Professor, University of Maryland and Co-founder of the Association for the Promotion of Political Economy and Law

**Litigating Data Sovereignty**, January 30, 2018  
**Andrew Keane Woods**, Professor, University of Arizona Law

**Presidential Rhetoric from Clinton, to Obama, to Trump**, February 6, 2018  
**Vinca LaFleur**, speechwriter, President Clinton  
**Terry Szuplat**, speechwriter, President Obama  
**Sarada Peri**, speechwriter, President Obama  
Co-sponsored by Journalists and Writers at Yale Law and the Yale Law National Security Group

**Defeating Censorship with Collaborative Journalism**, February 20, 2018  
**Laurent Richard**, Founder, Freedom Voices Network

**Fixing the Comments, The Coral Project at Mozilla**, February 27, 2018  
**Andrew Losowsky**, Visiting Fellow, ISP, and Project Leader, Mozilla

**Mission-Driven Law: In-House at the Wikimedia Foundation**, March 6, 2018  
**Eileen Hershenov**, General Counsel, Wikimedia Foundation

**Black-Box Medicine: Innovation and Regulation**, March 27, 2018  
**Nicholson Price**, Assistant Professor, University of Michigan Law School

**Killer Robots: Is Existing Law Sufficient? A Debate on How Best to Regulate Autonomous Weapons**, April 3, 2018  
**Maj. Gen. Charles J. Dunlap, Jr.**, Professor, Duke Law School  
**Rebecca Crotoft**, ISP Executive Director

**Copyright Arbitrage**, April 10, 2018

**Kristelia Garcia**, Professor, University of Colorado Law School

**Autonomous Weapons and the Future of War**, April 17, 2018

**Paul Scharre**, Senior Fellow, Center for a New American Security

# Ideas Lunches

The ISP facilitates a weekly series of ideas lunches. They consist of an informal gathering of students, fellows, faculty, and guest speakers to forge new ideas related to emerging issues in media law and technology.

**Introduction to Privacy Lab**, August 31, 2017  
**Sean O'Brien**, Privacy Lab Director

**Data Scams**, September 7, 2017  
**Roger Ford**, Associate Professor, University of New Hampshire School of Law

**The Rise of Civic Entrepreneurialism and the Smart City**, September 14, 2017  
**Burcu Baycort**, Ph.D. Candidate, Columbia University

**Brigitte Amiri Ideas Lunch Talk**, September 21, 2017  
**Brigitte Amiri**, Attorney, ACLU Reproductive Freedom Project

**Curation, Music, and Law**, September 28, 2017  
**Funmi Arewa**, Professor, University of California, Irvine School of Law

**Anti-Patent Law**, October 5, 2017  
**Camilla Hrdy**, Assistant Professor, University of Akron School of Law

**The Legal Frontier: Emerging Tech as a Path to Improve the Delivery of Legal Services**, October 12, 2017  
**Gabe Teninbaum**, Professor, Suffolk University Law School

**Towards Identity Bankruptcy**, October 19, 2017  
**Michael Froomkin**, Professor, University of Miami School of Law

**Introducing Will**, October 26, 2017  
**Tiffany Li**, Wikimedia Fellow, ISP

**Testimony on “Heartbeat Ban,”** November 2, 2017  
**Priscilla Smith**, Director Program for the Study of Reproductive Justice

**The Increasing Challenge of Legal Competency in Media Regulations**,  
November 9, 2017  
**Robert Picard**, Professor, University of Oxford

**The De Facto Reporter’s Privilege**, November 16, 2017  
**Christina Koningisor**, First Amendment Fellow, *The New York Times*  
**David McGraw**, Vice President and Deputy General Counsel, *The New York Times*

**Machine Learning Versus Fault-Based Liability**, November 30, 2017  
**Andrew Selbst**, Postdoctoral Fellow, Data and Society Research Institute

**Litigating in the Age of Trump: Challenging Emerging Restrictions on Reproductive Rights**, January 18, 2018  
**Genevieve Scott**, Senior Staff Attorney, Center for Reproductive Rights

**Public Perceptions of Government Speech**, January 25, 2018  
**Lisa Larrimore Ouellette**, Associate Professor, Stanford Law School

**The Structure and Legal Interpretation of Computer Programs**, February 1, 2018  
**James Grimmelman**, Professor, Cornell Law School

**Autonomous Weapons Systems and the Search for New Forms of Public Accountability**, February 8, 2018  
**Laura Dickinson**, Professor, George Washington University Law School

**Understanding and Combating Misinformation and "Fake News" Online**, February 15, 2018  
**David Rand**, Associate Professor, Yale University

**Licenses and the Property/Contract Interface**, February 22, 2018  
**Christina Mulligan**, Associate Professor, Brooklyn Law School

**Resisting a Slide into Authoritarianism**, March 1, 2018  
**Justin Florence**, Legal Director, Protect Democracy

**Platform liability and Internet Users' Speech Rights**, March 8, 2018  
**Daphne Keller**, Director, Intermediary Liability Stanford Center for Internet and Society

**Speech Remedies**, March 22, 2018  
**Molly Land**, Professor, University of Connecticut School of Law

**The Rise of the Digital Regulator**, March 29, 2018  
**Rory Van Loo**, Professor, Boston University

**Copyright and the Holocaust**, April 5, 2018  
**Michal Shur-Ofry**, Professor, The Hebrew University of Jerusalem

**Protecting Planned Parenthood and Its Patients in the Trump Era**, April 12, 2018  
**Jen Keighley**, Staff Attorney, Planned Parenthood Federation of America



# FAIA: Foreign Affairs in the Internet Age

Foreign Affairs in the Internet Age explores the relationship between the Internet and foreign policy. The growth of the Internet has changed how international law-making is conducted. It has also affected how we understand accountability, secrecy, and democratic participation in treaty negotiations.

FAIA is led by [Jack Balkin](#), [David Grewal](#), [Oona Hathaway](#), and [Amy Kapczynski](#). Affiliated fellows and faculty include Rebecca Crootof.

FAIA works collaboratively with Yale Law students, and has co-sponsored events with the Yale Law National Security Group and the Yale Journal of Law and Technology.

*This initiative is funded by the Oscar M. Ruebhausen Fund.*

## **Speaker Series**

**Borders and Bits**, August 29, 2017

**Jennifer Daskal**, Associate Professor, American University Washington College of Law

**The Law is Adapting to a Software-driven World**, October 5, 2017

**Andrew Burt**, Visiting Fellow, Yale Law School and former Advisor, FBI Cyber Division

**A Conversation with Carrie Cordero**, October 10, 2017

**Carrie Cordero**, Counsel, ZwillGen PLLC

**Free Speech & Security in the Age of Social Media**, October 23, 2017

**Monika Bickert**, Product Policy and Counterterrorism, Facebook

**Hijacking Information: Software Vulnerabilities, Ransomware, and Law**, November 14, 2017

A full description of the event is provided above, in the “Conferences” section.

**The Political Economy of Killer Robots: Rethinking the Supply and Distribution of Lethal Autonomous Weapons Systems**, January 23, 2018

**Frank Pasquale**, Professor, University of Maryland and co-founder of the Association for the Promotion of Political Economy and Law

**Litigating Data Sovereignty**, January 30, 2018  
**Andrew Keane Woods**, Professor, University of Arizona Law

**EU Data Privacy, Algorithmic Decision-Making, and the Right to Explanation**,  
March 1, 2018  
**Maja Brkan**, Assistant Professor of Law, Maastricht University

**Killer Robots: Is Existing Law Sufficient? A Debate on How Best to Regulate  
Autonomous Weapons**, April 3, 2018  
**Maj. Gen. Charles J. Dunlap, Jr.**, Professor, Duke Law School  
**Rebecca Crootof**, ISP Executive Director

**Crypopolitics Beyond the National State**, April 5, 2018  
**Santiago Siri**, Founder, Democracy Earth Foundation

**Facebook, Cambridge Analytica, and the Law**, April 9, 2018  
**Ido Kilovaty, Mike Kwet, Tiffany Li, & Helena Ursic**, ISP Fellows

**Autonomous Weapons and the Future of War**, April 17, 2018  
**Paul Scharre**, Senior Fellow, Center for a New American Security

**Tea with Colin Crowell**, April 18, 2018  
**Colin Crowell**, Global Public Policy Director, Twitter



## Abrams Institute for Freedom of Expression

The Floyd Abrams Institute for Freedom of Expression at Yale Law School promotes freedom of speech, freedom of the press, and access to information as informed by the values of democracy and human freedom. The Abrams Institute is made possible by a generous gift from Floyd Abrams, one of the country's leading experts in freedom of speech and press issues, who both graduated from and has taught at Yale Law School. It is administered by the Information Society Project, directed by Professor Jack Balkin.

The Institute's mission is both practical and scholarly. It includes a clinic for Yale Law students to engage in litigation, draft model legislation, and advise lawmakers and policy makers on issues of media freedom and informational access. It promotes scholarship and law reform on emerging questions concerning both traditional and new media. The Institute also holds scholarly conferences and events at Yale on First Amendment issues and on related issues of access to information, Internet and media law, telecommunications, privacy, and intellectual property.

The Media Freedom and Information Access Clinic (MFIA) is associated with the Abrams Institute; its activities are detailed separately below.

### **Access and Accountability Conference: A Conference for Transparency Advocates**, October 27-28, 2017

A full description of this event is provided above, in the "Conferences" section.

### **First Amendment Salon: Reargument of Masses Publishing Co. v. Patten**, November 6, 2017

In commemoration of the 100th Anniversary of *Masses Publishing Co. v. Patten*, the Second Circuit Court of Appeals, in association with the First Amendment Salons, the Floyd Abrams Institute for Freedom of Expression at Yale Law School, and the Committee on Media Law of the New York State Bar Association, hosted a "reargument" of the appeal in the case before a panel comprised of Judges Reena Raggi, Pierre N. Leval and Robert D. Sack. Floyd Abrams appeared for *Masses Publishing Co.* and Kathleen M. Sullivan appeared for Postmaster Patten.



### **The First Amendment Today**, November 29, 2017

Professors Jack Balkin and Robert Post spoke on recent issues in First Amendment freedoms of speech, press, and assembly. A host of highly visible, sometimes sensational First Amendment dramas have marched across the national stage in recent years: Charlottesville, *Citizens United*, Trump vs. CNN, hate speech and campus protests, "tweeting terrorists," Redskins/The Slants—the list goes on. What do these episodes tell us about the First Amendment and its role in America's social and political culture today? What new issues has the Trump Administration raised for the First Amendment—or are the Administration's most controversial moves part of a larger story in the amendment's evolution? When it seems like appeals to the First Amendment often accomplish more harm than good, why should young lawyers today care about it? YLS's eminent First Amendment scholars, Jack Balkin and Robert Post, hosted a discussion on these issues, which was followed by an audience Q&A.

### **The First Amendment on Campus: Constitutional Reflections on Recent Campus Speech Controversies**, February 1, 2018

**Catherine Ross**, Professor, George Washington University Law School  
Co-sponsored with the American Constitution Society

### **FOIA Bootcamp 2018**, February 6, 2018

As government transparency faces an uncertain future, the Media Freedom and Information Access Clinic (MFIA) at Yale Law School provided an overview of the legal tools you can use to keep federal, state, and local governments open and accountable. Topics included how to effectively obtain information through the Freedom of Information Act (FOIA)—how to draft requests, where to send them, what language to use and how to work with agencies to avoid going to court. This workshop was led by an experienced practitioner in the field of media law, open government, and right-of-access issues and an award-winning investigative reporter who has used documents obtained through FOIA in his work.

**Jennifer Borg**, Counsel, Pashman, Stein, Walder, Hayden; former General Counsel and Vice President of North Jersey Media Group Inc.

**Eric Lipton**, Investigative Reporter, *The New York Times*

### **When Truth Matters, Can Images Be Trusted?, February 6, 2018**

In a world where online information purveyors can distribute “fake news,” does it matter that audio, visual and audio/visual materials can be doctored or be utterly fictional? What are the tools for determining the authenticity of the content in visual images? Journalists and editors care. Human rights organizations care. Lawyers care. Law enforcement and the military care. Experts spoke about the tools, techniques, and technologies designed to determine authenticity in visual and audio/visual materials.

**Greg Brehm**, Vice President and Associate General Counsel, *Buzzfeed*  
(moderator)

**Santiago Lyon**, Director of Editorial Content at Adobe; former Vice President and Director of Photography of *The Associated Press*

**Siwei Lyu**, Assistant Professor at the Computer Science Department of University at Albany, State University of New York

**Fred Richin**, Dean Emeritus of the International Center of Photography (ICP) School

### **Extraterritorial Enforcement: Developing Norms for the Information Society, March 9, 2018**

This workshop brought together academics, corporate actors, private sector attorneys, civil society advocates, and government representatives, across disciplines and fields to discuss the way forward for contemporary debates surrounding the power of States to control cross border data transfers and offshore information either directly or indirectly through internet intermediaries. The ISP worked to influence the conversation on these topics, many of which were pending before courts and legislators worldwide.

### **NDAs and Investigative Journalism: What Can Be Done When Contractual Commitments Are Used to Suppress New Reporting?, April 18, 2018**

This invitation-only event considered the impact of non-disclosure agreements on investigative reporting, the risks to sources and to journalists if an NDA is violated, and the legal theories and tools available when NDAs threaten to suppress reporting of important, newsworthy information. This “brown bag lunch” proceeded in three locations connected by videoconference; New Haven, New York, and Washington, D.C. A question-and-answer session for both journalists and lawyers followed a discussion of the key issues with a group of leading experts.

**Jack Balkin**, Knight Professor of Constitutional Law and the First Amendment, Yale Law School; Founder and Director of Yale's Information Society Project

**Kathleen Clark**, Professor of Law, Washington University, St. Louis; former Counsel to the Senate Judiciary Committee.

**David Rohde**, Online News Editor, *The New Yorker*; former Reporter, Reuters

**Richard Tofel**, founding General Manager, ProPublica; previous President of International Freedom Center; Assistant Publisher, *The Wall Street Journal*; Assistant General Counsel, Dow Jones

**First Amendment Salon: Rethinking *Reno* and Section 230: How Should We Regulate Social Media?**, April 27, 2018

**Freedom of Expression Scholars Conference 6**, April 28-29, 2018  
A full description of the event is provided above, in the “Conferences” section.

**Commercial Speech and the First Amendment: Does the Right of Publicity Transcend Commercial Speech?**, June 4, 2018  
A full description of the event is provided above, in the “Conferences” section.



The ISP's Program for the Study of Reproductive Justice serves as a national center for academic research and development of new ideas to promote justice with respect to reproductive health issues, provide a supportive environment for young scholars interested in academic or advocacy careers focusing on reproductive rights and justice issues; and provide opportunities for communication between the academic and advocacy communities. In the last few years, PSRJ has been more directly engaged in the advocacy world, providing front-line organizations with legal and political ammunition to be more effective, especially through our amicus practice, and acting as academic validators by testifying in Congress and providing expert legal opinion to the press. We work in coordination with and now often at the request of the national groups, facilitating access to the legal and intellectual firepower that the YLS faculty and students can provide. In the past year, this hard work has begun paying off.

### **Speaker Series**

**Brigitte Amiri Ideas Lunch Talk**, September 21, 2017

**Brigitte Amiri**, Attorney, ACLU Reproductive Freedom Project

Brigitte Amiri spoke about reproductive healthcare for unaccompanied immigrant minors. She discussed the ACLU's ongoing case challenging the federal government's repeated placement of unaccompanied immigrant minors in the care of religious-based agencies that refuse to provide them with legally required access to contraception and abortion, even for those who are raped on their journey to the United States.

*Sponsored by the Program for the Study of Reproductive Justice, Law Students for Reproductive Justice, and the Latinx Law Students Association.*

**Testimony on "Heartbeat Ban,"** November 2, 2017

**Priscilla Smith**, Director Program for the Study of Reproductive Justice

Priscilla Smith discussed her 11/1 testimony about a bill colloquially called the "Heartbeat Ban," which would ban abortions as soon as there is ultrasound-detectable cardiac activity. This would require many women to get a vaginal ultrasound and would ban abortions at 5 1/2 -6 weeks of pregnancy, as measured from the first day of the woman's last menstrual period.

**Litigating in the Age of Trump: Challenging Emerging Restrictions on Reproductive Rights**, January 18, 2018

**Genevieve Scott**, Senior Staff Attorney, Center for Reproductive Rights  
Genevieve Scott discussed bringing impact litigation challenges to restrictions on women's reproductive rights during the Trump administration.

**Protecting Planned Parenthood and Its Patients in the Trump Era**, April 12, 2018

**Jen Keighley**, Staff Attorney, Planned Parenthood Federation of America  
Jen Keighley discussed her involvement in numerous cases challenging state and federal actions that impacted women's access to reproductive health services during her time in the Policy, Litigation, and Law Department of Planned Parenthood during the Trump Administration.

**"Birthright: A War Story" Film Screening**, November 7, 2017

After *Roe v. Wade*, the 1973 Supreme Court decision legalizing abortion, opponents of the decision spent the next 40 years organizing an incremental offensive on multiple fronts to restrict access to abortion, contraception, and sterilization by piling on state regulations and putting forward political candidates to further their cause. While women's clinics and providers were attacked by violent extremists and closed as funding dried up, more insidious, less publicized changes, including the legislation and the mergers and acquisitions that brought hospitals under the control of religious groups, were having far-reaching effects. "Birthright: A War Story" tells the story of the individuals who have become collateral damage in the aggressive campaign to take control of reproductive health care and to allow states, courts and religious doctrine to govern whether, when, and how they will bear children. A Q&A session with the filmmaker, Luchina Fisher, followed the screening.

**Undue Burden in a Post-Truth World**, March 20, 2018

David Brown, Senior Counsel & Deputy Director at the Lawyering Project, discussed litigants' and the courts' application of the undue burden standard recently clarified by the Supreme Court in *Whole Woman's Health v. Hellerstedt*, 136 S.Ct. 2292 (2016) in ongoing litigation against anti-abortion laws around the country.

**Conferences**

**A Law Stories Convening: Reproductive Rights and Justice**, December 1, 2017

A full description of the event is provided above, in the "Conferences" section.



# Yale Law School

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## VISUAL LAW PROJECT

The VLP is administered by the Law School's Information Society Project (ISP), an intellectual center addressing the implications of the Internet and new information technologies for law and society, guided by the values of democracy, development, and civil liberties. The ISP's work includes copyright, media law and policy, transparency, and privacy.

The VLP runs a [year-long practicum](#) that trains law students in the art of visual advocacy – making effective arguments through film; explores the intersection between law and film through multidisciplinary workshops, discussions with renowned guest speakers, and hands-on production; produces intellectually stimulating and well-researched [films](#) grounded in the stories of people who live out the consequences of the law; and is part of a rising community of students, lawyers, and filmmakers invested in visual advocacy.

### Events

#### **Visualizing Change Outside the Courtroom**, November 3, 2017

Law isn't only made inside the courtroom. Current Affairs founder and YLS alum **Nathan J. Robinson**, Marshall Project commentary editor **Donovan X. Ramsey**, and Graphic Advocacy Project founder **Hallie Jay Pope** discussed their alternative pathways to change. **Emily Bazelon**, *New York Times Magazine* staff writer and YLS senior research scholar, moderated a conversation on how lawyers can leverage communication strategies to help vindicate rights and drive legal change.

#### **"Birthright: A War Story" Film Screening and Discussion**, November 7, 2017

**Luchina Fisher**, Filmmaker

After *Roe v. Wade*, the 1973 Supreme Court decision legalizing abortion, opponents of the decision spent the next 40 years organizing an incremental offensive on multiple fronts to restrict access to abortion, contraception, and sterilization by piling on state regulations and putting forward political candidates to further their cause. While women's clinics and providers were attacked by violent extremists and closed as funding dried up, more insidious, less publicized changes, including the legislation and the mergers and acquisitions that brought hospitals under the control of religious groups, were having far-reaching effects. "Birthright: A War Story" tells the story of the individuals who have become collateral damage in the aggressive campaign to take control of reproductive health care and to allow states, courts and religious doctrine to govern whether, when, and how they will bear children. A Q&A session with the filmmaker, Luchina Fisher, followed the screening.

**Lunch with Dan Jackson, Executive Director of NuLawLab, November 8, 2017**

The NuLawLab is an interdisciplinary innovation laboratory working to imagine, design, test, and implement pioneering approaches to legal empowerment. The NuLawLab partners with individuals and communities to identify unmet needs and collaboratively design solutions, sheds new insight on longstanding barriers to legal empowerment, and teaches lawyers to design new ways of connecting people to law, legal information, and services. This talk delved into the NuLawLab's ongoing projects and the relationship between design-thinking and the law.

**“Bedlam Behind Bars” Screening and Discussion**

**Hilary Andersson**, Filmmaker and Journalist, November 15, 2017

Co-sponsored with Knight LAMP

**Lunch with Josh Begley, February 28, 2018**

**Josh Begley**, Data Artist and App Developer

**Coffee Chat with John Lucas, March 6, 2018**

**John Lucas**, Filmmaker

**“Rikers: An American Jail” Screening and Discussion, April 13, 2018**

The Yale Visual Law Project and the Yale Student Film Festival hosted a screening of the new documentary, “Rikers: An American Jail.” The screening was followed by a conversation about the film and the #CLOSERikers movement with film participant and activist **Cadeem Gibbs**, producer **Judy Doctoroff**, and Professor **Miriam Gohara** of YLS. The screening was moderated by *New York Times Magazine* staff writer and YLS senior research scholar **Emily Bazelon**.

# PRIVACY LAB

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Yale Privacy Lab explores the connection between privacy, security, and anonymity through hands-on software and hardware implementation, such as cybersecurity workshops. As the technical arm of the Information Society Project, we are quickly becoming an intellectual resource for projects around campus, strengthening the networks between technologists, lawyers, students, and researchers.

The Yale community is increasingly concerned about digital privacy and security, an arena that requires interdisciplinary collaboration. Yale Privacy Lab is a nexus for training and discussions about these contemporary issues, as well as a resource for cryptographic and anonymity tools. Yale Law School, and the YLS Clinics in particular, need a central resource to consult for technological expertise in the swiftly-changing digital privacy landscape.

Yale Privacy Lab provides informal cybersecurity advice and recommendations, as well as detailed trainings in the use of Free and Open Source Software (FOSS). Yale Privacy Lab is committed to fostering software, hardware, and spectrum freedom: digital freedom is essential for the creation, implementation, and improvement of secure and privacy-respecting technology. Transparency in the design, development, and operation of technology is a requirement for users of that technology to preserve and expand their digital freedom. This is perhaps nowhere more relevant than in the realm of cybersecurity. Yale Privacy Lab is currently a volunteer effort driven by lead technologist Sean O'Brien. The Information Society Project provides support and resources.

## Events

### **ABA CLE Webinar: Managing Cybersecurity Due Diligence in Technology M&A Transactions, September 12, 2017**

Cybersecurity threats pose a substantial legal and financial risk to transacting parties in high technology industries around the world. This CLE webinar was intended to provide transactional attorneys and in-house counsel with an overview of the tools needed to effectively manage cybersecurity due diligence within the context of high technology merger and acquisition (M&A) transactions. Leading practitioners discussed how to identify, evaluate and manage an acquisition target's cybersecurity strengths and weaknesses throughout and beyond the deal-making process. Discussion topics included analysis of: a hypothetical target's internal cybersecurity program; compliance with applicable cybersecurity and privacy law; international cybersecurity risk mitigation strategies.

Speakers included **Jason Chipman, Jennifer Ruth Martin, Steve Rubin,** and **Thomas J Smedinghoff**. The panel was moderated by **Jonathan Cardenas**.



**Privacy Lab Skillshare - Software Freedom Day 2017**, September 16, 2017  
Privacy Lab celebrated Software Freedom Day with a full day of workshops and demos! This event taught attendees how to take data their back with a personal privacy server and how to use tricks from Snowden's toolkit to keep your data private and secure. Speakers included **Siim Teller**, Head of Marketing & Community, Wire; **Michael Kwet**, Visiting Fellow, ISP; **Danny Haidar**, FreedomBox Foundation; and **Sean O'Brien**, Privacy Lab Director

**Better Than Rage Against the Machine: Saving Privacy in One Hell of a Dangerous World**, September 25, 2017

**Eben Moglen**, Columbia Law School

Privacy is about environment, not transaction and consent. To the world's owners, we hear now, data is the new petroleum. Privacy destruction is thus global warming on Internet time. Free software and free culture came into existence in the 20th century because people foresaw the threat to human freedom from networked computers collecting behavior, even as the NSA was inventing the mathematics of data-mining. This talk attempted to provide a historical view: from the primordial slime to the current mess, as a great Yale historian used to say. It sought to illustrate how, by thinking globally, we can act locally, using technologies of freedom embodied in something we call the FreedomBox, to improve the environment and increase both environmental consciousness and citizen empowerment, before it's too late.

**Techno Activism 3rd Monday: Freedom Box and Raspberry Pi**, October 16, 2017

This event was a follow-up from our Privacy Lab Skillshare on September 16. For our inaugural TA3M, we looked at mini-server projects such as FreedomBox (using hardware like the Raspberry Pi). What can affordable mini-servers on open hardware do for New Haven?

**Digital Self-Defense for International Students and Scholars**, November 2, 2017

The team at Privacy Lab taught participants how to maintain Digital Self-Defense and cybersecurity on campus, elsewhere inside the U.S., and while traveling. The team covered best-practices for daily tasks like Web searches and handling passwords. The team also taught how to use secure software on the desktop and on mobile devices, providing tools to better safeguard privacy. These included the anonymity network (how to browse the Web, share files, and send messages anonymously); PGP/GPG encrypted e-mail (private e-mails and public/private key encryption); private mobile & desktop chat (audio, video, and text chat apps that safeguard data with end-to-end encryption).

### **Techno Activism 3rd Monday: Surveillance Mapping, November 20, 2017**

Surveillance cameras/devices have been popping up all over New Haven, with “Looking Good, New Haven!” signs posted at high-traffic intersections and multiple cameras on many of the traffic lights and buildings in the city. In the public interest, Privacy Lab mapped these devices one-by-one using OpenStreetMap and Surveillance under Surveillance. This event brought people together to crowdsource this effort and learn how to add cameras and other surveillance devices to OpenStreetMap. The team demonstrated how to upload photos to Wikimedia Commons so that they can be added to points on the map, as well as how to strip metadata from photos (EXIF data).

### **The Perpetual Line-Up: Unregulated Police Face Recognition in America, November 28, 2017**

People often think of facial recognition technology as some science fiction future. In reality, a report by the Center on Privacy & Technology at Georgetown Law found that half of all-American adults are in a police or FBI face recognition network. Police face recognition technology is much more pervasive than people realize — yet it is not subject to any meaningful system of regulation. In this talk, **Alvaro Bedoya** and **Clare Garvie** discussed, *The Perpetual Line-Up*, the Center's recent year-long investigation into police use of face recognition. In a world where we have no (formal) reasonable expectation of privacy in public, what protections does the Fourth Amendment provide for your face and police technologies that track it? Does the First Amendment protect us against the scanning of faces in a protest, or does it also provide few protections? How should judges and policymakers address face recognition systems' apparent demographic bias in enrollment and accuracy?



The Wikimedia/Yale Law School Initiative on Intermediaries and Information (WIII) is a research initiative that aims to raise awareness of threats to an open internet, especially those affecting online intermediaries and their users, and to make creative policy suggestions that protect and promote internet-facilitated access to information. WIII grew out of an ongoing academic affiliation and collaboration between Yale Law School's Information Society Project and the Wikimedia Foundation, and is made possible by a generous gift from the Wikimedia Foundation, in support of Wikimedia's mission to build a world in which everyone can freely share in knowledge.

The Wikimedia Foundation is a nonprofit charitable organization dedicated to encouraging the growth, development and distribution of free, multilingual, educational content, and to providing the full content of these wiki-based projects to the public free of charge. The Wikimedia Foundation supports some of the largest collaboratively edited reference projects in the world, including Wikipedia.

### **Events**

**Introducing WIII**, October 26, 2017  
**Tiffany Li**, Wikimedia Fellow, ISP

**Beyond Intermediary Liability: The Future of Information Platforms** (Workshop), February 13, 2018  
A full description of the event is provided above, in the "Conferences" section.

**Mission-Driven Law: In-House at the Wikimedia Foundation**, March 6, 2018  
**Eileen Hershenov**, General Counsel, Wikimedia Foundation

**Platform liability and Internet Users' Speech Rights**, March 8, 2018  
**Daphne Keller**, Director, Intermediary Liability Stanford Center for Internet and Society

**Facebook, Cambridge Analytica, and the Law**, April 9, 2018  
**Ido Kilovaty, Mike Kwet, Tiffany Li & Helena Ursic**, ISP Fellows

**Tea with Colin Crowell**, April 18, 2018  
**Colin Crowell**, Global Public Policy Director, Twitter

# Clinical Activities

# Media Freedom and Information Access Clinic

The Media Freedom and Information Access Clinic (MFIA) provides *pro bono* legal representation to journalists, press organizations, and advocacy groups. Its dual missions are to support robust investigative journalism in the digital age and to advance the public's right of access to information needed for democracy to function. MFIA engages in impact litigation and pursues policy projects that address key issues surrounding government transparency and the protection of a vigorous press.

MFIA is a program of the Floyd Abrams Institute for Freedom of Expression at Yale Law School. MFIA students are supervised by MFIA co-Director David Schulz, MFIA Fellows Hannah Bloch-Wehba and John Langford, and staff attorney Cortelyou Kenney.

The Clinic's docket is currently organized around six project areas:

## ***Constitutional Access***

Lawsuits designed to expand and enforce the constitutional right of access to governmental proceedings and related records. Typical matters include Section 1983 litigation to establish constitutional rights to information about state actions such as executions and federal litigation to establish a right of access to classified information filed in Guantanamo cases.

## ***Government Accountability***

Projects seeking to secure information needed for democratic oversight of government operations, law enforcement agencies and the criminal justice system. Representative matters include lawsuits in New York and Los Angeles to obtain information needed for law enforcement accountability.

## ***National Security and the Surveillance State***

Lawsuits seeking access to information critical to oversight of our nation's security policies. Active matters include lawsuits seeking substantive opinions of the Foreign Intelligence Surveillance Court and policies by which our intelligence agencies conduct surveillance on U.S. persons abroad.

## ***Open Data***

Lawsuits seeking to compel the disclosure of information vital to ensure proper regulatory behavior and science-based decisions. Current cases seek to achieve a legal framework that ensures the integrity of medical tests used in new drug approvals and promotes access to data by academic researchers.

### ***Newsgathering and Publication***

Defending those eligible for the protections afforded by the Constitution's press clause in a world where online publishing is widespread and litigating issues that shape the ability of journalists to gather news, including prior restraints, privacy, and the use of new technologies. Representative matters include cases asserting a right to photograph matters of public concern.

### **Cases Initiated this Year**

#### **Constitutional Access Project**

##### *Hamm v. Dunn (D. Ala.)*

The Clinic is representing three news organizations in an effort to unseal the Alabama execution protocol. Alabama treats its protocol as strictly confidential. When a death row inmate sued this year claiming that his veins were so debilitated by a long-term illness that the State would not be able to execute him by lethal injection, and urging an alternate form of execution, the protocol was central to the case but was filed under seal and kept from the public. The Clinic's motion to unseal asserted both a common law and constitutional right of access attached to the protocol once it became a court record in the federal lawsuit. The district court agreed that the protocol submitted to the court was subject to a common law access right, and in late May ordered the protocol unsealed. The State's appeal is pending. (In the meantime, the district court's order staying the execution of Doyle Hamm was reversed by the Fifth Circuit; the State proceeded with the execution in March but was unable to successfully access a vein and the execution was halted after two and a half hours.)

### **Executive Conflicts & Ethics**

##### *Behar v. Dep't of Homeland Security, No. 17-cv-8153 (S.D.N.Y.)*

The Clinic represents investigative reporter Richard Behar in FOIA litigation against the U.S. Department of Homeland Security seeking Secret Service records cataloguing visitors to candidate Donald Trump and high-level campaign officials from late 2015, when Trump first received Secret Service protection, until the inauguration in January 2017. The Clinic is currently in negotiations with the government about its search for responsive records.

##### *Buetner v. NJ Gaming Commission*

The Clinic is representing a *New York Times* reporter seeking records relating to the decision by the State of New Jersey to forgive nearly \$25 million in taxes owed by the Trump casinos as part of a bankruptcy settlement made shortly after Gov. Christie's took office. The Clinic is currently in negotiation over the claims of exemption asserted by the state agencies involved.

*Camelback Plaza Development v. Bayrock Group (Ariz. Supr. Ct.)*

The Clinic succeeded in unsealing the records of an Arizona state court action involving allegations of wrongdoing related to a failed Trump development proposal in Phoenix, Arizona.

*Lipton v. EPA, No. 17-cv-2588 (D.D.C.)*

The Clinic is representing *New York Times* reporter Eric Lipton in FOIA litigation against the EPA seeking the EPA Director's calendar. The Clinic advances a novel theory that the calendar constitutes a "non-static" record that the agency is required to proactively make available on its web site under 2016 amendments to FOIA's reading room provisions. The motion is fully briefed and awaiting argument.

*Sullivan v. Bureau of Alcohol Tobacco, Firearms & Explosives (S.D.N.Y.)*. The Clinic represents *New York Times* reporter Eileen Sullivan in FOIA litigation seeking correspondence between BATFE and members of Congress and gun rights advocacy organizations related to the regulation of bumpstocks. In response to the lawsuit BATFE has just produced an initial batch of congressional correspondence and will soon produce responsive emails.

*Turkewitz v. Dep't of Interior, (S.D.N.Y.)*

The Clinic represents *New York Times* reporter Julie Turkewitz in FOIA litigation seeking email correspondences from and to Secretary Ryan Zinke regarding national monuments. The Clinic filed the suit after the Trump Administration announced its decision to shrink Bears Ears National Park. The Department of Interior has already produced documents revealing that it misled the public in claiming that oil and gas rights did not motivate the decision and is slated to review and produce thousands more documents over the next several months.

*Vogel v. Dep't of Justice (S.D.N.Y.)*

The Clinic is representing *New York Times* reporter Ken Vogel seeking to obtain access to records from the Foreign Agent Registration unit within the Department of Justice relating to a number of individuals and organizations.

**Government Accountability**

*Bonner v. Dep't of Defense (S.D.N.Y.)*. Investigative journalist Ray Bonner is seeking through FOIA a number of specific items needed for use in his reporting on Abu Zubaydah. The Clinic filed suit on his behalf after his FOIA requests went nowhere. A number of documents have already been produced as a result of the litigation, and the government will be continuing to review and produce material through the summer.

*Connecticut ACLU v. Waterbury Police Dep't et al. (Conn. Freedom of Information Commission)*

The Clinic is co-counsel with the ACLU of Connecticut in two Connecticut FOIA cases seeking records concerning the use of deadly force by police in Waterbury and New Britain.

*Human Rights Watch v. Dep't of Defense, et al.*

The Clinic is representing HRW in administrative appeals after several agencies denied FOIA requests concerning disciplinary actions taken against members of the US armed forces for misconduct in Afghanistan. HRW is seeking the records to use in advocacy before the International Criminal Court, which has opened an investigation into war crimes in Afghanistan.

*United States v. Johnson (S.D.N.Y.)*

Last fall, MFIA represented ProPublica in a successful motion to gain access to the source code of the Forensic Statistical Tool (FST) used by the New York State Office of the Chief Medical Examiner (OCME) in processing DNA evidence for state and federal prosecutors. The code had been produced to a criminal defendant but was subject to a protective order. MFIA successfully moved to vacate the protective order and compel disclosure of the code, which ProPublica published on GitHub.

### **National Security & Surveillance**

*Center for Global Legal Challenges v. Dep't of State (S.D.N.Y.)*

The Clinic represents a Yale-affiliated center in FOIA litigation in the District of Connecticut seeking disclosure of the statements of authority for entering into various international agreements. In response to the lawsuit, hundreds of records have been produced, which the Center will use in an ongoing scholarly project.

*Foreign Intelligence Surveillance Court (Carter Page)*

After the genesis of orders authorizing the 2016 surveillance of Carter Page became an issue between the competing factions of the House Intelligence Committee, the Clinic filed a motion in the Foreign Intelligence Surveillance Court on behalf of the *New York Times* asserting a constitutional right of access to the application materials on which the orders were entered and urging that no compelling interest justified their continued sealing. We are still awaiting a ruling.

### ***Significant Victories and Court Decisions***

The Clinic compelled the release of documents revealing that access to oil reserves was central to the decision to shrink Bears Ears Monument, contrary to claims by the Interior Secretary; an order disclosing the completely sealed court file of an earlier civil dispute in Arizona over a failed Trump real estate project; an order unsealing appellate court records relating to the criminal prosecution of Felix Sater; an order affirming the standing of transparency advocates to seek access to records of the Foreign Intelligence Surveillance Court; an order affirming the public's right of access to findings in disciplinary proceedings against NYC correction officers; and, an order unsealing Alabama's confidential protocol used to execute individuals by lethal injection. The Clinic is also in the final stages of negotiating a settlement of a pattern and practice lawsuit over the Los Angeles Police Department's failure to satisfy its disclosure obligations under the state's open records law.



## ***Amicus Submissions***

*Nicopure Labs v. FDA*, No. 17-5196 (D.C. Cir.)

In May, the Clinic filed an amicus brief on behalf of First Amendment Scholars in a lawsuit challenging the authority of the FDA to pre-approve health claims made about "modified risk tobacco products." The brief argued that the First Amendment does not bar Congress from prohibiting the sale of unapproved e-cigarettes and vaping devices, and a law requiring manufacturers to substantiate with scientific evidence any health claims about such products, before they are made to the public, is a permissible regulation of commercial speech.

*Lozman v. City of Riviera*, No. 17-21 (U.S.)

The Clinic, in conjunction with attorneys from Davis Wright Tremaine LLP, will file an amicus brief on December 29, 2017, arguing that the Court should reject the Eleventh Circuit's holding that the existence of probable cause bars a First Amendment retaliatory arrest claim as a matter of law. The Clinic's brief argues that affirming the lower court's decision would have serious negative consequences for newsgathering and freedom of the press, highlighting instances where members of the press have been targeted by police for engaging in newsgathering activities.

*NYCLU v. NYPD* (N.Y. Ct. Appeals)

The Clinic is submitting an amicus brief on behalf of ten news organizations in an appeal by the New York Civil Liberties Union asserting a right of access to disciplinary decisions of the NYPD. The Appellate Division—First Department ruled that the police commissioner's decisions implementing rulings of the Civilian Complaint Review Board constituted "personnel records" and could not be disclosed under New York law. That ruling is now before New York's highest court.

## ***Other Advocacy***

Sealed Cases Research & Advocacy Project (D. Conn.)

Last year Clinic students conducted a study to determine if the sealing practices of Connecticut federal courts adequately enforce the public's right of access to court records. Their investigation revealed practices that permit widespread, indefinite sealing of applications and orders for search warrants, pen registers/trap and traces, and electronic surveillance in contravention of public access rights. The students submitted a report of their findings to the Chief Judge of the District of Connecticut, along with specific recommendations for changes to the local rules to protect the public access right. The Chief Judge distributed the report to each magistrate and district judge and asked the Criminal Local Rules Advisory Committee to address the report's issues expeditiously. The Clinic is in continuing contact with the rules Committee, which is drafting amendments to the current rules. This issue is of broad interest, and litigation concerning this issue is ongoing in the District of Columbia and Northern District of California. The Clinic shared its report with Selina MacLaren at the Reporters Committee for Freedom of the Press, Patrick Kabat's clinic at Case Western, and Heidi Kitrosser's practicum at Minnesota.

The Clinic's previous policy work has included a white paper on access to body cam footage, an investigation into the use of arrest data by the NYPD, and the viability of new theories for requiring proactive disclosure based on changes made in the 2016 FOIA Improvements Act.

## **Events**

### **MFIA Access and Accountability Conference: A Conference for Transparency Advocates**, October 27 - 28, 2017

A full description of the event is provided above, in the "Conferences" section.

### **FOIA Bootcamp 2018**, February 6, 2018

As government transparency faces an uncertain future, the Media Freedom and Information Access Clinic (MFIA) at Yale Law School provided an overview of the legal tools you can use to keep federal, state, and local governments open and accountable. Topics included how to effectively obtain information through the Freedom of Information Act (FOIA)—how to draft requests, where to send them, what language to use and how to work with agencies to avoid going to court. This workshop was led by an experienced practitioner in the field of media law, open government, and right-of-access issues and an award-winning investigative reporter who has used documents obtained through FOIA in his work.

**Jennifer Borg**, Counsel, Pashman, Stein, Walder, Hayden; former General Counsel and Vice President of North Jersey Media Group Inc.

**Eric Lipton**, Investigative Reporter, *The New York Times*

### **Resisting a Slide Into Authoritarianism**, March 1, 2018

**Justin Florence**, Legal Director, Protect Democracy

Justin Florence discussed the work being done at Protect Democracy to prevent our nation from declining into a more authoritarian form of government. Concerned by an unprecedented tide of authoritarian-style politics that is sweeping the country, Protect Democracy works to develop legal theories and strategies to hold the President and the Executive Branch accountable to our laws and longstanding practices. Justin reviewed the research he conducts to develop an effective legal response when government officials threaten retaliation against news organizations, deny press access, or take other actions intended to suppress unfavorable news coverage. He also explored other strategies being developed to push back on official conduct that is fundamentally at odds with the Bill of Rights, the constitutional limitations on the role of the President, and the laws and unwritten norms that exist to prevent abuses of power.

## **NDAs and Investigative Journalism: What Can Be Done When Contractual Commitments Are Used to Suppress New Reporting?**, April 18, 2018

This invitation-only event considered the impact of non-disclosure agreements on investigative reporting, the risks to sources and to journalists if an NDA is violated, and the legal theories and tools available when NDAs threaten to suppress reporting of important, newsworthy information. This “brown bag lunch” proceeded in three locations connected by videoconference; New Haven, New York, and Washington, D.C. A question-and-answer session for both journalists and lawyers followed a discussion of the key issues with a group of leading experts.

**Jack Balkin**, Knight Professor of Constitutional Law and the First Amendment, Yale Law School; Founder and Director of Yale’s Information Society Project

**Kathleen Clark**, Professor of Law, Washington University, St. Louis; former Counsel to the Senate Judiciary Committee.

**David Rohde**, Online News Editor, *The New Yorker*; former Reporter, Reuters

**Richard Tofel**, founding General Manager, ProPublica; previous President of International Freedom Center; Assistant Publisher, *The Wall Street Journal*; Assistant General Counsel, Dow Jones

## ***Research Grants and Funding***

### **2015: Knight Foundation and Stanton Foundation**

The Knight Foundation and the Stanton Foundation together provided a significant five-year grant to the Media Freedom and Information Access Clinic in order to support the clinic’s director, to fund ongoing litigation expenses, to provide funding for marketing and outreach activities, and for other purposes.

### **2016: Stanton Foundation**

The Stanton Foundation has awarded a separate grant to fund a Stanton First Amendment Fellow to work on litigation matters in the Media Freedom and Information Access Clinic.

### **2016: Arnold Foundation, Collaboration for Research Integrity and Transparency**

Worked as an integral part of an interdisciplinary team from the Yale Law School’s Global Health Justice Partnership, Media Freedom and Information Access Clinic, Yale School of Medicine, and Yale School of Public Health to obtain significant funding for multi-year project to enhance the quality and transparency of the research base for medical products. The funding will support five new positions: program director, staff attorney, two fellows, and program administrator. Certain activities of the MFIA clinic, including ongoing litigation against the Food and Drug Administration to open up access to clinical trial data, will come within scope of the new Collaboration.

### **2017-2018: Government Accountability Project**

Multiple sources, including the Ruttenberg, Mosley, and Gunn families have funded this project. The Clinic's push to understand and expose executive branch conflicts of interest is the primary responsibility of Charles S. Sims, J.D. '76, a seasoned litigator with experience handling First Amendment, copyright, and complex federal litigation, who was hired earlier this year as a MFIA staff attorney to develop and oversee the government accountability project. Working with Clinic Director David Schulz, Sims and the YLS students enrolled in the Clinic have been providing pro bono legal assistance to investigative journalists who do not have access to the legal resources needed to compel access to records filed away in courts and government agencies. They have been assisting four journalists investigating executive branch conflicts.

### ***Clinic Personnel***

#### **Jack Balkin, Knight Professor of Constitutional Law and the First Amendment**

Jack Balkin is the founder and director of Yale's Information Society Project. He also directs the Abrams Institute for Freedom of Expression and the Knight Law and Media Program at Yale. He has served as the director of the MFIA Clinic since its inception as a student-run practicum in 2009.

#### **David A. Schulz, Clinic Co-Director**

David Schulz is a partner in the law firm Ballard Spahr LLP with a national trial and appellate practice representing news and entertainment media in defamation, privacy, newsgathering, access, intellectual property and related First Amendment matters. Mr. Schulz has been co-directing the MFIA Clinic with Professor Jack Balkin since it was launched in 2009. Since fall 2015, Mr. Schulz has worked full time at the Clinic.

#### **Charles S. Sims, Clinic Counsel**

Counsel to the Media Freedom and Information Access Clinic and its Government Accountability Project. A senior partner in the law firm of Proskauer Rose LLP, where he worked for 30 years after 9 years as national staff counsel at the ACLU, he specialized in complex federal appellate work, First Amendment and media law, and copyright law. In addition to his representation of book publishers and databases, he represented the ACLU on its motion to quash an unprecedented Justice Department subpoena for "any and all copies" of allegedly classified rules governing photography of detainees at Abu Ghraib. He argued three cases in the Supreme Court, and was Chair for three years of the Committee on Communications and Media Law of the Association of the Bar of the City of New York. He's a graduate of Amherst College and Yale Law School.

**Hannah Bloch-Wehba, Stanton First Amendment Fellow**

Hannah Bloch-Wehba is the inaugural Stanton First Amendment Fellow in the MFIA Clinic, assuming that role in July 2016. She graduated from NYU School of Law in 2013. Ms. Bloch-Wehba worked as an associate at Baker Botts LLP, and served for two years as the Stanton National Security Fellow at the Reporters Committee for Freedom of the Press.

**John Langford, Abrams Clinical Fellow**

John Langford is the Abrams Clinical Fellow, assuming that role in July 2016. He graduated from Yale Law School in 2014, during which time he was an ISP student fellow, Knight Law & Media fellow, and a four-semester member of the Media Freedom and Information Access Clinic. Mr. Langford served as an associate at WilmerHale and clerked for the Hon. Robin S. Rosenbaum of the U.S. Court of Appeals for the 11th Circuit.

**Sandra Baron, Visiting Clinical Lecturer and Senior Research Scholar**

Sandy previously served as the Executive Director of the Media Law Resource Center, Senior Managing Attorney at the National Broadcasting Company, Inc., Associate General Counsel of the Educational Broadcasting Company in New York, and as the counsel for Public Broadcasting's American Playhouse. She received her B.A. from Brandeis University and her J.D. from Columbia University School of Law.

**Student Directors: Allison Douglass, Meenu Krishnan, and Delbert Tran**

# Courses

# ISP Courses and Reading Groups

## ISP Related Courses

### Fall 2017 - Spring 2018

Media Freedom and Information Access Clinic

David Schulz, John Langford, Hannah Bloch-Wehba, Jack Balkin

### Fall 2017

Art of Argument: Writing About the Law

Emily Bazelon

Espionage and International Law

Asaf Lubin

### Spring 2018

Law of Newsgathering

David Schulz

First Amendment

Jack Balkin

## ISP-Sponsored Reading Groups

### Spring 2018

Current Issues in Internet Law

Images of Justice

Law and Artificial Intelligence

Regulating the Future of Medicine

Understanding EU's Privacy Law and New Technology Regulation