



Information Society Project Yale Law School

2018-2019

Accomplishment Book

Compiled by Rebecca Crootof and Leah Ferentinos

A 3D graphic of a book spine and cover. The spine is on the left, and the cover is on the right. The book is light blue with a white spine. The year '2018-2019' is printed in large black font on the cover.

2018-2019

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People

Information Society Project at Yale Law School

2018-2019 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

- | | |
|------------------------|------------------------|
| • Vigjilence Abazi | • Anat Lior |
| • Sandra Baron | • Ji Ma |
| • Ximena Benavides | • Chris Morten |
| • Philip Bender | • Przemek Palka |
| • Charlie Crain | • Jennifer Pinsof |
| • Leah Ferentinos | • Francesca Procaccini |
| • Nick Frisch | • Liron Shilo |
| • Samantha Godwin | • Charles Sims |
| • Nikolas Guggenberger | • Lucia Sommerer |
| • Thomas Kadri | • Faren Tang |
| • John Langford | • Laurin Wesslinger |
| • Tiffany Li | • Yiquen (Alice) Ye |

Visiting Fellows

- Belabbes Benkredda
- Andrew Burt
- Celine Castets-Renard
- Mala Chatterjee
- Roger Ford
- Amelie Heldt
- Erik Hovenkamp
- Cortelyou Kenney
- Lina Khan
- David Kim
- Mike Kwet
- Matt Laponte
- Asaf Lubin
- Mason Marks
- Peter Maybarduk
- William New
- Sean O'Brien
- Baljeet Sandhu
- Andrew Selbst
- Ramesh Subramanian
- Nabiha Syed
- Nafees Syed
- Gabriel Teninbaum
- Lorianne Toler
- Patricia Vargas Leon
- Pilar Velasco
- Rebecca Wexler
- Shlomit Yanisky-Ravid
- Moran Yemini

ISP Student Fellows

- Simon Brewer
- Eric Brooks
- Gabriella Capone
- Sara Cervantes
- Leila Chang
- Emmett Chen-Ran
- Rachel Cheong
- Kelsang Dolma
- Sasha Dudding
- Allison Durkin
- Maily Fidler
- Jeff Guo
- Will Horvath
- Shlomo Klapper
- Diana Lee
- Brandon Levin
- Ned Levin
- Sarah Levine
- Nathan Leys
- Lynette Lim
- Will Marks
- Catherine Martinez
- Abby McCourt
- Michael Morse
- Omar Motala
- David Murdter
- Geng Ngarmboonanan
- Bryan Owens
- Paulina Perlin
- Michael Pizzi
- Shannon Price
- Lisa Qian
- Varsha Raghavan
- Morgane Richer La Fleche
- Charlie Seidell
- Elliot Setzer
- Viktoria Shvydshenko
- Dan Stein

- Georgia Travers
- Hendrick Townley
- George Wang

- Shunhe Wang
- Anna Windemuth

Knight Law and Media Scholars

- | | |
|----------------------|-------------------------|
| • Jessica Baker | • Taylor Morris |
| • Simon Brewer | • David Murdter |
| • Joe Burson | • Adam Pan |
| • Sara Cervantes | • Pauline Perlin |
| • Rachel Cheong | • Ben Rashkovich |
| • Greg Conyers | • Sara Sampoli |
| • Sasha Dudding | • Jacob Schriner-Briggs |
| • Isabel Farhi | • Kelsey Stimson |
| • David Froomkin | • Simone Seiver |
| • Jeff Guo | • Wendy Serra |
| • Anna Kaul | • Kelsey Stimson |
| • Sarah Lamsifer | • Jake van Leer |
| • Sarah Levine | • George Wang |
| • Ellis Liang | • Anna Windemuth |
| • Katrin Marquez | • Sara Worth |
| • Catherine Martinez | |

Yale University Affiliates

- | | |
|-------------------|---------------------|
| • Louisa deCossy | • Sean O'Brien |
| • Jason Eiseman | • Limor Peer |
| • Joan Feigenbaum | • Thomas Pogge |
| • Michael Fischer | • Charles Sims |
| • Vali Gazula | • Christina Spiesel |
| • Susan Gibbons | • Jason Stanley |
| • Bonnie Kaplan | • Xiyin Tang |

Resident Fellow Accomplishments¹

¹ 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.

Articles

Vigjilenca Abazi, *Closed Evidence in EU Courts: Security, Secrets and Access to Justice*, 55 COMMON MARKET L. REV. 3 (2018) (with C. Eckes).

Céline Castets-Renard, *Accountability of Algorithms: A European Legal Framework on Automated Decision-Making*, 29 FORDHAM INTELLECTUAL PROP., MEDIA & ENTERTAINMENT L.J. (forthcoming 2019), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3391266.

Céline Castets-Renard, *Privacy Shield: Toward a Strong Personal Data Protection Between the U.S. and the E.U.?*, 14 REVUE DES JURISTES DE SC PO 109-122 (2018), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3391321.

Céline Castets-Renard, *Can Everyday AI Be Ethical? Machine Learning Algorithms Fairness*, 6 STATISTIQUE ET SOCIÉTÉ 9-31 (2018), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3391288 (with Philippe Besse, Aurelien Garivier, Jean-Michel Loubes).

Céline Castets-Renard, *Accountability of Algorithms in the GDPR and Beyond: A European Legal Framework on Automated Decision-Making*, 30 FORDHAM INTEL. PROP. MEDIA & ENT. L.J. 91 (2019).

Céline Castets-Renard, *Régulation des Algorithmes et Gouvernance du Machine Learning : Vers une Transparence et "Explicabilité" des Décisions Algorithmiques?*, 15 DOSSIER INTELLIGENCE ARTIFICIELLE, REVUE DROIT & AFFAIRES 32-48 (2018).

Rebecca Crootof, *The Internet of Torts*, 69 DUKE L.J. (forthcoming 2019).

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

Nikolas Guggenberger, *Die Musterfeststellungsklage – Staat oder privat? Ein Verfehltes Gesetz und Bessere Alternativen*, 22 MULTIMED. RECHT 8 (2019) (with Leonid Guggenberger).

Amélie Pia Heldt, *Gesichtserkennung: Schlüssel oder Spitzel? – Der Einsatz von intelligenten Scans von Gesichtern im öffentlichen Raum*, 22 MMR 285 (2019).

Amélie Pia Heldt, *Upload-Filters: Bypassing Classical Concepts of Censorship?*, 10 J. INTELLECTUAL PROP., INFORMATION TECH. AND E-COMMERCE LAW (JIPITEC) 56 (2019), <https://www.jipitec.eu/issues/jipitec-10-1-2019/4877>.

Amélie Pia Heldt, *Reading Between the Lines and the Numbers – An Analysis of the First NetzDG Reports*, 8 INTERNET POL'Y REV. (2019), <https://policyreview.info/articles/analysis/reading-between-lines-and-numbers-analysis-first-netzdg-reports>.

Thomas Kadri, *Drawing Trump Naked: Curbing the Right of Publicity to Protect Public Discourse*, 78 MD. L. REV. (forthcoming 2019).

Thomas Kadri & Kate Klonick, *Facebook v. Sullivan: Building Constitutional Law for Online Speech*, 93 S. CAL. L. REV. (forthcoming 2019).

Mason Marks, *Artificial Intelligence Based Suicide Prediction*, 21 YALE J. L. & TECH 98 (forthcoming 2019).

Przemysław Pałka, *CLAUDETTE: An Automated Detector of Potentially Unfair Clauses in Online Terms of Service*, 27 ARTIFICIAL INTELLIGENCE & L. 117 (2019) (with Marco Lippi, Giuseppe Contissa, Francesca Lagioia, Hans-Wolfgang Micklitz, Giovanni Sartor & Paolo Torroni).

Przemysław Pałka, *Consumer Protection Requires Artificial Intelligence*, 1 NATURE: MACHINE INTELLIGENCE 168 (2019) (with Marco Lippi, Giuseppe Contissa, Francesca Lagioia, Hans-Wolfgang Micklitz, Giovanni Sartor & Paolo Torroni).

Przemysław Pałka, *Algorithms in the Service of the Civil Society*, 8 J. EUR. CONSUMER & MARKET L. 1 (2019) (with Hans-W. Micklitz).

Liron Shilo, *When Turing Met Grotius – AI, Indeterminism, and Responsibility* (manuscript) <https://ssrn.com/abstract=3280393>.

Liron Shilo, *Organizing Lethal Autonomy: The Case for a New International Organizational Responsibility Regime Without Throwing Humans Under the Bus* (manuscript).

Books

VIGILENCA ABAZI, *OFFICIAL SECRETS AND OVERSIGHT IN THE EUROPEAN UNION* (2019).

Book Chapters, Reports, and Other Shorter Academic Pieces

Vigilencia Abazi, *Access to Information in Polycentric Governance*, in POLYCENTRICITY IN THE EUROPEAN UNION 254-275 (Josephine van Zeben & Ana Bobic eds., 2019).

Vigjilence Abazi, *Whistleblowing in Europe: A New Era of Legal Protections*, in EUROPEAN YEARBOOK OF FUNDAMENTAL RIGHTS 91-111 (Karin Lukas ed., 2019).

Vigjilence Abazi, Report, *The Protection of Whistleblowers: Challenges and Opportunities for Local and Regional Governments*, Council of Europe (2019).
Ximena Benavides Reverditto, *Make My Data Mine Again*, 15 YALE J. MED. & L. 23 (2019).

Céline Castets-Renard, *Le Nouveau Droit Français de la Protection des Données Personnelles Après le GDPR et the Directive sur les données de Police et Justice*, DALLOZ, (forthcoming 2019).

Céline Castets-Renard, *Données Personnelles et Entreprises en Nouvelle-Calédonie*, in *Quel droit pour les Entreprises*, en NOUVELLE- CALÉDONIE, CAHIERS DU LARJE, (forthcoming 2019).

Céline Castets-Renard, *La Réglementation Fédérale Américaine sur la Collecte des Données Personnelles par les Entreprises*, in L'ENTREPRISE FACE AUX DÉFIS DU NUMÉRIQUE, (Mare & Martin), (2019).

Céline Castets-Renard, *Les Plateformes de L'Economie Numérique, Facteur de Rupture des Activités des Professions Réglementées*, in QU'EN EST-IL DES PROFESSIONS RÉGLEMENTÉES?, LGDJ (Collections de l'IFR), (2019).

Céline Castets-Renard, *La Réglementation états-unienne sur les Voitures Autonomes: Forces et Faiblesses*, in LA CIRCULATION DES AUTOMOBILISTES EN EUROPE (Bruylant) (2019).

Céline Castets-Renard, *Directive 2016/680/UE et Réforme des Données Personnelles en Matière Pénale: le Droit Européen en Quête de Protection et Cohérence*, in LES FICHIERS DE POLICE, INSTITUT VARENNES. COLLECT. COLLOQUES ET ESSAIS (2019).

Rebecca Crotoft, *Regulating New Weapons Technology*, in THE IMPACT OF EMERGING TECHNOLOGIES ON THE LAW OF ARMED CONFLICT (Eric Talbot Jensen & Ronald T.P. Alcala, eds.) (forthcoming 2019).

Rebecca Crotoft, *Jurisprudential Space Junk: Treaties and New Technology*, in RESOLVING CONFLICTS IN THE LAW: ESSAYS IN HONOUR OF LEA BRILMAYER 106 (Chiara Giorgetti & Natalie Klein, eds.) (2019).

Nikolas Guggenberger, *International Report on Copyright Law*, in LIABILITY FOR ANTITRUST LAW INFRINGEMENTS & PROTECTION OF IP RIGHTS IN DISTRIBUTION 574 (Pranvera Këllezi, Bruce Kilpatrick & Pierre Kobel eds., 2019).

Nikolas Guggenberger, § 31 *Schutz des Wirtschaftsverkehrs bei Scoring und Bonitätsauskünften*, in *BUNDESDATENSCHUTZGESETZ: HANDKOMMENTAR* (Gernot Sydow ed., 2019).

Nikolas Guggenberger, § 30 *Verbraucher Kredite*, in *BUNDESDATENSCHUTZGESETZ: HANDKOMMENTAR* Gernot Sydow ed., 2019).

Michael Kwet, *Digital Colonialism: US Empire and the New Imperialism in the Global South*, in 60(4) *Race & Class* 3-26 (2019),
<https://journals.sagepub.com/doi/full/10.1177/0306396818823172>.

Mason Marks, *Algorithmic Disability Discrimination*, in *DISABILITY, HEALTH, LAW, & BIOETHICS* (I. Glenn Cohen et al. eds., forthcoming 2020).

Christopher Morten, *Freedom of Information Act Requests to the Department of Health and Human Services, 2008-17*, *BMC RESEARCH INTEGRITY AND PEER REVIEW* (forthcoming 2019) (with Egilman, A. C.; Wallach, J. D.; Lurie, P.; Ross, J. S.).

Przemysław Pałka, *EU Consumer Law and Artificial Intelligence*, in *THE TRANSFORMATION OF ECONOMIC LAW. ESSAYS IN HONOUR OF HANS-W. MICKLITZ* 91-114 (Lucila de Almeida, Marta Cantero Gamito, Mateja Djurovic & Kai Peter Purnhagen eds. 2019) (with Agnieszka Jabłowska).

Przemysław Pałka, *Claudette Meets GDPR: Automating the Evaluation of Privacy Policies Using Artificial Intelligence* (2018),
https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3208596 (with Giuseppe Contissa, Koen Docter, Francesca Lagioia, Marco Lippi, Hans-W Micklitz, Giovanni Sartor & Paolo Torroni).

Przemysław Pałka, *Consumer Law and Artificial Intelligence: Challenges to the EU Consumer Law and Policy Stemming from the Business' Use of Artificial Intelligence - Final Report of the ARTSY project*, *EUI Department of Law Research Paper No. 2018/11* (2018), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3228051 (with Agnieszka Jabłowska, Maciej Kuziemski, Anna Maria Nowak, Hans-W. Micklitz & Giovanni Sartor).

Przemysław Pałka, *Before Machines Consume the Consumers: High-Level Takeaways from the Artsy Project*, *EUI Department of Law Research Paper No. 2018/12* (2018), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3228085 (with Angieszka Jabłowska, Hans-W. Micklitz & Giovanni Sartor).

Lucia M. Sommerer, *Personenbezogenes Predictive Policing. Kriminalwissenschaftliche Untersuchung über die Automatisierung der Kriminalprognose (Person-based Predictive Policing and the Automation of Crime Prognosis)*, in *NOMOS* (forthcoming 2019).

Lucia M. Sommerer, *The Presumption of Innocence's Janus Head in Data Driven Government*, in BEING PROFILED: COGITAS ERGO SUM 58-61 (Emre Bayamlioğlu et al. eds., 2018).

Laurin Weissinger, *The Structure of Offshore: The Role of Intermediaries in Offshore Financial Networks* 10, CEPCI Research Notes (2018) (with Claire Peacock).

Presentations

Vigjilence Abazi, *Algorithmic Transparency, Whistleblower Protection*, SXSW Conference, Council of Europe, 2019.

Vigjilence Abazi, *Book Talk: Official Secrets and Oversight in the EU*, Harvard Law School, 2019.

Vigjilence Abazi, *Book Talk: Official Secrets and Oversight in the EU*, Yale Law School, 2019.

Ximena Benavides Reverditto, *Patient Empowerment and Digital Medicine: A New Era of Economic Constitutionalism for the Right to Health Care*, Colloquium of Economic Constitutionalism, University of Glasgow and Universidad de Los Andes, 2019.

Ximena Benavides Reverditto, *The Future of Electronic Health Record Data Workshop*, Collaboration for Research Integrity and Transparency and Media Freedom & Information Access Clinic, Yale Law School, 2019 (participant).

Ximena Benavides Reverditto, *Blockchain: Make My Data Mine Again*, 23d Interdisciplinary Legal Studies Graduate Conference, University of British Columbia, 2019.

Ximena Benavides Reverditto, *When Too Many Carrots Are Unhealthy: The Profit Motive in the U.S. Healthcare Market*, Yale Doctoral Scholarship Conference, Yale Law School, 2018.

Ximena Benavides Reverditto, *The Painful Rationing: Health Care Policy in the U.S.*, Graduate Legal Research Conference, Católica University of Portugal, 2018.

Ximena Benavides Reverditto, *The Painful Rationing: Austerity, Inequality, and Health in Puerto Rico*, Andrea Mitchell Center for the Study of Democracy Graduate Workshop, University of Pennsylvania, 2018.

Céline Castets-Renard, *Predictive Policing*, Colloque on AI and Law, Toulouse Capitole University and University of Montreal, 2019.

Céline Castets-Renard, *GDPR and AI*, Machine M.D. Conference, University of Ottawa, 2019.

Céline Castets-Renard, *Human Rights and Algorithmic Impact Assessment for Predictive Policing*, Algorithmic State, Market, and Society Conference, University of Florence and European University Institute (EUI), 2019.

Céline Castets-Renard, *Algorithmic Content Moderation on Social Media in EU Law and Illusion of Perfect Enforcement*, (Im)Perfect Enforcement Conference, Information Society Project, Yale Law School, 2019.

Rebecca Crootof, *A Computer Odyssey*, American Constitution Society National Convention, 2019 (panelist).

Rebecca Crootof, *Artificial Intelligence and International Stability Workshop*, Center for New American Security, 2019.

Rebecca Crootof, *Trusting Process?*, (Im)Perfect Enforcement Conference, Information Society Project, Yale Law School, 2019 (moderator).

Rebecca Crootof, *Law's End?* by Tim Wu, Common Law for the Age of AI, Columbia Law Review Symposium, Columbia Law School, 2019 (commentator).

Rebecca Crootof, *Emerging Technology*, American Society of International Law Annual Meeting, 2019 (panelist).

Rebecca Crootof, *Law and Technology Workshop*, University of Connecticut School of Law, 2019.

Rebecca Crootof, *Criminal Prosecutions*, Bridging the Divide: How the Public and Private Sectors Can Address the Cyber Threat Together, Yale Cyber Leadership Forum, Yale University, 2019 (moderator)

Rebecca Crootof, *Ethics and Governance of Artificial Intelligence*, Artificial Intelligence, Robotics, and the Reprogramming of Law, Center for Neuroscience and Law, Fordham Law School, 2019 (panelist).

Rebecca Crootof, *AI Ethics Roundtable*, Defense Innovation Board, Harvard Kennedy School, 2019.

Rebecca Crootof, *Data Integrity: Personal Privacy, Cybersecurity, and Highway Safety*, The Market for Regulation in the Internet of Things, Hoover Institution Working Group on Intellectual Property, Innovation, and Prosperity, Stanford University, 2019 (panelist).

Rebecca Crootof, *The Internet of Torts*, Center for Applied Cybersecurity Research, Indiana University, 2018 (paper presentation).

Rebecca Crootof, *International Cybertorts*, Global Legal Studies Center, University of Wisconsin Law School, 2018 (paper presentation).

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

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

Amélie Pia Heldt, *Moran Yemini & Dipayan Ghosh, Arbiters of Speech: Constitutional Constraints, Regulation and Online Content Moderation in Europe and the US*, Center for European Studies, Harvard University, 2019.

Amélie Pia Heldt, *Merging Free Speech and Content Moderation: a Social Public Forum?*, 8th Global Younger Comparativists Committee Conference, American Society of Comparative Law, McGill University School of Law, 2019.

Amélie Pia Heldt, *Let's Meet Halfway: Sharing New Responsibilities in a Digital Age*, Taming and Nurturing the Wild Child: Government and Corporate Policy for Social Media Preconference, International Communication Association, 2019.

Amélie Pia Heldt, *The Digital Agora: Utopia or Reality?*, The Rise of Platforms Postconference, International Communication Association, 2019.

Thomas Kadri, *Structural Constitutionalism for Speech Platforms*, Centre for Technology and Global Affairs, University of Oxford, 2019 (paper presentation).

Thomas Kadri, *Free Speech and the Internet*, Constitutional Law Center, Stanford Law School, 2019 (paper presentation).

Thomas Kadri, *How Should Major Tech Platforms Engage with Western Democracies?*, Hoover Institution, Stanford University, 2019 (paper presentation).

Thomas Kadri, *Freedom of Expression Scholars Conference*, Floyd Abrams Institute for Freedom of Expression, Yale Law School, 2019.

Thomas Kadri, *Constitutionalizing Speech Platforms*, Berkman Klein Center, Harvard Law School, 2019 (paper presentation).

Thomas Kadri, *Privacy Class Actions: A View from the United States*, Privacy Revolution Conference, Centre for Intellectual Property Policy, McGill University, 2019 (paper presentation).

Thomas Kadri, *Charting the Way Forwards for Information Fiduciaries*, Center for Advanced Study in Behavioral Sciences, Stanford University, 2019 (participant).

Thomas Kadri, *Intellectual Property Colloquium*, Institute for Intellectual Property & Information Law, Houston Law Center, 2019 (participant).

Thomas Kadri, *Truth Decay: Deep Fakes and the Implications for Privacy, National Security, and Democracy*, Maryland Law Review Symposium, Maryland Carey School of Law, 2019 (paper presentation).

Thomas Kadri, *Drawing Trump Naked: Curbing the Right of Publicity to Protect Public Discourse*, NYU Tri-State Region IP Workshop, Engelberg Center on Innovation Law & Policy, NYU Law School, 2019 (paper presentation).

Thomas Kadri, *Northeast Privacy Scholars Workshop*, Center on Law & Information Policy, Fordham Law School, 2018.

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

Anat Lior, *The Artificial Intelligence Respondent Superior Analogy*, Innovation in Law and Policy Conference, Peter A. Allard School of Law, University of British Columbia, 2019.

Anat Lior, *Artificial Intelligence Liability, Nonreciprocal Risks and Network Theory*, Federmann Cyber Security Center, Hebrew University of Jerusalem Workshop, 2019.

Mason Marks, *Censoring Self-Harm on Social Media*, Ethics Oversight and Committees for AI Workshop: Towards a Future Research Agenda, University of Oxford, 2019 (presenter).

Mason Marks, *Robots in Space: Sharing Our World with Autonomous Delivery Robots*, We Robot 2019, University of Miami, 2019 (presenter).

Mason Marks, *AI Based Suicide Prediction*, Law & Policy of AI, Robotics, & Telemedicine Conference, Yale University, 2018 (presenter).

Mason Marks, *Algorithmic Disability Discrimination*, Privacy Research Group, NYU Law School, 2018 (presenter).

Christopher Morten, *Understanding Oil States: Exploring the Public Rights Doctrine as Applied to Patents*, Patent Law Reading Group Seminar, NYU Law, 2019.

Przemysław Pałka, *With Great Power Came No Responsibility: Private-Public Relations between Users and Owners of Social Media Platforms*, The Private Law Junior Scholars Conference, University of Toronto, 2018.

Przemysław Pałka, *Personalized Online Ads: Regulatory Assumptions vs. Socio-Technical Reality*, Istanbul Privacy Symposium: Data Protection and Innovations, Istanbul Bigli University, 2018.

Przemysław Pałka, *Privacy Policies in the US and the EU: Between Markets and Human Rights*, 8th Annual Conference of the Younger Comparativists Committee, McGill University, 2019.

Francesca Procaccini, *Protecting Civil Liberties in a World of Unaccountable Sources and Extreme Politics*, Brown University, 2019 (speaker).

Francesca Procaccini, *Freedom of the Press and the Impact of Money, Politics, and Censorship*, United Nations Association Southwest Connecticut, 2019 (speaker).
Liron Shilo, *When Turing Met Grotius*, National SJD Roundtable, Georgetown University Law Center, 2018.

Liron Shilo, *Organizing Lethal Autonomy*, International Law Journal Conference, Cambridge University, 2019.

Liron Shilo, *Are Killer Robots 'Killing' Policy-Makers: The Challenges of Regulating Autonomous Weapon Systems*, Challenges of Automation: Artificial Intelligence and Blockchain Systems Conference, Fordham Law School, 2019.

Lucia Sommerer, *AI and Crime Control*, Computers, Privacy & Data Protection Conference, Conference Partners Ltd. Brussels (2019).

Laurin Weissinger, *Research Seminar on Trust in Cybersecurity*, Centre for Security Studies, ETH Zurich, 2019 (participant).

Laurin Weissinger, *Regulating AI and Algorithms: Lessons from Security Certifications and Audits?*, (Im)Perfect Enforcement, Information Society Project, Yale Law School, 2019, (paper presentation).

Laurin Weissinger & Sean O'Brien, *Digital Self-Defense Workshop*, RebLaw Conference, Yale Law School, 2019, (participant).

Blogposts, Op-Eds, and Other Popular Writing

Vigjilence Abazi, *New EU Directive on Whistleblower Protection*, EU LAW ANALYSIS, (2019).

Rebecca Crotoft, *Accountability for the Internet of Torts*, L. & POL. ECON. BLOG, (2018), <https://lpeblog.org/2018/07/17/accountability-for-the-internet-of-torts/>.

Rebecca Crootoof, *Introducing the Internet of Torts*, L. & Pol. Econ. Blog (2018), <https://lpeblog.org/2018/07/16/introducing-the-internet-of-torts/>.

Nikolas Guggenberger, *Diese Steuer könnte Facebook & Co. zähmen*, SÜDDEUTSCHE ZEITUNG (2018), <https://www.sueddeutsche.de/digital/social-media-diese-steuer-koennte-facebook-co-zaehmen-1.4096703>.

Nikolas Guggenberger, *Diese Richtlinie stellt unser Wertesystem auf den Kopf*, WWU NEWS (2019), <https://www.uni-muenster.de/news/view.php?cmdid=10156>.

Amélie Pia Heldt, *#NSFW? Be Yourself But Don't Undress*, HIIG SCIENCE BLOG, (2019), <https://www.hiig.de/en/nsfw-be-yourself-but-dont-undress/>.

Amélie Pia Heldt, *„Gebühr“ oder „Beitrag“: Einerlei*, 7 JUWISSBLOG (2019), <https://www.juwiss.de/7-2019/>.

Amélie Pia Heldt, *Good Ends, Bad Means? The EU's Struggle To Protect Copyright and Freedom of Speech*, COUNCIL ON FOREIGN RELATIONS BLOG (2019), <https://www.cfr.org/blog/good-ends-bad-means-eus-struggle-protect-copyright-and-freedom-speech>.

Amélie Pia Heldt, *Facebook and the European Elections: Overzealous or Uninformed?*, BALKINIZATION (2019), <https://balkin.blogspot.com/2019/06/facebook-and-european-elections.html>.

Amélie Pia Heldt, Podcast with Julia Krüger, NETZPOLITIK.ORG (HIIG Science Podcast, (2019), <https://exploringdigitalspheres.podigee.io/7-new-episode>.

Amélie Pia Heldt, *Von der Schwierigkeit, Fake News zu regulieren: Frankreichs Gesetzgebung gegen die Verbreitung von Falschnachrichten im Wahlkampf*, BPB DOSSIER DIGITALE DESINFORMATION (2019), <http://www.bpb.de/gesellschaft/digitales/digitale-desinformation/290529/frankreichs-gesetzgebung-gegen-die-verbreitung-von-falschnachrichten>.

Thomas Kadri, *How to Make Facebook's 'Supreme Court' Work*, N.Y. TIMES (2018), <https://www.nytimes.com/2018/11/17/opinion/facebook-supreme-court-speech.html>.

Thomas Kadri, *How Supreme a Court?*, SLATE (2018), <https://slate.com/technology/2018/11/facebook-zuckerberg-independent-speech-content-appeals-court.html>.

Thomas Kadri, *Thomas Kadri on the Right of Publicity & Free Speech*, IPSE DIXIT PODCAST (2018), <https://shows.pippa.io/ipse-dixit/episodes/thomas-kadri-on-the-right-of-publicity-free-speech>.

Michael Kwet, *Break the Hold of Digital Colonialism*, 34 MAIL & GUARDIAN 29 (2018), <https://mg.co.za/article/2018-06-29-00-break-the-hold-of-digital-colonialism>.

Michael Kwet, *Google and Apple's Systems to Track you in Person: What the Media Isn't Telling You*, COUNTERPUNCH (2018), <https://www.counterpunch.org/2018/09/06/google-and-apples-systems-to-track-you-in-person-what-the-media-isnt-telling-you/>.

Michael Kwet, *Digital Colonialism is Threatening the Global South*, AL JAZEERA, (2019), <https://www.aljazeera.com/indepth/opinion/digital-colonialism-threatening-global-south-190129140828809.html>.

Michael Kwet, *Retail's Secret Surveillance*, N.Y. TIMES (2019), <https://www.nytimes.com/interactive/2019/06/14/opinion/bluetooth-wireless-tracking-privacy.html>.

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

Anat Lior, *An Interview with Anat Lior: AI and Practicing Law – High Potential, High Risks*, TECH & LAW ISRAEL (2018), techlaw.co.il/en/an-interview-with-anat-lior/?fbclid=IwAR2V4bPDzNZ79TtClsE1SthZlnTCZCjr9D-nSJEBcCeymtxmKpND3j8QU (with Or Bakai).

Anat Lior, *Insurability of Artificial Intelligence Algorithms and Robots – A Different Version of the Same Policy*, THE FEDERMANN CYBER SECURITY CENTER – CYBER LAW PROGRAM (forthcoming 2019).

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Clinical Activities

Christopher Morten, Brief of *Amici Curiae* Collaboration for Research Integrity and Transparency and Public Justice in Support of Appellants, *In re Avandia Marketing, Sales Practices & Products Liability Litigation*, 924 F.3d 662 (3d Cir. 2019) (with Jeanie Kim, David Schulz, Jennifer Bennett, and Cortelyou Kenney).

Francesca Procaccini, Brief of the Floyd Abrams Institute for Freedom of Expression as Amicus Curiae in Support of Appellees, *Rucho v. Common Cause*, 588 U.S. (2019) (Nos. 18–422, 18–726) (with Floyd Abrams, David Schulz, and Charles Sims).

Francesca Procaccini, Brief for Amici Curiae Scholars of First Amendment and Information Law in Support of Plaintiffs - Appellees, *Animal Legal Defense Fund v. Reynolds*, No. 19-1364 (8th Cir. filed 2019) (with David Schulz and Charles Sims).

Francesca Procaccini, Proposed Amici Curiae Memorandum Submitted on Behalf of Sixteen News Organizations and Press Freedom Groups in Opposition to the Blanket Sealing of This Case, *Anonymous v. Anonymous*, No. 655887/2018 (N.Y. Sup. Ct. filed 2019) (with David Schulz and John Langford).

Conferences

Freedom of Expression in an Age of Surveillance

September 26, 2018

This panel was the first in a series of events examining the role that the First Amendment should play in assessing the lawfulness of government surveillance. Historically, the First Amendment served as a crucial check on overreaching government surveillance. But today, courts have examined surveillance almost exclusively in Fourth Amendment terms. Is it time to revive the First Amendment as a limit on surveillance? How could that be done?

Featuring

- **Jack Balkin**, Knight Professor of Constitutional Law and the First Amendment, Yale Law School
- **Jennifer Granick**, Surveillance and Cybersecurity Counsel, ACLU
- **Neil Richards**, Thomas and Karole Green Professor of Law, Washington University School of Law

Introduced by

- **Alex Abdo**, Knight First Amendment Institute at Columbia University
- **Thomas Kadri**, Fellow, Yale Law School Information Society Project

Sponsored by the Information Society Project at Yale Law School, the Knight First Amendment Institute at Columbia University, the American Constitution Society at Yale Law School, the National Security Group at Yale Law School, and the Yale Law and Tech Society.

Intermediaries and Private Speech Regulation: A Transatlantic Dialogue Workshop

September 28, 2018

Leading experts from the United States, the United Kingdom, and the European Union came together to discuss the issue of private speech regulation and the connections between platform liability laws and fundamental rights, with a focus on free expression.

Governments around the world are increasingly turning to private Internet platforms as de facto regulators of Internet users' speech. In the United States, newly enacted legislation expands Internet intermediaries' liability for users' communications for the first time in two decades. In the European Union, the Commission has proposed making social media companies proactively monitor and remove user communications relating to terrorism. Pressure to combat violent extremism has already led to troubling errors -- including platforms removing political speech, videos posted by human rights organizations, and ordinary users' discussions of Islamic religious topics.

What limits, if any, do Constitutional and Human Rights frameworks place on laws that will, foreseeably, lead private platforms to silence lawful speech? Can states effectively bypass limitations on their own authority by deploying private companies without appropriate safeguards? In the United States, few courts have had to confront these questions in the Internet age. Older cases, though, held that poorly formulated liability rules for "analog intermediaries" such as bookstores could violate the First Amendment.

Courts and thinkers outside the United States have brought increasing attention to these questions in recent years. The Supreme Courts of India and Argentina both rejected intermediary liability rules that would incentivize cautious platforms to silence large swathes of lawful speech. The European Court of Human Rights and Court of Justice of the European Union have both identified users' expression and privacy rights as limiting factors for platform liability rules. The prevailing political winds in Europe, however, favor ever increasing platform responsibility for eliminating unlawful content. This event brought together a transatlantic group of scholars of constitutional and human rights law to discuss connections between platform liability laws and fundamental rights, including free expression. It was a timely event in light of likely litigation challenging the constitutionality of FOSTA – the first U.S. law in twenty years to substantially expand platforms' legal responsibility for user speech and developments in Europe around 'illegal content online.'

Co-sponsored by the Wikimedia/Yale Law School Initiative on Intermediaries and Information and the Stanford Law School Center for Internet & Society.

Session 1: Free Expression Protections and Intermediary Liability

At the heart of the debate about intermediary liability and speech protections are a number of legal and constitutional questions. These included the scope of fundamental rights protections; the question of state action and the delineation of public and private power; and the role that law has to play, alongside other forms of governance, in establishing the relationships among states, internet intermediaries, and speakers.

- **Martin Husovec**, Assistant Professor, Tilburg Law School
- **Daphne Keller**, Director of Intermediary Liability, CIS Stanford Law School

Session 2: Black Letter Law and Facts on the Ground

Building on the first session's discussion of constitutional and fundamental rights, this discussion examined how those rights are protected – or not – by black letter legal doctrines and current platform and government practices. Discussion covered, among other topics, legal theories to challenge or defend state and private exercises of power over online expression.

- **Daphne Keller**, Director of Intermediary Liability and Lecturer in Law, Center for Internet and Society, Stanford Law School
- **Joris van Hoboken**, Professor of Law, Chair of “Fundamental Rights and the Digital Transformation,” Vrije Universiteit Brussels (VUB)

Session 3: Moving EU-US Dialogues Forward

This session looked at what Europe and America can learn from each other, based on discussions in previous sessions. This conversation highlighted and discussed commonalities and differences in E.U. and U.S. approaches to constitutional protection of speech, with a particular focus on how lines of argumentation, legal concepts, and practical implementation of laws compare in the transatlantic context.

- **Martin Husovec**, Assistant Professor, Tilburg Law School
- **Tiffany Li**, ISP Resident Fellow, Yale Law School

Session 4: Future Models for Private Speech Regulation

This session focused on future or alternative models of intermediary liability and private speech regulation, including extension or expansion of current models of speech regulation. Regulatory models for discussion included but was not limited to, common carrier models, antitrust regulation, information fiduciaries, multi-tier regulations for intermediaries by type, and hybrid public-private models. The conversation also touched on practical policy strategies to advocate for new or improved regulatory models.

- **Tiffany Li**, ISP Resident Fellow, Yale Law School
- **Joris van Hoboken**, Professor of Law, Chair of “Fundamental Rights and the Digital Transformation,” Vrije Universiteit Brussels (VUB)

Access and Accountability Conference: A Conference for Transparency Advocates

October 12-13, 2018

The Media Freedom and Information Access Clinic and the Abrams Institute for Freedom of Expression 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 governmental accountability and transparency.

Funding for this conference was provided by the Democracy Fund, the John S. and James L. Knight Foundation, the Abrams Institute for Freedom of Expression, and the Reporters Committee for Freedom of the Press.

Friday, October 12

Journalism Under Fire

In this opening conversation, **RonNell Anderson Jones**, Professor of Law, The University of S.J. Quinney Utah School of Law and **Stephen Gillers**, Professor of Law, NYU Law, discussed Gillers' book, *Journalism Under Fire: Protecting the Future of Investigative Reporting* (Columbia U. Press 2018), and policies to facilitate and support the free press as a public good. Gillers proposed (1) improvements to the Freedom of Information Act, (2) a national anti-SLAPP law, and (3) the creation of a publicly funded National Endowment for Investigative Reporting.

Newsgathering in the Digital Age

This panel analyzed current issues concerning the legal rights of newsgatherers and strategies most likely to improve the flow of critical information to the public, such as establishing an affirmative right to photograph, recognizing access rights for journalists, developing legal theories to combat the growing use of non-disclosure agreements, and identifying strategies to protect confidential sources.

- **Lee Levine**, Senior Counsel, Ballard Spahr (moderator)
- **Alex Abdo**, Litigation Director, Knight First Amendment Institute, Columbia University
- **Dale Cohen**, Director of Documentary Film Legal Clinic, UCLA Law
- **Jack Gillum**, Senior Reporter, *Pro Publica*
- **Lynn Oberlander**, General Counsel, Gizmodo Media Group

Law Enforcement Accountability

This panel considered the impediments to public oversight of law enforcement agencies and the surveillance technologies they deploy, as well as strategies to improve transparency, including access to body cam footage, disclosure of surveillance applications and orders, increased transparency for police discipline measures, and proactive technology information disclosure.

- **David McCraw**, Deputy General Counsel, *The New York Times* (moderator)
- **Cynthia Conti-Cook**, Staff Attorney, New York City Legal Aid Society, Special Litigation Unit
- **David Harris**, Professor of Law and Chair, University of Pittsburgh School of Law
- **Jamie Kalven**, Writer and Human Rights Activist, Invisible Institute
- **Jonathan Manes**, Assistant Clinical Professor and Director of Civil Liberties and Transparency Clinic, University at Buffalo School of Law

The Privacy Paradox

This panel considers the inherent conflict between personal privacy interests and the interests of journalists in access to information held in government databases, such as criminal history records, patient level clinical trial data, educational records, and driver license records.

- **Jane Kirtley**, Professor of Media Ethics and Law, Director of Silha Center for the Study of Media Ethics and Law, University of Minnesota Law School (moderator)
- **Julia Angwin**, Senior Reporter, *Pro Publica*
- **Esme Caramello**, Clinical Professor of Law and Faculty Director of Harvard Legal Aid Bureau, Harvard Law School
- **Cheryl Phillips**, Visiting Professor in Journalism, Stanford University
- **Nabiha Syed**, Vice President and Associate General Counsel, BuzzFeed

National Security Accountability (Break Out Session I)

This session considered the ways national security concerns limit transparency and accountability, the problems created by over-classification and liability risks for reporters; and strategies for obtaining appropriate public access to surveillance orders, national security letters, and the FISA court.

- **Brett Max Kaufman**, Senior Staff Attorney, ACLU Center for Democracy
- **Hope Metcalf**, Executive Director, Orville H. Schell, Jr. Center for International Human Rights, Yale Law School
- **David Schulz**, co-Director, MFIA Clinic and Floyd Abrams Clinical Lecturer in Law, Yale Law School
- **Jeramie Scott**, Senior Counsel, EPIC Privacy Information Center

Algorithmic Accountability (Break Out Session II)

This session reviewed key issues surrounding the transparency of algorithms used by governments and assessed potential legal strategies to achieve the level of algorithmic access required for meaningful democratic oversight.

- **Julia Angwin**, Senior Reporter, *Pro Publica*
- **Chris Bavitz**, Clinical Professor of Law and Managing Director, Cyberlaw Clinic, Berkman Klein Center for Internet and Society, Harvard Law School
- **Esha Bhandari**, Staff Attorney, Speech, Privacy, and Technology Project, ACLU
- **Solon Barocas**, Assistant Professor of Information Science, Cornell University
- **Nick Diakopoulos**, Assistant Professor of Communication Studies, Northwestern University

The Reform Agenda

This closing conversation focused on the strategies most likely to promote transparency and accountability in the current polarized political environment, how they should be prioritized, what it will take to achieve progress, and what contributions can be made by law school clinics.

- **Jack Balkin**, Director and Founder, Information Society Project, Knight Professor of Constitutional Law and the First Amendment, Yale Law School (moderator)
- **Lili Levi**, Professor of Law, University of Miami School of Law
- **Justin Florence**, Legal Director, Protect Democracy
- **Jameel Jaffer**, Executive Director, Knight First Amendment Institute, Columbia University

The Law and Policy of AI, Robotics, and Telemedicine in Health Care

November 2, 2018

The interdisciplinary roundtable took on a broad range of questions at the intersection of medicine, robotics, and artificial intelligence, including the regulatory challenges of telemedicine, the privacy implications of these technological developments, evolving liability regimes for modern medical technologies, the impact of these challenges on health care disparities, costs and the doctor-patient relationships, and the political and financial realities of these advances in health science.

The roundtable brought together thirty leading academics, lawyers, physicians, policy makers, and health technology entrepreneurs to explore how novel technologies are revolutionizing health care, reshaping what it means to practice medicine, challenging existing regulatory schemes, and informing norms about patient information, data, and privacy. The event attracted an audience of more than 150 guests and featured five panel discussions.

This conference was generously funded by The Yale Law Solomon Center for Health Law and Policy, The Oscar M. Ruebhausen Fund, and the Information Society Project

Panels

The Need for New Regulation: Privacy Law, the FDA, and Beyond

Big Data in Health Care: Challenges, Biases, and Benefits

Keynote Panel: Business Leaders and Physicians Putting New Technologies into Action

Expanding Care to New Populations: The Promises and Perils of New Technology

AI, Robots, and the Practice of Medicine

Panelists

Lori Andrews, Director of the Institute for Science, Law and Technology;
Distinguished Professor of Law, Chicago-Kent College of Law

Jack Balkin, Knight Professor of Law and the First Amendment, Yale Law School; Director, Information Society Project

Mark Barnes, Partner, Ropes & Gray

Valarie Blake, Associate Professor of Law, West Virginia University School of Law

Nathan Cortez, Professor of Law, Southern Methodist University Dedman School of Law

Barbara Evans, Professor of Law, Professor of Electrical & Computer Engineering, Director of Center for Biotechnology & Law, University of Houston

Eric Fish, Senior Vice President, Legal Services, Federation of State Medical Boards

Brett Friedman, Partner, Ropes & Gray

Michael Froomkin, Professor of Law, University of Miami School of Law

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

Ariella Golomb, Managing Director, InnovaHealth Partners, LP

Amar Gupta, Principal Investigator & Coordinator of Telemedicine and Telehealth Initiatives, Massachusetts Institute of Technology

Claudia Haupt, Associate Professor of Law & Political Science, Northeastern University

Sharona Hoffman, Professor of Law and Professor of Bioethics, Case Western Reserve University School of Law; Co-Director, Law-Medicine Center

Bonnie Kaplan, Lecturer, Yale Center for Medical Informatics; Faculty, Program on Biomedical Ethics; Scholar, Yale Bioethics Center; Fellow, Information Society Project and Solomon Center for Health Law and Policy, Yale Law School

Fazal Khan, Associate Professor of Law, University of Georgia School of Law

Oliver Kim, Principal, Mousetrap Consulting; Adjunct Professor, University of Pittsburgh School of Law

Ian Kerr, Canada Chair Ethics, Law & Technology and Professor of Law, University of Ottawa

Katherine Kraschel, Lecturer in Law and Clinical Lecturer in Law, Yale Law School; Executive Director, Solomon Center for Health Law and Policy

Harlan Krumholz, Professor of Medicine (Cardiology), Professor of Investigative Medicine and Public Health, Yale Medical School; Director, Center for Outcomes Research and Evaluation, Yale-New Haven Hospital

Wei Li, Associate Professor of Surgery, Albert Einstein College of Medicine

Mason Marks, Fellow, New York University School of Law; Research Fellow, Information Society Project

Richard Migliori, Chief Medical Officer, UnitedHealth Group

Frank Pasquale, Professor of Law, University of Maryland School of Law

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

Sherri Rose, Associate Professor, Department of Health Care Policy, Harvard Medical School

Bill Sage, James R. Dougherty Chair for Faculty Excellence, University of Texas at Austin School of Law; Professor (Department of Surgery and Perioperative Care), University of Texas at Austin Dell Medical School

Neel Shah, Assistant Professor of Obstetrics and Reproductive Biology, Harvard Medical School; Director, Delivery Decisions Initiative, Ariadne Labs; Founder & Executive Director, Costs of Care

Sumanth Swaminathan, Chief Data Scientist, Revon Systems

Cara Tenenbaum, Senior Policy Advisor, Office of the Center Director, CDHR, U.S. Food and Drug Administration

Nicolas Terry, Professor of Law and Executive Director of the William S. and Christine S. Hall Center for Law and Health, Indiana University School of Law

Paul Tongsy, Masters in Legal Studies Candidate, Loyola Law School

Henry Wei, Medical Benefits Officer, Google

Court Records Access Workshop

March 25, 2019

The Court Records Access Workshop focused on vindicating and expanding the public's right of access to judicial proceedings and records. For many years there has been a nationwide trend among district courts to invoke Federal Rule of Civil Procedure 26's authorization of protective orders liberally and to seal important information filed with the court routinely. But ubiquitous and broad secrecy orders operate to hide important information learned through the discovery process from the public.

This conference focused on conducting research and preparing white papers addressing the over-use of routine sealing orders and protective orders in civil litigation, and developing strategies to redress the secrecy imposed on important health and safety information. Attendees explored both litigation options and rule changes to effect needed reform. The workshop at MFIA developed a strategy for joint action to promote access to court records and considered the major impediments that prevent public access to important health and safety information generated in civil litigation and identified strategies to potentially overcome them that can be pursued by law school clinics, individually or through collective action. This workshop included representatives from a dozen legal clinics along with a number of academics, current and former court officials, and journalists.

The Scope and Impact of Litigation Secrecy

- **Dan Levine**, Legal Correspondent, Reuters

Practices Governing Protective Orders

Why and how the practice of routine protective orders developed; types of public interest information regularly put under confidentiality restrictions; how protective orders impact expert witnesses.

- **Ron Hedges**, Magistrate Judge, U.S. District Court for the District of New Jersey (ret.)
- **Amy Kapczynski**, co-Director, Global Health Justice Partnership and Collaboration for Research Integrity, and Transparency, Yale Law School

Rules Governing Protective Orders

This panel discussed the legal standard imposing confidentiality under Rule 26 and potential First Amendment limitations on confidentiality under *Seattle Times v. Rhinehart*.

- **Dustin Benham**, Professor of Law, Texas Tech University
- **Jeanie Kim**, Project Head, Health Law & Equality, Open Society Foundation

Rules and Practices Governing Sealing Orders

This panel discussed the history of the expansion of access rights to judicial records; the definition of court records which are subject to the access right; legal standards governing sealing of records, dockets, and cases; and practical and logistical considerations regarding sealing.

- **Hon. Stephen Smith**, Director, Fourth Amendment and Open Courts, Center for Internet and Society, Stanford Law School
- **David Schulz**, co-Director, MFIA Clinic and Floyd Abrams Clinical Lecturer in Law, Yale Law School
- **Robin Tabora**, Chief Clerk, D. Conn.

Case Study: Search Warrant and Surveillance Order Sealing Practices

This panel reviewed past efforts to secure access to search warrant materials and surveillance orders through litigation and rules changes.

- **Catherine Crump**, Assistant Clinical Professor of Law and Director, Samuelson Law, Technology & Public Policy Clinic, Berkeley School of Law
- **Riana Pfefferkorn**, Associate Director of Surveillance and Cybersecurity, Center for Internet and Society, Stanford Law School
- **Katie Townsend**, Legal Director, Reporters Committee for Freedom of the Press

The History of Efforts to Assert a Public Interest in Discovery Materials and Court Records

This panel reviewed the Texas and Florida approaches to limiting confidentiality for health and safety information disclosed in litigation and their impact, failed efforts at federal reform, and lessons learned from these approaches and experiences.

- **Gisela Cardonne Ely**, Judge, 11th Judicial Cir., Florida (ret.)
- **Craig Smith**, Judge, Dist. Ct., Dallas, Texas
- **Katrin Marquez**, student, MFIA Clinic, Yale Law School
- **Sasha Dudding**, student, MFIA Clinic, Yale Law School

Effecting Reform Through Rules Change

In this session, participants discussed the process to achieve changes in federal rules of procedure and local court rules, brainstormed areas for rules reform and potential for success, and considered the possibility of reform in state courts.

Effecting Reform Through Litigation and Other Means

This panel discussed sealing situations that can be redressed with litigation, legal standards that need judicial clarification, and problematic courts. It identified best practices and opportunities to replicate them; considered allies in the movement for improved access—including state attorneys general, class-action plaintiffs' lawyers, media, academic researchers, and public interest organizations; and methods for outreach. Participants identified public education needs and potential actions.

- **John Rabiej** and **James Waldron**, Directors, Center for Judicial Studies, Duke University School of Law
- **Judith Resnik**, Professor of Law, Yale Law School

Hack to Govern Hackathon

March 29, 2019

The Yale Information Society Project (ISP) and The Yale Law & Tech Society (TechSoc) present: Novel Enforcement Solutions to Governing Autonomous Weapon Systems.

Generously sponsored by the Oscar M. Ruebhausen Fund

Registration, Group Assignments, Setup Troubleshooting

Welcome, AWS, Arms Control, Ethics & International Governance

Guidelines, Judgment Criteria, & Problem #1

Breakout Rooms
Hack to Govern!

Intro: Problem #2 – Into the Weeds

Breakout Rooms
Hack to Govern!

Prepare Final Pitch

Pitches / Judging Part 1
* 20' pitch / Q&A, each group

Pitches / Judging Part 2
* 20' pitch / Q&A, each group

Winning Team Announced + Wrap Up

(Im)Perfect Enforcement

April 6, 2019

Recent technological advancements enable an unprecedented level of algorithmic decision-making processes and automated legal enforcement actions. Both of these methods of replacing humans with algorithms are often celebrated for “more perfectly” enforcing rules. Social media networks employ algorithmic decision-making to scale content moderation; criminal justice institutions delegate decisions on sentencing, probation, and risk to algorithms; machine-to-machine contracting in high-frequency trading depends on both algorithmic decision-making and automated enforcement; and blockchain technology and smart contracts aim to create self-enforcing contracts. The conference aimed to explore the fundamental principles and the practical applications of algorithmic-decision making and automated enforcement of laws, rules, and contracts.

This conference was generously funded by The Oscar M. Ruebhausen Fund.

Saturday, April 6th, 2019

First Session (Breakout Session)

Carla Reyes, Presenter, *A Unified Theory of Code-Connected Contracts*
Mateusz Grochowski, Discussant

Céline Castets-Renard, Presenter, *Algorithmic Decision-Making and Automated Enforcement by Social Media Networks and Search Engines in the EU*
Amelie Heldt, Discussant

Robert Heverly, Presenter, *Biologically Embedded Artificially Intelligent Enforcers*
Bryan Casey, Discussant

Second Session (Breakout Session)

Christoph Busch, Presenter, *Algorithmic Regulation and the (Im)Perfect Enforcement of Personalized Law*
Philip Bender, Discussant

Aniket Kesari & Aaron Perzanowski, Presenters, *The Tethered Economy*
Ari Ezra Waldman, Discussant

Third Session (Plenary Keynote Speech and Interview)

Surveillance Capitalism

Shoshana Zuboff, Keynote Speaker

Nikolas Guggenberger, Interviewer

Fourth Session (Breakout Session)

Dan Burk, Presenter, *Copyright and the Algorithmic Assemblage*

Roger Ford, Discussant

Christina Spiesel, Presenter, *Whatever Happened to These Truths and We the People? Artificial Intelligence, Driving, and Duty of Care*

Tom Nachbar, Discussant

Moritz Hennemann, Presenter, *Artificial Contracting: (Im)Perfect Enforcement of Contract Law?*

Przemyslaw Palka, Discussant

Fifth Session (Breakout Session)

Bryan Casey, Presenter, *You Might Be a Robot*

Samantha Godwin, Discussant

Alicia Solow-Niederman, Presenter, *Developing Artificially Intelligent Justice*

Karen Levy, Discussant

Mateusz Grochowski, Presenter, *The Perfect World and its Flaws. Remedying Deficits of Smart Contracts through Blockchain?*

Carla Reyes, Discussant

Sixth Session (Plenary Panel)

Fictions, Frictions, and the Myth of Perfect Compliance

Alison Cooper, Presenter, *Imperfection as a Feature*

Roger Ford, Presenter, *Imperfection is the Norm: A Computer Systems Perspective on IoT and Enforcement*

Karen Levy, Presenter, *AI and the Limits of Optimization*

Jack Balkin, Discussant

Sunday, April 7th, 2019

Seventh Session (Breakout Session)

Kristin Johnson, Presenter, *Three Regulatory Challenges for Fintech: Data Accuracy and Appropriateness, Cybersecurity and Algorithmic Discrimination*
Vigjilence Abazi, Discussant

Ignacio Cofone, Presenter, *Strategic Games and Algorithmic Transparency*
Jennifer Pinsof, Discussant

Andrea Leiter, Presenter, *On Dispute Resolution on the Blockchain and Ever Imperfect Enforcement*
Brian Sheppard, Discussant

Eighth Session (Breakout Session)

Brian Sheppard, Presenter, *The Automation of the Reasonably Prudent Person Test*
Anat Lior, Discussant

Philip Bender, Presenter, *Limits on Personalization - A Normative Theory of Tailoring of Default Rules*
Christoph Busch, Discussant

Laurin Weissinger, Presenter, *Regulating AI and Algorithms: Lessons from Security Certifications and Audits*
Ji Ma, Discussant

Ninth Session (Lunchtime Plenary Panel)
Trust in Automation

Jenny Fan, Presenter, *Trust and Fairness between Processes and Results*
Tom Nachbar, Presenter, *Digital Juries: An Interdisciplinary, Digital Civics Approach to Content Moderation*
Ari Ezra Waldman, Presenter, *I, Fairness*
Rebecca Crotoft, Discussant

Freedom of Expression Scholars Conference (FESC) 7

April 27-28, 2019

In this annual event, 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.

This event is made possible through funding by the Abrams Institute for Freedom of Expression.

Friday, April 27, 2019

Floyd Abrams, Welcome Remarks

First Session (Breakout Session)

Derek Bambauer, Presenter, *Private Lessons for Public Censors*

Jack Balkin, Discussant

Enrique Armijo, Presenter, *Faint-Hearted First Amendment Lochnerism*

Amanda Shanor, Discussant

Patrick Kabat, Presenter, *The Fossilized Right of Publicity: Fiction, the First Amendment, and the Future of Imagination*

Jennifer Rothman, Discussant

Second Session (Breakout Session)

Christina Koningisor, Presenter, *Transparency Localism*

David Schulz, Discussant

Claudia Haupt & Wendy Parmet, Presenters, *Public Health Originalism and the First Amendment*

Rebecca Aviel, Discussant

Jennifer Rothman & Robert Post, Presenters, *The First Amendment and the Right(s) of Publicity*

Jenny Carroll, Discussant

Third Session (Breakout Session)

Jenny Carroll, Presenter, *Presence as Speech*
Genevieve Lakier, Discussant

Joshua Teng, Presenter, *Access to Court (and Court-Like) Records: Is Publicity the Soul or the Servant of Justice?*
John Langford, Discussant

Mehtab Khan, Presenter, *Brand Parodies on the Internet: Confusing, Critical, and Commercial*
Marc Jonathan Blitz, Discussant

Fourth Session (Breakout Session)

David Pozen, Presenter, *A Skeptical View of Information Fiduciaries*
Thomas Kadri, Discussant

Josh Blackman, Presenter, *#Heckled*
Alex Tsesis, Discussant

Fifth Session (Breakout Session)

Akriti Gaur, Presenter, *Free Speech, Information Intermediaries, and the Case of 'WhatsApp Lynchings' in India*
Muria McCammon, Discussant

Ron Krotoszynski, Jr., Presenter, *Australia: The Protection of Political Communication as an "Implied Freedom" Necessary to Facilitate Voting (Chapter 4)*
Yari Wildheart, Discussant

Anna Aurora Wennäkoski, Presenter, *The Paradox Called Information Neutrality and the Politicization of Information Infrastructures*
Jennifer Pinsof, Discussant

Sixth Session (Plenary Session)

Sarah C. Haan, Presenter, *Bad Actors*
Thomas Kadri, Presenter, *Facebook v. Sullivan: Building Constitutional Law for Online Speech*
Morgan Weiland, Discussant

Saturday, April 28, 2019

Seventh Session (Breakout Session)

Helen Norton, Presenter, *The Government's Speech About Speech (and Why It Matters)*

Eric Freedman, Discussant

RonNell Andersen Jones & Lisa Grow Sun, Presenters, *Freedom of the Press in Post-Truthism America*

Jonathan Manes, Discussant

Marc Jonathan Blitz, Presenter, *The Subliminal, The Functional, The False and The Fake: When is Belief-Manipulation (Not) First Amendment Speech?*

Alan Chen, Discussant

Eighth Session (Breakout Session)

Zahra Takhshid, Presenter, *Social Activism or Tortious Invasion of Privacy? The Case of Dissemination of Information on Social Media Platforms*

Vincent Blasi, Discussant

Hannah Bloch-Wehba, Presenter, *Access to Algorithms*

Christina Koningisor, Discussant

Yari Wildheart, Presenter, *Association, Expression, and the Limits of Free Speech in the Australian Constitution*

James Sleeper, Discussant

Ninth Session (Breakout Session)

Matthew Schafer, Presenter, *Structural Openness, A Theory of Openness in Government*

Hannah Bloch-Wehba, Discussant

Vincent Blasi, Presenter, *On Character, Adaptation, and Checking: How Modern Theories Miss Much of What the Classic Arguments for Free Speech Have to Offer*

RonNell Andersen Jones, Discussant

Rebecca Aviel & Alan Chen, Presenters, *Advising Activists and Journalists in Investigations as a First Amendment Right*

Claudia Haupt, Discussant

Tenth Session (Lunchtime Plenary Panel)

Genevieve Lakier, Presenter, *The First Amendment's Real Lochner Problem*

Mary Anne Franks, Presenter, *Free Speech for the Last Girl*

Francesca Procaccini, Discussant

Commercial Speech and the First Amendment Conference IV

June 3, 2019

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.

Funding for this conference was provided by the Abrams Institute for Freedom of Expression, Patterson Belknap Webb & Tyler LLP, Ballard Spahr LLP, Davis Wright Tremaine LLP, and Frankfurt Kurnit Klein & Selz PC.

Commercial Speech Post-NIFLA v. BECERRA: Legitimate Check on Compelled Speech or Weaponization of the First Amendment?

While the United States Supreme Court’s recent decision in *National Institute of Family and Life Advocates v. Becerra* is technically not a commercial speech case, the decision is part of a recent trend of cases applying strict scrutiny, with few exceptions, to “content-based regulations of speech,” defined broadly as any law that targets speech based on its communicative content. Assuming the Supreme Court means what it says in *NIFLA* and other recent decisions, how far are the Justices willing to go in undoing government regulation of speech? Panelists considered whether *NIFLA* marks the death-knell of *Central Hudson*; whether strict scrutiny applies to most future regulations of commercial speech; and if the future is filled with challenges to the vast array of governmental regulation that engages speech.

- **Jane Bambauer**, Professor of Law, James E. Rogers College of Law, The University of Arizona
- **Coleen Klasmeier**, Partner & Global Coordinator, Food, Drug and Medical Device Regulatory Practice Area Team, Sidley & Austin LLP
- **Joel Kurtzberg**, Partner, Cahill Gordon & Reindel LLP (moderator)
- **Robert Post**, Sterling Professor of Law, Yale Law School

The Consumer “Right to Know” Versus the First Amendment

Increasingly, governments at all levels are requiring product manufacturers to disclose information in their labeling or advertising, and plaintiffs are seeking to hold manufacturers liable in tort on the theory that the failure to disclose such information is “misleading” or “unfair.” Meanwhile, the subject matter of these disclosure requirements (or asserted requirements) continues to expand beyond traditional health-and-safety warnings to include information about, e.g., country of origin, inclusion of GMO ingredients, and use of ingredients or materials “tainted” by unfair labor practices or international conflicts. This panel addressed the tension — if any — between such mandatory disclosure regimes and manufacturers’ First Amendment right to refrain from compelled speech.

- **Jonathan H. Adler**, Johan Verheij Memorial Professor of Law, Case Western Reserve University School of Law; Director, Center for Business Law and Regulation
- **Jonah Knobler**, Partner, Patterson Belknap Webb & Tyler (moderator)
- **Rebecca Tushnet**, Frank Stanton Professor of the First Amendment, Harvard Law School
- **Helgi C. Walker**, Partner, Appellate and Constitutional Law Group & Co-Chair, Administrative Law and Regulatory Practice Group, Gibson, Dunn & Crutcher LLP

Drawing the Line Between “News” and Commercial Speech

This panel focused on recent decisions defining what is and is not commercial speech from the broad perspective of newsworthiness. Recently, there have been several decisions in which the courts and the National Advertising Division have been forced to distinguish between news and commercial speech. Are we seeing a trend toward more liberal interpretations of “news” or “newsworthiness”? What implications does this line-drawing have for the right of publicity, native advertising, and custom content? Where will the increasing use and monetization of data fall on the news/commercial speech divide?

- **Mary Engle**, Associate Director, Division of Advertising Practices, Federal Trade Commission
- **Rhonda Powell**, General Counsel, *BuzzFeed*
- **Paul Safier**, Of Counsel, Ballard Spahr LLP
- **Terri Seligman**, Partner & Co-Chair of the Advertising, Marketing & Public Relations Group, Frankfurt Kurnit Klein & Selz (moderator)

The ABCDs of Modern Technological Challenges: AI, Blockchain, Cyber, Data

June 11, 2019

Funding for this conference was provided by the Shalom Comparative Research Institute, Eliyahu Center of Law & Tech, ONO, Israel and the Information Society Project at Yale Law School.

Opening Remarks

- **Rebecca Crootof**, Executive Director, ISP, Yale Law School
- **Shlomit Yanisky Ravid**, Visiting Fellow, ISP, Yale Law School

Challenges to Freedom of Expression and Privacy in the Digital Age

- **Steve Wizner**, Clinical Professor Emeritus of Law, Yale Law School

Platform Regulation

- **Nikolas Guggenberger**, Resident Fellow, ISP, Yale Law School

The Dark Web, Cyber Attacks, and Privacy Threats

- **Sean O'Brien**, Visiting Fellow, ISP, Yale Law School

The Challenges of Autonomous Cars

- **Christina Spiesel**, Senior Research Scholar in Law, ISP, Yale Law School

Implications of The Application of the “Hot Pursuit” Principle in The Cyberspace:

An Analysis of Microsoft Corporation v. United States of America: The Internet Kill Switch: The Ultimate Form of Cybersecurity Control

- **Patricia A. Vargas Leon**, Visiting Fellow, ISP, Yale Law School

The ABCDs of Digital Technological Challenges: AI, Blockchain, Cyber, Data – The Promised Land or the Dark Side of the Moon?

- **Yafit Lev Aretz**, Assistant Professor of Law, Baruch College School of Business
- **Tamara Lev**, Data Privacy Attorney and Senior Consultant, Protiviti
- **Nizan Geslevich Packin**, Associate Professor of Law, Baruch College School of Business
- **Shlomit Yanisky Ravid**, Visiting Fellow, ISP, Yale Law School

Inaugural Lecture: The Reasonable Robot Autonomous Machine and the Law

- **Ryan Abbott**, Mediator and Arbitrator, JAMS Global Dispute Resolution

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

Inside China's Digital Surveillance State, September 11, 2018

Megha Rajagopalan, BuzzFeed World Correspondent

Co-sponsored with the Paul Tsai China Center, Yale Law School

Covering the Market: A Conversation with Finance Columnist Matt Levine,

October 10, 2018

Matt Levine, Bloomberg Opinion/Finance Columnist

Emily Bazelon, Lecturer and Senior Research Scholar, Yale Law School

Co-sponsored with Professor Douglas Kysar, Yale Law School

Poynter Fellow Julia Powles: Big Tech and AI Complacency, October 29, 2018

Julia Powles, Research Fellow, NYU School of Law; Poynter Fellow, Yale Law School

How Amazon is Taking Over Washington, January 22, 2019

May Jeong, Award-Winning Magazine Reporter and Investigative Reporter

On Data Journalism, February 14, 2019

Pilar Velasco, ISP Visiting Fellow and Cadena SER (Prisa Group) Journalism

Reporting the Middle East: Getting the Story on MBS in Saudi Arabia, February 21, 2019

Dexter Filkins, Staff Writer, The New Yorker and Yale Poynter Fellow in Journalism
Co-sponsored by Yale Law National Security Group

Workshops

Op-Ed Writing Workshop, October 11, 2018

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.

Deep Fakes: A Looming Challenge for Privacy, Democracy, and National Security, September 4, 2018

Bobby Chesney, Chair, University of Texas School of Law

Daniella Citron, Professor, University of Maryland Francis King Carey School of Law

Co-sponsored with the Yale Law National Security Group

Inside China's Digital Surveillance State, September 11, 2018

Megha Rajagopalan, BuzzFeed World Correspondent

Co-sponsored with Paul Tsai China Center

On the Organization of the U.S. Government for Responding to Cyber-Enabled Information Warfare and Influence Operations, September 18, 2018

Herb Lin, Senior Research Scholar, Center for International Security and Cooperation; Cyber Policy and Security Fellow, Hoover Institution, Stanford University

Predicting Enemies, September 25, 2018

Ashley Deeks, Professor, University of Virginia Law School

Co-sponsored with the Yale Law National Security Group

Netflix, Amazon, Apple & Disney: Legal & Business Challenges in Streaming, October 2, 2018

Jennifer Jones, VP of Business Affairs, The Walt Disney Company

Co-sponsored with the Yale Law and Technology Society (Tech Soc)

How Safe Are Our Voting Machines? Legal and Technological Challenges to Securing Election Infrastructure, October 9, 2018

Marilyn Marks, Executive Director, Coalition for Good Governance

Denise W. Merrill, Secretary of State, State of Connecticut

Sam Simon, Chief Counsel, Senator Richard Blumenthal

Pregnancy, Power, and Professional Speech: NIFLA v. Becerra and the Deregulatory Uses of the First Amendment, October 15, 2018

Amy Kapczynski, Professor, Yale Law School; co-Director, Global Health Justice Partnership

Robert Post, Professor, Yale Law School

Julie Rikelman, Senior Director of Litigation, Center for Reproductive Rights
Co-sponsored with the Program for the Study of Reproductive Justice, the Solomon Center for Health Law and Policy, the U.S. Health Justice Collaborative, and Yale Medical Students for Choice

Embracing the Dark Web as a Tool for Privacy and Anti-Censorship, October 23, 2018

Shari Steele, Executive Director, Tor Project
Co-sponsored with the Yale Law and Technology Society (Tech Soc)

How Everything Became War and the Military Became Everything, October 30, 2018

Rosa Brooks, Professor, Georgetown University Law Center
Co-sponsored with the Yale Law National Security Group

Machine Learning & Legal Aid: How an Online Game Can Help AI Address Access to Justice, November 6, 2018

David Colarusso, Director, Suffolk University Law School
Co-sponsored with the Yale Law and Technology Society (Tech Soc)

US v. Europe: The Copyright Tug of War, November 13, 2018

Bindu, DeKnock, founder, CrossLink Legal

The Rise of Big Data Policing, November 27, 2018

Andrew Ferguson, Professor, University of the District of Columbia's David A. Clarke School of Law the Cult of the Internet
Co-sponsored with the Yale Law and Technology Society (Tech Soc)

The Cult of the Internet, December 4, 2018

Mary Anne Franks, Professor, University of Miami School of Law

Challenging the Silicon Valley Consensus: Data Governance in TPP, USMCA, and Beyond, January 15, 2019

Thomas Streinz, Executive Director, Guarini Global Law & Tech; Fellow, Institute for International Law and Justice; Adjunct Professor, New York University School of Law

Flat Light: Data Protection for the Disoriented, From Policy to Practice, January 16, 2019

Andrew Burt, Chief Privacy Officer and Legal Engineer, Immuta
Dan Geer, Chief Information Security Officer, In-Q-Tel

How Amazon is Taking Over Washington, January 22, 2019

May Jeong, Award-Winning Magazine Writer and Investigative Reporter

Book Talk: The Digital Street, January 29, 2019

Jeffrey Lane, Assistant Professor of Communication, Rutgers University

Privacy Wars: Data, Disinformation and the Role of Technology, February 5, 2019

Jennifer Park Stout, Vice President of Global Public Policy, Snap Inc.

The Peculiar Case of State Network Neutrality Regulation, February 20, 2019

Thomas Nachbar, Professor, Senior Fellow, Center for National Security Law,
University of Virginia School of Law

What Trump's US-China Technology Trade Strategy Gets Right, February 25, 2019

Ben Kostrzewa, Hogan Lovells, LLP

Co-sponsored by the Paul China Center

We Will Be Citizens: from AIDS Activism to Mobilizing for Global Health Justice,
February 26, 2019

Gregg Gonsalves, Assistant Professor, Yale School of Public Health

Co-sponsored by the Program for the Study of Reproductive Justice and the Global
Health Justice Partnership at Yale Law School

Corporate Crypto-Governance, March 6, 2019

Carla L. Reyes, Assistant Professor, Michigan State University College of Law

Co-sponsored by the Yale Law and Technology Society (Tech Soc)

Binary Governance, March 18, 2019

Margot Kaminski, Associate Professor, University of Colorado Law

How Code Changes We, March 19, 2019

Lawrence Lessig, Professor, Harvard Law School

Co-sponsored by the Yale Law Center for Private Law

The Law and Politics of Cyberattack Attribution, March 27, 2019

Kristen Eichensehr, Assistant Professor, UCLA School of Law

Co-sponsored by the Yale Law Center for Private Law

The Paradox of Automation as Anti-Bias Intervention, March 28, 2019

Ifeoma Ajunwa, Assistant Professor of Labor Law, History, Cornell University

Industrial and Labor Relations School, Associated Faculty, Cornell Law School

Co-sponsored by the Yale Law Center for Private Law

The Future of the CLOUD Act, April 2, 2019

Kate Goodloe and Lauren Moxley, Covington & Burling LLP

Computational Power and the Social Impact of Artificial Intelligence, April 9, 2019

Tim Hwang, Director, Harvard-MIT Ethics and Governance of AI Initiative

Law and Policy for the Second Quantum Revolution, April 16, 2019
Christopher Hoofnagle, Adjunct Professor of Information and Law, UC Berkeley
Co-sponsored with the Yale Law and Technology Society (Tech Soc)

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. Informal guest speakers led animated discourse on wide range of subjects.

Introduction to the Information Society Project, August 30, 2018
Jack Balkin, Founder/Director, ISP; Professor, Yale Law School

Trademark Failure to Function, September 6, 2018
Alexandra Roberts, Associate Professor, University of New Hampshire School of Law

Program for the Study of Reproductive Justice's Agenda, September 13, 2018
Priscilla Smith, Director of the ISP's Program for the Study of Reproductive Justice

How the EU Shapes the Internet: A Case of Copyright and Data Protection,
September 27, 2018
Martin Husovec, Assistant Professor, Tilburg Institute for Law, Technology and Society & Tilburg Law and Economics Center, Tilburg University
Joris van Hoboken, Senior Legal Researcher, Institute for Information Law, University of Amsterdam; Professor, Vrije Universiteit Brussels

Moral Crumple Zones: Cautionary Tales in Human-Robot Interaction, October 4, 2018
Madeline Clare Elish, Intelligence & Autonomy Initiative, Data & Society

MFIA's Innovative First Amendment Litigation Theories, October 11, 2018
Media Freedom and Information Access Clinic fellows

How to Teach Cybersecurity: An Interim Report, October 18, 2018
Scott Shapiro, Professor, Law and Philosophy, Yale Law School

Consumer Algorithmic Contracts, October 25, 2018
Lauren Scholz, Assistant Professor, Florida State University College of Law

The Green Tsunami: Abortion Struggles and Feminism in Argentina, November 1, 2018
Violeta Canaves, Professor of Constitutional Law, Universidad del Litoral

The Digital Democracy Deficit, November 8, 2018
Kate Klonick, St. John's University Law School

Access to Algorithms, November 15, 2018

Hannah Bloch-Wehba, Assistant Professor, Drexel University Thomas R. Kline School of Law

The New Cyber Humanitarians, November 29, 2018

Ido Kilovaty, Assistant Professor, University of Tulsa College of Law

The Public Information Fallacy, January 17, 2019

Woody Hartzog, College of Computer and Information Science, Northeastern University School of Law

Privacy Law's False Promise, January 24, 2019

Ari Ezra Waldman, Professor and Director of Innovation Center for Law and Technology, New York Law School

Program for the Study of Reproductive Justice Current Topics, January 31, 2019

Stephanie Toti, Senior Counsel, Center for Reproductive Rights

Autonomous Vehicles, Algorithmic and Human Decision-Makers, February 7, 2019

Eric Talley, Professor and Co-Director, Millstein Center for Global Markets and Corporate Ownership

Data Journalism, February 14, 2019

Pilar Velasco, journalist, Cadena SER (Prisa Group)

Algorithmic Discrimination is an Information Problem, February 21, 2019

Ignacio Cofone, Assistant Professor, McGill University

Confiding in Con Men: U.S. Privacy Law, the GDPR, and Information Fiduciaries, February 28, 2019

Lindsey Barrett, Staff Attorney, Clinical Teaching Fellow, Institute for Public Representation, Georgetown University Law Center

The Rise of Robotic Killing: Governing Shifting World Order, March 7, 2019

Denise Garcia, Associate Professor, Political Science, International Affairs, Northeastern University

Online Speech Regulation: A Comparative Perspective, March 21, 2019

Claudia Haupt, Associate Professor, Law, Political Science, Northeastern University

Truth in Our Times: Inside the Fight for Press Freedom in the Age of Alternative Facts, March 28, 2019

David McCraw, Deputy General Counsel, New York Times

Emily Bazelon, Journalist, New York Times Magazine; Lecture and Senior Research Scholar in Law, Yale Law School

New Paper Presentation, April 4, 2019

Mala Chatterjee, PhD student, Philosophy, New York University

Beyond Virtue and Vice: Human Rights and Criminal Law in the Context of Gender, Sexuality and Human Rights, April 11, 2019

Alice Miller, co-Director of the Global Health Justice Partnership; Assistant Clinical Professor, Yale School of Public Health; Associate Professor (Adjunct), Yale Law School



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 the following Yale Law faculty members: 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

On the Organization of the U.S. Government for Responding to Cyber-Enabled Information Warfare and Influence Operations, September 18, 2018

Herb Lin, Senior Research Scholar, Center for International Security and Cooperation; Cyber Policy and Security Fellow, Hoover Institution, Stanford University

Predicting Enemies, Sep. 25, 2018

Ashley Deeks, Professor, University of Virginia Law School
Co-sponsored with the Yale Law National Security Group

How Safe Are Our Voting Machines? Legal and Technological Challenges to Securing Election Infrastructure, Oct. 9, 2018

Marilyn Marks, Executive Director, Coalition for Good Governance

Denise W. Merrill, Secretary of State, State of Connecticut

Sam Simon, Chief Counsel, Senator Richard Blumenthal

How Everything Became War and the Military Became Everything, Oct. 30, 2018

Rosa Brooks, Professor, Georgetown University Law Center
Co-sponsored with the Yale Law National Security Group

The Rise of Big Data Policing, Nov. 27, 2018

Andrew Ferguson, Professor, University of the District of Columbia's David A. Clarke School of Law the Cult of the Internet
Co-sponsored with the Yale Law and Technology Society (Tech Soc)

Privacy Wars: Data, Disinformation and the Role of Technology, Feb. 5, 2019

Jennifer Park Stout, Vice President of Global Public Policy, Snap Inc.



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.

Freedom of Expression in the Age of Surveillance, September 26, 2018

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

MFIA's Innovative First Amendment Litigation Theories, October 11, 2018

MFIA students discussed two cases on the Clinic's docket that present novel uses of the First Amendment in litigation. The first case seeks to establish the public's right of access to basic arrest information. This boundary-pushing lawsuit supports MFIA's continual mission to expand the First Amendment right of access beyond access to judicial proceedings and records. The second lawsuit challenges President Trump's threats to retaliate against the media for its critical coverage of his administration. This case contemplates whether there can be First Amendment liability imposed upon the president for abusing his official powers in ways that deter speech. Students described the legal issues they are facing in both cases and welcome feedback and support in developing these novel first amendment theories.

Access and Accountability Conference: A Conference for Transparency Advocates, October 12-13, 2018

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

Free Expression in an Age of Surveillance: Measuring “Chilling Effect,” November 14, 2018

This event examined the role that the First Amendment should play in assessing the lawfulness of government surveillance. The panel asks: Does surveillance chill speech and dissent? How so? And can we measure the chilling effect?

- **Alex Abdo**, Knight Institute Senior Staff Attorney
- **Jon Penney**, Dalhousie University
- **Elizabeth Stoycheff**, Wayne State University

Sponsored by the Information Society Project, the Knight First Amendment Institute at Columbia University, the Brown Institute for Media Innovation at Columbia Journalism School, the American Constitution Society at Yale Law School, the National Security Group at Yale Law School, and the Yale Law and Tech Society

Access to Algorithms, November 15, 2018

Hannah Bloch-Wehba, Assistant Professor, Drexel University Thomas R. Kline School of Law

The work of government is increasingly automated. New kinds of algorithmic tools aid government in deciding whether to release a defendant from custody before trial, predicting healthcare costs for Medicaid recipients, and determining whether public school teachers are “ineffective” and should be terminated. The government licenses these tools from the private sector to aid adjudications and policymaking. Widely heralded as being more objective, faster, and more reliable than human decision making, these proprietary methods also make decisions harder to explain, attribute, and challenge—in other words, more opaque. In cases across the country, individuals have challenged the use of secret, proprietary algorithms in determinations that affect them personally. But the transparency interests advanced by these litigants underscore that the information they seek is not only essential to their individual claims, but also critical to the public as a whole. Fundamental principles of open government suggest that, at times, government must disclose key information about its decision making. Yet the assertion of trade secrets protection by government and contractors poses serious obstacles to disclosure of key records such as source code, models, or training data. Trade secrecy protections for proprietary algorithmic tools used in public sector decision making are inconsistent with the fundamental aims of transparency law embodied by the Freedom of Information Act, its state equivalents, and the First Amendment. These provisions cast doubt on claims that government can agree, through contract, to utilize decision making mechanisms that cannot be revealed. In practice, this will sometimes put government to a difficult choice: reveal a contractor’s trade secret, or give up the use of an algorithmic tool all together. Both transparency law and government contracting practices will have to adapt to protect rights of public access and oversight in the age of algorithmic governance.

Unmasking “Dark Money” – The Tangled Relationship between Compelled Donor Disclosure, Anonymous Speech, and the Reporters’ Privilege, February 22, 2019

This event explored the potential implications for journalists and their confidential sources of ongoing efforts to compel the disclosure of sources of so-called “dark money” in candidate and issue campaigns. Is the push to unmask dark money a threat to anonymous speech in other contexts, and how might the legal standards developed in that context impact the relationships between reporters and their confidential sources? This Brown Bag lunch was co-viewed in New Haven, NYC, and D.C.

- Moderated by **Floyd Abrams**, Senior Counsel, Cahill, Gordon & Reindel, LLP
- **Allen Dickerson**, Legal Director, Institute for Free Speech
- **Paul Ryan**, Vice President of Policy & Litigation, Common Cause
- **David Schulz**, Co-Director, MFIA Clinic and Senior Counsel, Ballard Spahr, LLP

Workshop on Court Records Access, March 25, 2019

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

Book Talk: Official Secrets and Oversight in the European Union, April 25, 2019

Does the governance of secrecy in the European Union impede its fundamental principles of democracy and fundamental rights? Based on her recent book, Dr. Vigjilence Abazi explained the shifts in institutional practice of oversight in the European Union that disproportionately favor secrecy creating serious limitations to open democratic deliberations and access to justice. Professor David Pozen, a leading scholar on government secrecy discussed the book adding U.S. perspectives. This topical book talk also offered an understanding of the practices of official secrets and provide a critical and much-needed perspective on how parliamentary, judicial and administrative oversight institutions deal with access to classified material and the dilemma of oversight to concurrently ensure secrecy necessary for security policies and openness needed for constitutional checks and balances.

- **Vigjilence Abazi**, Professor European Law, Maastricht University
- **David Pozen**, Professor, Columbia Law School

Freedom of Expression Scholars Conference 7, April 26-27, 2019

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

Commercial Speech and the First Amendment, June 3, 2019

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

Program for the Study of Reproductive Justice's Agenda, September 13, 2018
Priscilla Smith, Director of the ISP's Program for the Study of Reproductive Justice

Pregnancy, Power, and Professional Speech: NIFLA v. Becerra and the Deregulatory Uses of the First Amendment, October 15, 2018
Amy Kapczynski, Professor, Yale Law School; co-Director, Global Health Justice Partnership

Robert Post, Professor, Yale Law School

Julie Rikelman, Senior Director of Litigation, Center for Reproductive Rights
Co-sponsored with the ISP, the Solomon Center for Health Law and Policy, the U.S. Health Justice Collaborative, and Yale Medical Students for Choice

The Green Tsunami: Abortion Struggles and Feminism in Argentina, November 1, 2018

Violeta Canaves, Professor of Constitutional Law, Universidad del Litoral

We Will Be Citizens: from AIDS Activism to Mobilizing for Global Health Justice, February 26, 2019

Gregg Gonsalves, Assistant Professor, Yale School of Public Health
Co-sponsored by the Program for the Study of Reproductive Justice and the Global Health Justice Partnership at Yale Law School

Program for the Study of Reproductive Justice Current Topics, January 31, 2019
Stephanie Toti, Senior Counsel, Center for Reproductive Rights

Abortion Laws and Lawsuits in the Kavanaugh Era, March 27, 2019

Faren Tang, Fellow, Program for the Study of Reproductive Justice

Co-sponsored by the Yale Law School Alliance for Reproductive Justice and the Clinical Student Board

Beyond Virtue and Vice: Human Rights and Criminal Law in the Context of Gender, Sexuality and Human Rights, April 11, 2019

Alice Miller, co-Director of the Global Health Justice Partnership; Assistant Clinical Professor, Yale School of Public Health; Associate Professor (Adjunct), Yale Law School



Yale Law School

V I S U A L L A W P R O J E C T

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

Lunch talk with Solitary Gardens creator Jackie Sumell and exoneree Rodricus Crawford, September 5, 2018

Dinner and a Documentary: To Err is Human, A Patient Safety Documentary, October 3, 2018

Mike Eisenberg, Film Director

Co-sponsored with the ISP and the Yale Solomon Center for Health Law and Policy

Welcome to Camp America: Inside Guantanamo Bay, October 11, 2018

Debi Cornwall, Documentary artist, author, and wrongful conviction lawyer

Pre-Crime Documentary Film Screening, November 26, 2018

Accompanying Event to a talk by Andrew Ferguson on Big Data Policing

Hombres Nuevos: A Screening and Discussion, January 24, 2019

Luis Mancheno, Immigration Attorney

Co-sponsored with the Latino Law Student Association and the International Refugee Assistance Project

Changing Criminal Justice from Inside Prison, April 22, 2019

Green Haven Prison Project members, including Roy Bolus and Jose Saldana

Co-sponsored with the ISP, the Green Haven Prison Project, the Yale Law National Security Group, the Schell Center, the Yale Journal of Law and Feminism, the Capital Assistance Project, and Journalists and Writers at Yale Law

PRIVACY LAB

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.

We provide 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.

Event Series

Sean O'Brien, Privacy Lab Director

Tracking Mobile Trackers, September 14, 2018

Diving into the Dark Web, September 26, 2018

Freedom Box, Your Private Server, October 5, 2018

Mapping Surveillance Devices, October 12, 2018

Digital Self-Defense Workshop, November 16, 2018

Introduction to Privacy Lab, February 4, 2019

Get Secure with Quillux OS, February 27, 2019



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

How the EU Shapes the Internet: A Case of Copyright and Data Protection,

September 27, 2018

Martin Husovec, Assistant Professor, Tilburg Institute for Law, Technology and Society & Tilburg Law and Economics Center, Tilburg University

Joris van Hoboken, Senior Legal Researcher, Institute for Information Law, University of Amsterdam; Professor, Vrije Universiteit Brussels

Intermediaries and Private Speech Regulation: A Transatlantic Dialogue

Workshop, September 28, 2018

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

The Digital Democracy Deficit, November 8, 2018

Kate Klonick, St. John's University Law School

Confiding in Con Men: U.S. Privacy Law, the GDPR, and Information Fiduciaries,

February 28, 2019

Lindsey Barrett, Staff Attorney, Clinical Teaching Fellow, Institute for Public Representation, Georgetown University Law Center

Behind the Screen: Content Moderators as the Internet's Invisible Gatekeepers,

March 26, 2019

Sarah T. Roberts, Assistant Professor, Information Studies, University of California, Los Angeles

The Power of Open Internet & Open Communities: Doing it the Wikipedia Way,
April 3, 2019

Jorge Vargas, Head of Regional Partnerships, Wikimedia Foundation

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

BH Media Group d/b/a/ Richmond Times-Dispatch, et al v. Harold W. Clarke (E.D.Va.). The Clinic has prepared an action to be filed shortly on behalf of four news organizations, asserting a § 1983 claim that provisions of Virginia's execution protocol violate the public's First Amendment right of access to executions. Virginia's protocol bars witnesses from viewing the execution chamber until after the condemned inmate has been secured into the gurney and intravenous lines have been placed. The lawsuit challenges those provision of Virginia's regulation that inhibit witnesses from fully viewing executions—from the moment the condemned prison enters the chamber until after the point of death.

Doe v. Mattis (D.C. Cir.). The Clinic moved on behalf of national security reporter Charlie Savage to unseal redacted portions of the D.C. Circuit's decision in *Doe v. Mattis*, 889 F.3d 745 (D.C. Cir. May 7, 2018). In 2017, the public learned that the U.S. military had detained a U.S. citizen ("Doe") in Iraq for several months. Doe was captured in Syrian territory controlled by ISIL and designated an enemy combatant for ISIL. In late 2017, the ACLU filed a habeas petition seeking Doe's release. While that petition was pending, the government sought to transfer Doe to another country. The ACLU obtained an order directing the government to provide 72 hours' notice before transferring Doe to another country; after the government gave notice, the ACLU obtained a second order preventing transfer. The government appealed, but in May 2018, a divided D.C. Circuit panel upheld the district court's orders. Several key passages from both the majority opinion and dissent were redacted. The Clinic has moved in the Circuit Court to unseal the redactions, and the government has been instructed to file a response.

Wessler v. U.S. Coast Guard (E.D.N.Y.). The Clinic represents investigative reporter Seth Wessler in a lawsuit asserting a constitutional right to contemporaneous information concerning all arrests. The Coast Guard has routinely interdicts small vessels in international waters, arresting their occupants, and holding them incommunicado. Many of these individuals are eventually transported to the United States for criminal prosecution weeks or months later. Wessler's reporting has highlighted the extent to which the Coast Guard's use of this practice has grown, to the point where the Coast Guard has contemplated the possibility of creating a "floating Guantanamo" to house individuals arrested at sea. The Clinic's complaint seeks to

establish that secret arrests are not permitted—the names of the people arrested, the dates, and times of their arrest must be contemporaneously disclosed.

Government Accountability

In Petition of Jill Lepore (D. Mass). The Clinic represents Harvard historian Jill Lepore in her effort to unseal the records of a Boston grand jury convened in 1971 to investigate Daniel Ellsberg's disclosure of the Pentagon Papers. No charges were brought against Ellsberg or others as a result of these proceedings, and the records have remained sealed for more than 45 years. Professor Lepore seeks access to those records to assist her research for a book; other historians have underlined the importance of the grand jury records to a full understanding of the Pentagon Papers episode. Last semester the MFIA team conducted legal and factual research, collected declarations from people drawn into the grand jury's investigation (including Daniel Ellsberg), and submitted a petition and supporting memorandum of law asking the District of Massachusetts to unseal the records. MFIA is awaiting the government's response.

National Security & Surveillance

Raymond Bonner and Alex Gibney v. CIA (S.D.N.Y.). The Clinic is representing Bonner and noted documentarian Alex Gibney in litigation against the CIA. Bonner and Gibney are making a documentary about Guantanamo detainee Abu Zubaydah and his treatment while in American custody. For that documentary they have interviewed former FBI Special Agent Ali Soufan who initially interrogated Zubaydah before the CIA became involved. Soufan wrote a book called *The Black Banner* about his experiences in the FBI, including his role in Abu Zubaydah's interrogation. As part of the government's pre-publication review of Soufan's manuscript, the CIA claimed that significant portions of the text would have to be redacted to prevent the release of classified information. Soufan contends that the redactions are actually designed to prevent the disclosure of negative, but not properly classified, facts. He has stated publicly that CIA officials have been distorting the truth to portray the CIA's harsh interrogation as producing useful information that actually was obtained earlier by the FBI. Soufan is unwilling to discuss the redacted information during his interview, even though he believes it is not properly classified. The Clinic filed a complaint asserting that the CIA is improperly restraining Soufan's freedom to speak, which in turn violates Bonner and Gibney's First Amendment right to receive information.

Open Data

Seife and Lurie v. U.S. Department of Health and Human Services, et al. (D.Conn.). Section 801 of the Food and Drug Administration Amendments Act of 2007 mandates that the results of certain clinical trials of drugs and medical devices must be posted on a website called ClinicalTrials.gov. Many sponsors and investigators covered by the Act, however, are not complying with this requirement. The Department of Health and Human Services (HHS), the National Institutes of Health (NIH), and the Food and Drug Administration (FDA) share responsibility for enforcing the reporting requirements, but

they have never taken enforcement actions against delinquent researchers. The Clinic filed an Administrative Procedures Act lawsuit on behalf of NYU Professor of Journalism Charles Seife and Dr. Peter Lurie, the President of the Center on Science in the Public Interest, seeking an injunction compelling HHS, NIH, and FDA to comply with their legal obligations to notify the public of researchers' failure to report clinical trial results on ClinicalTrials.gov. Cross-motions for summary judgment are currently being briefed. Read more [about this case here, here, and here.](#)

Newsgathering

Marc D'Amelio v. City of Norwalk and Nancy Chapman (State of Connecticut Superior Court Judicial District of Stamford). The Clinic successfully defended journalist Nancy Chapman, who started and runs NancyOnNorwalk.com, against claims that her reporting on a candidate for state office constituted false light invasion of privacy and infliction of emotional distress. In October 2019, Nancy ran a story on then-Republican State Senate candidate Marc D'Amelio's 2014 DUI arrest. Records of the arrest and charges were ultimately expunged in March 2016 after D'Amelio completed a diversionary program. After Nancy published her article in October (and after D'Amelio lost his election), D'Amelio sued for false light invasion of privacy and infliction of emotional distress. After the Clinic prepared a special motion to dismiss the complaint under Connecticut's new Anti-SLAPP statute, D'Amelio agreed to withdraw the case. [Read more about this case here.](#)

National Press Photographers Association, et al. v. Steven McGraw, et al (W.D. Texas). In 2013, Texas enacted the Texas Privacy Act, which strictly regulates the use of drones. Though the law is designed to protect individual privacy, it appears equally motivated by a desire to protect corporate interests and prevent recording of sites of pollution and protest. It preemptively limits the ability to take aerial photographs of huge areas of the state, even in the absence of any acute necessity. The Clinic is preparing to file a complaint on behalf of several journalists and news organizations to challenge the constitutionality of the Texas Privacy Act. In its complaint, the Clinic asserts that the law chills protected speech and newsgathering activity by preventing journalists, activists, and others from using drones to investigate misconduct.

Pen America Center, Inc. v. Donald J. Trump (S.D.N.Y.). The Clinic, along with Protect Democracy and Davis Wright Tremaine LLP, represents PEN America, Inc. in a lawsuit asserting that President Trump violates the First Amendment by using his official powers to retaliate against media organizations and journalists whose reporting he dislikes. Briefing on Trump's motion to dismiss is complete, and MFIA is awaiting a ruling from the court. Read more about this case in [the Washington Post here](#), [in Fortune here](#), [in The Guardian here](#), and [in PBS here](#).

Significant Victories and Court Decisions

The Clinic had several noteworthy victories this year. Among others, it 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 correction officers in New York City; 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 an important 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

Rucho v. Common Cause and *Lamone v. Benisek*. MFIA submitted an amicus brief on behalf of the Floyd Abrams Institute for Freedom of Expression in two partisan gerrymandering cases before the Supreme Court this term. The cases presented the question of when, if ever, state officials violate the Constitution by drawing district lines to favor one political party at another's expense. The Clinic's brief presented a pure First Amendment theory for striking down partisan gerrymandering, arguing that the First Amendment forbids state legislatures from discriminating via redistricting against voters "with disfavored views." The brief contends that voting is political speech, for when citizens cast their ballots, they are sending a message to candidates, public officials, and about their policy views. It then argues that partisan gerrymandering attempts to limit that speech in violation of the First Amendment. [Read more here.](#)

Colorado Independent v. Superior Court. The Clinic submitted an amicus brief in support of *The Colorado Independent's* petition to the U.S. Supreme Court seeking review of a unanimous ruling by the Colorado Supreme Court holding that the public has no constitutional right to inspect court records in Colorado criminal prosecutions. The issue arose when the newspaper sought access to sealed records on a motion alleging prosecutorial misconduct in capital murder case. [Read more about this case here.](#)

FMI v. Argus Leader. The Clinic filed an amicus brief in the Supreme Court on behalf of several academics and NGOs in a case concerning the extent to which confidential commercial information can be withheld from public disclosure under FOIA Exemption 4. The brief argued that only information whose disclosure would cause significant competitive injury can properly be withheld under Exemption 4. [Read more about this case here.](#)

In re Avandia Marketing, Sales Practices & Products Liability Litigation (“In re Avandia Marketing”), Case No. 18-2259 (3d Cir.). MFIA helped to draft an amicus brief on behalf of the Collaboration for Research Integrity and Transparency (CRIT) and Public Justice explaining how the district court confused the standards for protecting unfiled discovery and for sealing court records, urging that the public interest in certain unfiled discovery documents concerning public health and safety justified their disclosure notwithstanding a party’s confidentiality designation. Read more about [this case here](#) and [here](#).

NYCLU v. NYPD (N.Y. Ct. Appeals). The Clinic filed 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 New York Police Department. 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.

Other Advocacy

The *Algorithmic Transparency Project* investigates legal theories to ensure transparency of government algorithmic decision-making. Our federal and state governments use increasingly-automated algorithmic decision-making technologies to make determinations and predictions in high stakes domains such as criminal justice, law enforcement, housing, hiring, education, and elections. This scoping project seeks to better understand these technologies and their potential impact on fundamental civil rights and liberties. This team is considering potential strategic litigation and policy initiatives to promote algorithmic transparency and accountability and accomplish structural reform.

The *Sealed Cases Research and Accountability Project (SCRAP)* team focuses on vindicating and expanding the public’s right of access to judicial proceedings and records. For many years there has been a nationwide trend among district courts to invoke Federal Rule of Civil Procedure 26’s authorization of protective orders liberally and to seal important information filed with the court routinely. But ubiquitous and broad secrecy orders operate to hide important information learned through the discovery process from the public. This year the SCRAP team conducted research and prepare white papers addressing the over-use of routine sealing orders and protective orders in civil litigation, and developing strategies to redress the secrecy imposed on important health and safety information that is developed in civil litigation. The team explored both litigation options and rules changes to effect needed reform. MFIA hosted a working for other clinicians on March 25 to develop a strategy for joint action to promote access to court records. The workshop considered the major impediments that prevent public access to important health and safety information generated in civil litigation and identified strategies to potentially overcome them that can be pursued by law school clinics, individually or through collective action. Thirty-eight individuals participated in this invitation-only event, including representatives from a dozen legal clinics along with a number of academics, current and former court officials, and journalists.

Health System Data/Patient Engagement and Privacy Initiative. Currently, there are a large number of organizations working to aggregate and analyze patient and health system data for both commercial and public health purposes. For example, in exchange for access to health data, Flatiron Health is providing oncology quality of care information to outpatient practices and hospitals, but at the same time they have commercialized access to this data to provide real-world insights on medical product use for pharmaceutical and other health product technology companies. The Clinic is working with Yale's Collaboration for Research Integrity and Transparency (CRIT) to host a one-day workshop in June to discuss the responsible aggregation and analysis of patient health and behavior data in today's healthcare environment, including practices to support scientific research, public health surveillance, patient engagement, and the protection of patients' genetic information and privacy. The workshop will address both legal avenues to impose fiduciary obligations on organizations, the potential value of state or federal regulatory action, as well as the development of a set of best practices that reflect real-world use.

The *DocProject* was launched in 2018 to address an unmet need: while society today increasingly obtains its news and information through visual images, video journalism, and independent filmmakers, these journalists have limited access to legal assistance. Under the guidance of experienced media lawyers, including Sandra Baron, MFIA students provide filmmakers with *pro bono* legal research and advice from the earliest stages of their projects through rough-cuts. The project's mission is twofold: to assist documentary filmmakers who would not otherwise have access to legal resources and to train the next generation of media lawyers. DocProject lawyers and law students work with independent filmmakers from different backgrounds and with varying degrees of experience in developing strategies to increase access to information and to reduce potential liability from newsgathering activities, including source protection, trespass, intrusion, and other privacy concerns. In its launch, the DocProject worked closely with Doc Society, Inc. to identify candidates for the project, in order to see if providing legal services in this manner was a viable model. It has proven to be highly successful, and MFIA is hoping to sustain and expand the project.

Events

MFIA Access and Accountability Conference: A Conference for Transparency Advocates, October 12 - 13, 2018

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

FOIA Bootcamp 2018, February 20, 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.

Unmasking “Dark Money” – The Tangled Relationship between Compelled Donor Disclosure, Anonymous Speech, and the Reporters’ Privilege, February 22, 2019
A full description of the event is provided above, in the “Abrams” section.

Workshop on Court Records Access, March 25, 2019
Media Freedom and Information Access Clinic
A full description of the event is provided above, in the “Conferences” section.

Truth in Our Times: Inside the Fight for Press Freedom in the Age of Alternative Facts, March 28, 2019
David McCraw, Deputy General Counsel, New York Times
Emily Bazelon, Journalist, New York Times Magazine; Lecture and Senior Research Scholar in Law, Yale Law School

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.

2017-2019: 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

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.

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.

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.

Jennifer Borg, Visiting Lecturer in Law

Jennifer Borg is a Visiting Lecturer in Law at Yale Law School and Of Counsel at Pashman Stein Walder Hayden in Hackensack, New Jersey. Her practice areas include media law and litigation. Formerly, she was General Counsel, Vice President, and Corporate Secretary of North Jersey Media Group Inc. As head of the legal department there, Borg handled all First Amendment issues and right-of-access claims, and all the company's litigation and transactional matters. Borg is President of the Foundation of Northern New Jersey f/k/a North Jersey Media Group Foundation, which she founded in 2002 to assist those who suffered losses as a result of the events of September 11.

Charles Crain, Stanton First Amendment Fellow

Charles Crain is a Clinical Lecturer in Law; Associate Research Scholar in Law; and Stanton First Amendment Fellow, Information Society Project, at Yale Law School. Prior to his legal career, Crain covered the war in Iraq as a freelance journalist. He received his J.D. from University of California, Berkeley, where he was a member of the Samuelson Law, Technology & Public Policy Clinic. He received an M.S. in Journalism from Northwestern University and a B.A. in political science from University of Chicago.

Leah Ferentinos, Communications Director

Leah Ferentinos is the Communications Director for the MFIA Clinic, Communications Fellow, Information Society Project; Associate Research Scholar at Yale Law School. She holds Master's from both Penn Law and the Annenberg School for Communication at the University of Pennsylvania, and a Bachelor's from Binghamton University. Leah was a Research Coordinator at the Annenberg Public Policy Center at the University of Pennsylvania, where she worked on grants analyzing political news. Her research interests focus on issues of campaign finance in political elections, public trust in government, and discourses around money in politics in the United States.

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.

Jennifer Pinsof, Abrams Clinical Fellow

Jennifer Pinsof is a Clinical Lecturer in Law, an Associate Research Scholar in Law, and the Abrams Clinical Fellow for the Information Society Project's Media Freedom and Information Access Clinic at Yale Law School. Most recently, she worked as a litigation associate at Kirkland and Ellis. She was previously a PILI Fellow at the American Civil Liberties Union of Illinois. Jennifer received her J.D. from the University of Michigan Law School, and holds a B.A. from Cornell University.

Francesca Procaccini, Ruttenberg Fellow

Francesca Procaccini is a Clinical Lecturer in Law at Yale Law School. She holds degrees from Barnard College and Harvard Law School. Most recently, she was an attorney in the Civil Rights Division, Appellate Section, of the Department of Justice. She clerked for Judge Jerome Farris on the U.S. Court of Appeals for the Ninth Circuit. During law school, she served as Articles Editor for the *Harvard Civil Rights-Civil Liberties Law Review*, and was the Executive Technical Editor for the *Harvard Law & Policy Review*.

Students Directors: Catherine Martinez, Paulina Perkins

Courses

ISP Courses and Reading Groups

ISP Related Courses

Fall 2018 - Spring 2019

Media Freedom and Information Access Clinic

David Schulz, Sandy Baron, John Langford, Jennifer Pinsof, Jack Balkin, Francesca Procaccini

Advanced Media Freedom and Information Access Clinic

David Schulz, Sandy Baron, John Langford, Jennifer Pinsof, Jack Balkin, Francesca Procaccini

Fall 2018

Art of Argument: Writing About the Law
Emily Bazelon

ISP-Sponsored Reading Groups

Fall 2018

The Changing Right to Privacy
The Digital Self

Spring 2019

Cybersecurity Technology and Policy
Philosophy of Moral Responsibility
Torts and Emerging Technology