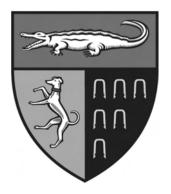


The Yale Information Society Project



Technology and Law at Yale Law School

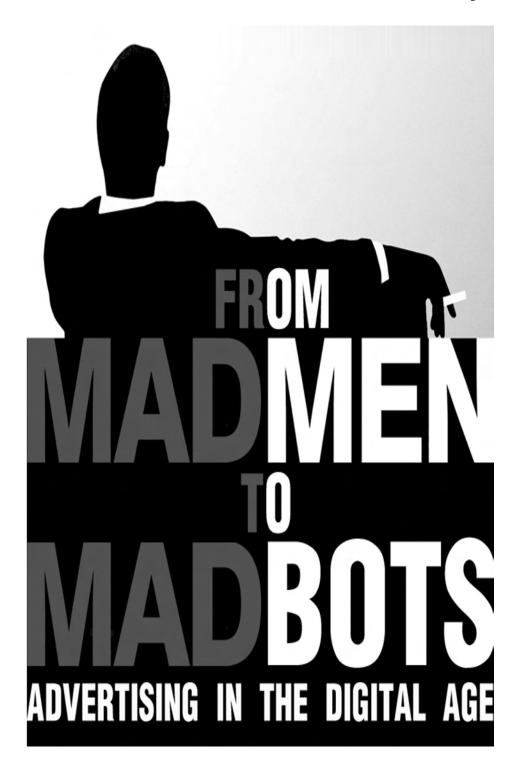


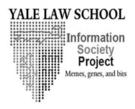
2010-2011 Accomplishments

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CONFERENCES







Hosted by the Yale Information Society Project



Panels

Friday Afternoon:

Welcome Remarks (1:00-1:15 p.m.)

Jack Balkin, Yale ISP Laura DeNardis, Yale ISP

Opening Interview With Ed Felten (1:15- 2:15 p.m.)

Interviewer: David Robinson, Yale ISP Ed Felten, Federal Trade Commission

Panel One: The New World of Digital Advertising: Technologies and Business Models (2:30 - 5:45 p.m.)

Digital tools are changing the baseline assumptions about what advertising is and how it works. Advertisers who used to say that half their budget was wasted--they just didn't know which half--can now test and measure users' reactions to particular ads, and deliver targeted ads to individuals with near-pinpoint precision. This panel will explore the newly emerging technologies of digital advertising, and the innovative business models that are emerging around those technologies, offering conference attendees an overview of the state of the field.

Part 1 (2:30 - 4:00 p.m.)

Moderator: Emily Bazelon, Slate Magazine & Yale Law School

Michael Blum, Quantcast Jesse Pesta, Wall Street Journal Scott Spencer, Google Inc.

Part 2 (4:15 - 5:45 p.m.)

Moderator: C.W. Anderson, Yale ISP

David Ambrose, Scoop St. Kate Kaye, ClickZ Jason Kelly, AdMeld Inc.

Saturday Morning:

Breakfast and Registration (8:30 - 9:00 a.m.)

Panel Two: Online Advertising and Privacy (9:00 -11:00 a.m.)

An emerging infrastructure allows advertisers to track and analyze user behavior and interest patterns, both in the aggregate and on an individualized basis. This information can make ads more personalized, more effective, and ultimately more valuable, for users, advertisers, and publishers. But it may also pose an unprecedented risk to user privacy. As businesses assemble increasingly detailed profiles of demographic segments and, in some cases, individual users, what are the risks to user privacy? How can those risks be managed? Could different choices by businesses improve privacy without hurting the bottom line? How much control do, or should, individual users actually have over the way their behavior is tracked?

Moderator: Bryan Choi, Yale ISP

Jonathan Mayer, DoNotTrack. Us Project, Stanford University
Julia Kernochan Tama, Venable LLP
Lee Tien, Electronic Frontier Foundation
Frank Torres, Microsoft Corporation
Joseph Turow, Annenberg School for Communication, University of Pennsylvania

Coffee Break (11:00 - 11:15 a.m.)

Panel Three: Youth-Oriented Online Advertising (11:15-12:45 p.m.)

Individuals are going online earlier and earlier. From children to teenagers, "Generation Z" represents many of the most active participants in online life. They are also a highly desirable audience for advertisers. On the one hand, young people are savvy users of new technology, and it can be difficult for advertisers to keep up with the latest trends. On the other hand, the plasticity and impressionability of young people, and the chance to influence lifelong habits and preferences—the same traits that make them a valuable audience—suggest that ethical or legal boundaries may be needed. How do the new technologies of targeting and tracking change this debate? How much can, or should, law do to place boundaries on Internet marketing aimed at children?

Moderator:

Seeta Peña Gangadharan, Yale ISP

Mary Engle, Federal Trade Commission Leslie Harris, Center for Democracy and Technology Wayne Keeley, Children's Advertising Review Unit Kathryn Montgomery, American University

Lunch (12:45 - 2:00 p.m.)

Panel Four: Psychology of Online Advertising (2:00 -3:30 p.m.)

The interaction between users and advertisements is not static but dynamic; audiences influence ads, and ads influence the people who see them. Aside from encouraging people to buy the particular products or services that are advertised, how does online advertising shape the larger psychology and sociology of online user behavior? What is the impact of social media advertising, user reviews, reputation systems, and other media that blur the line between ads and content? How does the larger social impact of digital technology impact advertising's effectiveness and design?

Moderator:

Christopher Wong, Yale ISP

Tom Collinger, Medill Northwestern University Jeff Hancock, Cornell University Aleecia McDonald, Carnegie Mellon University

Coffee Break (3:30 - 3:45 p.m.)

Panel Five: Regulating Online Advertising (3:45 -5:15 p.m.)

The shift of advertising to the digital environment poses important challenges for lawyers and regulators. How do existing rules, like truth in advertising or the law of unfair competition, apply to the online environment? Where do new controls need to be developed--or existing ones modified? What is the right balance between industry self-discipline and government supervision? How should regulators decide when, where, and how to intervene?

Moderator: ISP/TBD

Chris Hoofnagle, Berkeley School of Law Alison Pepper, Interactive Advertising Bureau Rebecca Tushnet, Georgetown Law Center

YALE LAW SCHOOL



Privacy and Innovation Symposium at Yale Law School



Panel 1 - Why Privacy and Innovation Need Each Other

Examines how the need for privacy drives innovation in areas such as eHealth, cloud computing, and national security and refocuses scholarly debate toward the benefits of pro-privacy innovation.

Panel 2 - How to Innovate to Protect Privacy

Brings together leading social media scholars to discuss how innovation can protect privacy in the context of social networking.

Panel 3 - Pro-Privacy Innovations to Promote Free Expression

Considers what technological innovations best promote free expression by securing privacy and examines when anonymity and privacy are most relevant to free speech and association.

October 29, 2010 - 1:00 pm - 5:30 pm Yale Law School - Room 127

> **Reception Following Event** Alumni Reading Room 5:30 pm - 6:30 pm

Sponsored by:



Register at: http://yaleisp.eventbrite.com The Yale Information Society Project is pleased to announce the Privacy and Innovation Symposium, October 29, 2010 from 1:00-5:30 p.m. Sponsored by the Kauffman Foundation, the symposium will bring together leading scholars to explore the relationship between privacy and innovation.

Panel 1: Why Privacy and Innovation Need Each Other (1:00-2:15 p.m.)

Many people view innovation as a threat to privacy and fear that the growth of digital networks will ultimately end privacy as a practical matter. In fact, technological innovation is often driven by the need to protect sensitive information in areas ranging from eHealth and eCommerce to cloud computing and national security. Without effective privacy protection, new innovations in these areas will be ineffective and counterproductive. This panel will explain how the need for privacy drives innovation and explore the reciprocal relationship between the promotion of privacy and the promotion of innovation.

Panelists

Joan Feigenbaum, Grace Murray Hopper Professor of Computer Science, Yale University

Sharona Hoffman, Professor of Law, Professor of Bioethics, Case Western Reserve University

Frank A Pasquale, Schering-Plough Professor in Health Care Regulation and Enforcement, Seton Hall School of Law

Panel Two: How to innovate to protect privacy: The case of Web 2.0 (2:30-3:45)

Web 2.0 seems inherently to be in tension with privacy. Or is it? This panel will bring together leading scholars on networked social life to discuss how innovation can protect privacy in the context of the social technologies of Web 2.0. They will do so with an eye towards considering both how business models and design decisions erode privacy online, and how we can design platforms that enable us to better manage our online identities across diverse social settings.

Panelists

Ryan Calo, Research Fellow, Stanford Law School

Daniel Kreiss, Postdoctoral Associate in Law and Fellow,
Information Society Project

Helen Nissenbaum, Professor, New York University, Media, Culture, and Communication & Computer Science. Senior Faculty Fellow, Information Law Institute

Panel 3: Pro-Privacy Innovations to Promote Free Expression (4:00-5:30 p.m.)

New digital technologies have created unprecedented opportunities for individuals to organize and express themselves politically. These same technologies, however, can also be used by governments and private actors for surveillance and can chill expression and association. For example, state governments can spy on individuals and surveil unpopular groups; corporations can make collection and collation of personal data central to business models to an extent that inhibits the activities and choices of individuals. Technological designs can make individuals feel

insecure and unwilling to risk exposure. This panel will consider what kinds of technological innovations best promote free expression by securing privacy.

Panelists

Bryan Choi, Postdoctoral Associate in Law and Kauffman Fellow, Information Society Project

James Grimmelman, Associate Professor at New York Law School

Marc Rotenberg, Executive Director, Electronic Privacy Information Center

OPENVIDEO



JUNE 19-20 NYC

Ponder this: by 2013, online video will account for 90% of all internet traffic.

The emergence of video as the web's killer app has been fascinating. It has set in motion substantial changes for the way we communicate with the world. The most obvious symptom of this change is the slow-motion burial of the TV broadcast model, with consumers increasingly moving to an online, on-demand viewership model. Business models are changing—you've read about this in the business and popular press. Yet something more subtle is happening at the same time. Video is becoming a primary tool for self-expression. Things like video cameras and desktop editing software are now cheap and ubiquitous, making it easy for casual computer users to speak to a mass audience.

So we're here in part to celebrate this new million-channel network, and the potential it brings for individuals to participate in the formation of a more democratic culture. From the webcam embedded in your laptop screen, to the lens of the indie filmmaker, to the cell phone of the Iranian citizen journalist—we are surrounded by devices and software that enable us to powerfully wield the moving image.

But the future of online video is even more significant than it would seem at first blush. That's because the legal and technological battles surrounding online video are, at their core, battles for the future of the internet.

Video on the web can't simply be "internet TV" or a glorified on-demand system. For its potential to be fully realized, online video must be a dynamic medium that invites clipping, archival, remix, collage, repurposing, and other transformations that are currently inhibited by law or by lack of tools. As a medium, online video will be most powerful when it is fluid, like a conversation. Like the rest of the internet, online video must be designed to encourage participation, not passive consumption. Most importantly, it must be supported by a strong foundation of open technologies and open standards.

This conference is about building and protecting the underlying architecture for the emerging online video medium. But it's also about exploring the future of the internet. As video becomes a preferred mode of communication, it's increasingly important that video devices and content aren't locked down. The open web is still in its infancy, and there are unimaginably cool things coming down the pipeline.

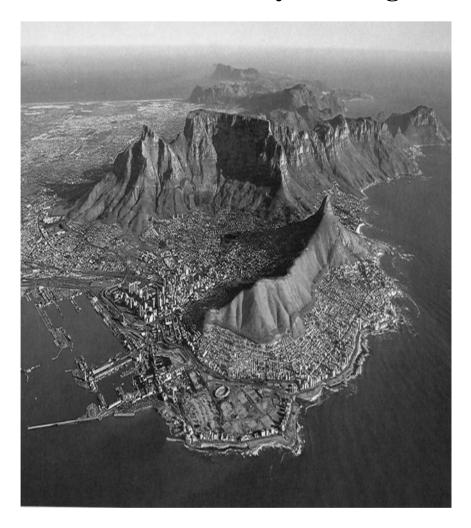
How might we define open video? Some discussion starters:

- •Are the technologies in use transparent? Do they allow you to peer inside to understand how they work enough for someone to be able to build something similar or integrate in ways you didn't expect?
- Does the core technology in use require permission before it can be used? Can individuals build things and publish them without fear of a legal backlash?
- Are the decisions around the core technologies transparent? Can you see what the influences were and who made them?

FRIDAY, JUNE 19

 auditorium seminar I seminar II seminar II 						
10:	00 AM - 10:15 AI	M Opening Remo	nrks			
	10:15 AM - Keynote:Yoo	10:45 AM hai Benkler				
10:45 AM - 11:30 P Mozilla:The Future of Ope	M en Video	10:45 AM - 11:30 AM From Open Circuits to Open Video				
11:30 AM - 12:10 A Fair Use Battles: Discus		11:30 AM - 12:30 PM Metadata Roundtable I: Time-Based Metadata				
12:10 PM - 12:30 PM Lizz Winstead	l: Featured Talk					
12:30 PM -1:15PM <i>Lunch</i>	Lunch Teach-ii Policy & the	- 1:15 PM n: Obama,Tech Promotion of n Washington	12:30 PM -1:15PM Content Delivery Discussion			
1:15 PM - 1:45PM The Pirate's Dilemma: Ke		1:15 PM - 2:05 PM Independent Video Platforms				
1:45 PM - 2:35 PM <i>Lightning Talks</i>		2:05 PM - 2:35 PM A Narrative for Openness				
2:45 PM - 3:15 PM Open Video in the Developing World		- 3:15 PM chnology & Video	2:45 PM - 3:15 PM Archive.org			
3:15 PM - 3:45 PM The People vs. Comcast & AT&T		- 4:00 PM P Technologies	3:15 PM - 4:00 PM Human Rights and Indigenous Media,: Dilemmas, Challenges and Opportunities			
3:45 PM - 4:15 PM Open Video on Wikipedia	4:00 PM - 4:30 PM Open Media Stack		4:00 PM - 4:30 PM The Mobile Journalism Collective			
4:15 PM - 4:40 PM The Eclectic Method (VJs)	Open Wie		The Mobile Journalism Collective			
4:45 PM - 5:05 PM How to Make a Politcal Remix Video Drupal and		- 5:45 PM I Plone Video Showcase	4:45 PM - 5:15 PM Developing Critical Student Voices Through Fannie Lou TV)			
DVD Jon: Featured talk 5:25 PM - 5:45 PM The Politics and Poetics of DeCSS	, ridqomi	Snowcase	5:15 PM - 5:45 PM Institute for the Future's People of the Screen and the Global Lives Project			
5:45 PM - 6:15 PM Steal These Films: Brett Gaylor, Jamie K	ing, Henrik Moltke		5:45 PM - 6:15 PM tentials and Mapping Open Video			
	6:15 PM - 6:30 P	PM Closing Remar	ks			
			OPM [158 Bleecker St]			

Access to Knowledge Global Academy Meeting



Cape Town, South Africa January 18-19, 2011



ACCESS TO KNOWLEDGE GLOBAL ACADEMY MEETING University of Cape Town Cape Town, South Africa January 18-19, 2011

Workshop Schedule

TUESDAY, JANUARY 18

9:00 a.m. Welcome and Introductions

9:30 a.m. Roundtable I: National Perspectives on A2K - The South African Perspective

- · Kabir Bavikatte, Natural Justice
- . Eve Gray, University of Cape Town IP Law & Policy Unit
- · Adam Haupt, University of Cape Town Film and Media Studies
- · Julian Kinderler, University of Cape Town IP Law & Policy Unit

11:00 a.m. Coffee Break

11:30 a.m. Roundtable II: Copyright Exceptions and Limitations in Education

- · Nick Bramble, Yale Information Society Project
- Anriette Esterhuysen, Executive Director, APC
- · Eddan Katz, Electronic Frontier Foundation
- . Dr. Tobias Schonwetter, University of Cape Town IP Law & Policy Unit

1:00 p.m. Lunch Discussions

2:00 p.m. Roundtable III: Educational Innovation in Africa and Beyond

- · Coetzee Bester, Dept. of Information Science, University of Pretoria
- Jacques du Plessis, School of Information Studies, University of Wisconsin-Milwaukee
- Dick Kawooya, School of Information Studies, University of Wisconsin-Milwaukee
- · Andrew Rens, University of Cape Town IP Law & Policy Unit
- · Philipp Schmidt, Executive Director and Co-founder Peer 2 Peer University

3:30 p.m. Coffee Break

4:00 p.m. Roundtable IV: Accessing Legal Information

- · Mariya Bedeva-Bright, Co-Founder, African Legal Information Institute
- . Tom Bruce, Director of the Legal Information Institute, Cornell University
- Ivan Mokanov, Associate Researcher, Legal Information Chair, University of Montreal
- · Isabelle Moncion, Researcher, Legal Information Chair, University of Montreal
- . Darrel Pink, President of the Canadian Legal Information Institute
- Daniel Poulin, Chairholder of the Legal Information Chair, University of Montreal

5:30 p.m. Workshop Adjourns for Day

6:30 p.m. Special Dinner sponsored by the Yale Information Society Project

WEDNESDAY, JANUARY 19

9:30 a.m. Roundtable V: Regional A2K Perspectives - Open Source in the Arab World

- · Slim Amamou, Entrepreneur, Net Neutrality activist (Tunisia)
- Lina Attalah, Managing editor, Al-Masry Al-Youm portal and researcher; A2K Egypt research team (Egypt)
- Walid Karam Ma3bar (the Arab support center for free & open source software) (Lebanon)
- · Nagla Rizk, American University in Cairo

11:00 a.m. Coffee Break

11:30 a.m. Roundtable VI: ICTs and Access in the Developing World

- · Carlos Affonso, Fundação Getulio Vargas Law School in Brazil
- · Bryan Choi, Yale Information Society Project
- Marilia Maciel, Fundação Getulio Vargas Law School in Brazil
- · Fikremarkos Mersos, Addis Ababa Law School Ethiopia
- · Hong Xue, University of Hong Kong

1:00 p.m. Lunch Discussions

2:00 p.m. Roundtable VII: A2K, Privacy, and Freedom of Expression

- · Laura DeNardis, Yale Information Society Project
- Michael Zimmer, School of Information Studies, University of Wisconsin-Milwaukee
- · Determine at conference

3:30 p.m. Coffee Break

4:00 p.m. Roundtable VIII: Ways Forward for Access to Knowledge Scholarship

- Jack Balkin, Yale Information Society Project
- Determine at conference

5:30 p.m. Workshop Adjourns

7:30 p.m. Special dinner sponsored by UW-Milwaukee School of Information Studies

Other Workshop Participants:

- Dalia Adel Zaki
- · Kerry Anderson, Co-founder of African Legal Information Institute
- · Raj Daya, CEO of the Law Society of South Africa
- · Perry Fetterman, Yale Information Society Project
- Khaled Fourati, Senior Program Officer, International Development Research Centre
- · Jake Gardener, Yale Information Society Project
- Wilhelm Peekhaus, Information Policy Postdoc, University of Wisconsin-Milwaukee



Innovate Activate: An Unconference on Intellectual Property and Activism



New York Law School September 24-25, 2010

Innovate / Activate will eschew the formalism of a traditional conference in favor of a more open environment that will promote collaboration and networking. In this environment, attendees will be able to learn from each other about the IP obstacles they might encounter in their endeavors and how they should be addressed. The unconference format will allow guests to critically examine IP issues relevant to their respective causes alongside each other.

The goal of an unconference is to create a participant-driven forum for the exchange of ideas. Small, "unconference sessions" focus on specific strategies/projects that organizations are employing in incorporating IP thought into their missions. In this environment, presenters can receive feedback from the other attendees, who in turn gather ideas from presenters that they can mold to their particular fields.

Innovate / Activate unconference sessions are not determined ahead of time. Rather, attendees are given the opportunity to sign up for various time slots the day of, in the hopes that those who present will tailor their presentations to the larger discussion as it unfolds throughout the event. In this sense, attendees are largely responsible for setting the agenda. This format is particularly useful for organizations that work on a number of complex issues, as these groups may sign up for multiple sessions to present multiple strategies/ideas/projects and receive thoughtful analysis and suggestions, rather than attempting to distill their work into one discussion.

Program

Friday, September 24

- 12 1pm Welcome / Unkeynote
- 1:15 2:45pm Panel: Replicate /
- 2:45 3:15pm Unconference session signup begins
- 3:15 4:45pm Unconference sessions
 - 3:15 3:45pm
 - A Fair(y) Use Tale, Eric Faden, Bucknell University
 - Pass the Hat: Voluntary Payment as a Complimentary Model for Music Copyright, Lital Helman, Columbia Law School
 - When do generics challenge drug patents?, C. Scott Hemphill, Columbia Law School
 - 3:45 4:15pm
 - Whose Words?: Publishing & Intellectual Property, Amanda Levendowski, the Redactive Poetry Project
 - Reclaiming our Rights, Patricia Aufderheide, Ctr. for Social Media, American University
 - Peer To Patent, Andrea Casillas, New York Law School
 - 4:15 4:45pm
 - Any (c) Abolitionists Here? How Can We Help?, Nina Paley, QuestionCopyright.Org, Sita Sings The Blues
 - Taking Fair Use Code of Best Practices to the Next Level, Niva Elkin-Koren, University of Haifa
 - Diebold: How to Sue a Multi-Billion Dollar Corporation AND WIN!, Nelson Pavlosky, Students for Free Culture

4:45 - 5pm Break

5 - 6:30pm Film screening (Caught in the Rye) w/ Q+A

Saturday September 25

9 - 10:30am Panel: Articulate / Anticipate

10:30 - 10:45am Break

10:45am - 12:15pm Unconference sessions

- 11:30 12pm
 - Music as Bio-genetic Material, Adam Holofcener, U. of Maryland Law School
 - Data Activism and Grassroots Empowerment in India, Glover Wright, Ctr. for Internet and Society
 - Discussion: Mixing CC Licenses: Do Users care?, Lindsey Weeramuni, MIT OpenCourseWare
- 12pm 12:30am
 - Crushing the Public Domain: Museum Licensing and the Control of Art, Kenneth Crews, Columbia University Libraries
 - Politics of Sharing, Joly MacFie, The Internet Society
 - Access to Essential Environmental Technologies, Baskut Tuncak, Ctr. for International Environmental Law
- 12:30 1pm
 - The Durationator (R) Journey: From Legal to Research to Coding Experiment to?, Elizabeth Townsend Gard, Tulane Law School
 - How to Avoid Re-inventing the Wheel Learning from Successful Campaigns, Kristin Antin, New Tactics in Human Rights

12:30 - 1:45pm Lunch / Keynote

2 - 3:30pm Panel: Innovate / Activate

3:30 - 3:45pm Break

4 - 5:30pm Unconference sessions

- 3:45 4:15pm
 - Why Copyleft isn't Right for Scientific Code: Licensing& Dissemination of Scientific Innovation, Victoria Stodden, Columbia University
 - Realigning Access to Culture with Trust & Estate Administration, Jason Summerfield, Finkelstein & Virga

 Access to Medicines and current global IP Trends, Ethan Guillen, UAEM with Judit Rius, Knowledge Ecology International

4:15 - 4:45pm

- Net Neutrality: Messaging #Fail, Shane Wagman, Cardozo Law School
- The Pubilc Index as a Platform for Civic Engagement, Leanne Gabinelli and Drew Smith, New York Law School
- Biosimilars: Trade Secrets, Patents and Data Exclusivity, Sara Crager, UAEM

• 4:45 - 5:15pm

- Rhetoric! Discuss Words Like "Activist," "Balance," "Protection,"
 "Neutrality," and What They Imply, Nina Paley,
 QuestionCopyright.Org
- The Interplay of Trade Secrets, Government and Public
 Transparency, David Levine, Elon University School of Law;
 The Zyprexa Kills Campaign, Jonah Bossewitch, Columbia
 Center for New Media Teaching and Learning

Yale Media Theory & History Graduate Conference

YALE MEDIA THEORY & HISTORY GRADUATE CONFERENCE

FREE AND OPEN TO THE PUBLIC

REGISTRATION NOT REQUIRED

WEBSITE — MEDIACONFERENCE. COMMONS.YALE.EDU

CONTACT — MATTHEW.RAGER @YALE.EDU APR 22 2011 8:30AM-5:00PM LC 317

POLITICAL AND SOCIAL MOVEMENTS Andrew Hannon Navid Hassanpour Sierra Bell

MEDIA SPECIFICITY Anja Kruger Jan Claas Van Treeck Joy Kim

NATIONALISM Josh Glick Maria Rives Ryan Carr

MEMORY Julia Sonnevend Matt Rager Michael Bustamante

Faculty Roundtable Discussion APR 23 2011 11:00AM-5:00PM WLH 208

PRINT CULTURE Carolee Klimchock Maria Luengo Julia Guarneri

EMBODIMENT Bo Li Charlie Veric J. Jesse Ramirez

REGULATION Brian Distelberg Seeta Pena Gangadharan Usha Chilukuri

INTERMEDIALITY Claudia Calhoun Craig Fehrman Jordan Brower

Conference Schedule

Friday, April 22nd

8:30-9:00 – Coffee, opening announcements, etc.

Media Theory and...

9:00-10:15

...Political and Social Movements:

- *Navid Hassanpour (Political Science) "Revolutions and the Media."
- *Andrew Hannon (American Studies) "New Media and Old Labor in the 2007-2008 Writer's Strike."
- *Sierra Bell (Anthropology) "Tea Time in the Digital Age: Media, Modernity, and the Contemporary US Tea Party Movement."

10:30-11:45

... Media Specificity:

- *Joy Kim (History of Art)— "Between the Filmic and the Photographic"
- *Anja Krüger (German) "Cutting Across: Photographic Transgressions in Marianne Wiggins's *The Shadow Catcher*."
- *Jan Claas Van Treeck (German) [Title TBA]

BREAK FOR LUNCH – 11:45-12:45

1:00-2:15

...Nationalism:

- *Maria Rives (Anthropology) "Publicizing the Private or Privatizing Publics? New Media in the Context of Post-Soviet Communicative Practice."
- *Ryan Carr (English) "The Office of the Observer: Sequoyah, Cooper, and the Letters of their Republics."
- *Josh Glick (Film) "Studio Documentary in the Neoclassical Era:

Wolper Productions and New Frontier Television."

2:30-3:45

...Memory:

- *Michael Bustamante (History) "Playa Girón: Shaping, Representing, and Contesting Revolutionary Memory in the Cuban Media, 1961-1977."
- *Julia Sonnevend (ISP) "Images We Do Not Remember: Historic Events Without Iconic Photographs."
- *Matt Rager (English) "The [_] Tree[_] of C[___]od[__]es: Found Narrative and The Excavation of Memory."

Saturday, April 23rd - WLH 208

10:00-11:15

...Regulation:

- *Kyoko Yoshinaga (ISP) "Broadcasting in the Digital Age."
- *Usha Chilukuri (Law School) "John Field and the Regulation of the English Book Trade, c. 1642-68."
- *Seeta Peña Gangadharan (ISP) "Translation in the media ownership debate: The work of civil society groups and the Federal Communications Commission, 2002-2007."

11:30-12:45

...Print Culture:

- *Carolee Klimchock (American Studies) "Coach Drivers, Heiresses, and Sensational Sex."
- *Julia Guarneri (History) "Chicago Newspapers Remake their Region, 1880-1930."
- *Maria Luengo (CCS) "Reporting civic and anti-civic motives in Spanish news on the March 11 terrorist attack."

BREAK FOR LUNCH - 12:45-1:45

2:00-3:15

...Embodiment:

- *Bo Li (English) "Bodies in Space: Elements of Performance in Online Fan Fiction and its Communities."
- * J. Jesse Ramírez (American Studies) "Nietzsche's Laughter: Nihilism, (Post)Humanism, Avatars."
- * Charlie Veric (American Studies) "Seeing Suffering: Witnessing and the Public Life of the Face."

3:30-4:45

...Intermediality:

- *Craig Fehrman (English) "Memoirs 'Electronic' and Otherwise: Promoting and Usurping Political Autobiography on Television."
- *Claudia Calhoun (American Studies) "The Story You Are About to Hear Is True:' *Dragnet* and the Cultural Work of the Police Procedural."
- *Jordan Brower (English) "Change the Angle, and the Image Decomposes': Truth-Telling, False Knowledge, and the Photographic Image in the Novels of J.M.Coetzee."

5:00

Faculty Roundtable Discussion - Featuring Professor Jack Balkin (Law School), Professor Francesco Casestti (Film Studies), and Professor John Mackay (Film Studies).

ACTIVITES AND SPECIAL EVENTS

Liberty Tree Speaker Series

First Amendment Online Colloquium at Yale Law School

"Fulfilling the First Amendment: Protecting Citizen Access to Information"

<u>Frank Pasquale</u> on Search Engine Law and the First Amendment - February 5

Arianna Huffington on the first amendment online - February 22

<u>David Post</u> on Protected Political Speech in Email - April 9

Amy Goodman on The Power of Independent Journalism - April 15

<u>Beth Noveck</u> on Open Government and the First Amendment - April 23

Events, hosted by the Yale Information Society Project and Knight Law and Media Program, are sponsored by the Liberty Tree Initiative, McCormick Foundation and the First Amendment Center.





LIBERTY TREE INITIATIVE

FIRST AMENDMENT CENTER

Yale Information Society Speaker Series

Bob Woodward on Watergate, Open Government and Investigative Journalism: A Retrospective and Glimpse Into the Future of The Freedom of Information Act, November 18

Award-winning investigative reporter and author Bob Woodward of *The Washington Post was* joined by Lucy Dalglish '88 MSL, executive director of The Reporters Committee for Freedom of the Press; Colleen Murphy, executive director of the Connecticut Freedom of Information Commission; and Michael Regan, editor of CTMirror.org and a former editor at *The Hartford Courant*.

Aaron Bayer, a partner at the law firm Wiggin and Dana, moderated the discussion, which was sponsored by the Information Society Project at Yale Law School, the Knight Law and Media Program, and the Connecticut Foundation for Open Government.

The Future of Internet Policy: A Conversation on Network Neutrality, December 2

The Yale Information Society Project held a special panel on *The Future of Internet Policy: A Conversation on Network Neutrality,* sponsored by the Yale Law & Policy Review and the Yale Law School Information Society Project. The panel will took place on Thursday, December 2. The all-star line-up of panelists included:

Susan Crawford, Professor of Law, Cardozo University School of Law & President's Special Assistant for Science, Technology, and Innovation Policy (during 2009);

Frank A. Pasquale, Schering-Plough Professor in Health Care Regulation and Enforcement, Seton Hall Law School;

Jonathan Zittrain, Professor of Law, Harvard Law School, Harvard

Kennedy School of Government Professor of Computer Science, Harvard School of Engineering and Applied Sciences Co-Founder and Faculty Co-Director, Berkman Center for Internet & Society;

Dawn C. Nunziato, Professor of Law, George Washington University Law School.

Witness from Guantanamo, A Discussion with Carol Rosenberg and Linda Greenhouse, January 25

Carol Rosenberg, Staff Writer for the Miami Herald, joined in conversation with Linda Greenhouse, former New York Times Supreme Court reporter and Knight Distinguished Journalist in residence at Yale Law School.

The event took place on January 25. The event was sponsored by the Yale Information Society Project and Knight Law and Media Program and it was made possible by the Poynter Fellowship in Journalism at Yale University.

Carol Rosenberg has been a staff writer with The Miami Herald for the past 20 years. She was hired as the Middle East correspondent on the eve of the first Gulf War – Her first staff byline was from Baghdad, Sept. 1, 1990 — and spent four years there for The Herald covering terror, conflicts and culture as part of a seven-year stint in the region, time that set the stage for her now nearly 10-year stint focusing on Guantanamo.

The Herald dispatched her to the Guantanamo Navy base in January 2002, on the eve of the arrival of the first 20 captives, in what evolved into an unrivaled commitment to cover the offshore experiment in detention in "The War on Terror," the place, the policy and the legal proceedings down there.

When the Pentagon isn't putting her up in Tent City at Guantanamo's "Camp Justice," she lives in Miami Beach and shuttles to the Navy Base in southeast Cuba under military escort via Washington DC, on average once a month, and made her last trip to the Middle East for the 2006 Hezbollah war.

Her dispatches can be found at www.miamiherald.com/guantanamo and, when court is in session and the Pentagon controlled web access is working, she tweets live from Guantanamo at twitter.com/Guantanamo.

Linda Greenhouse is a Senior Research Scholar in Law, the Knight Distinguished Journalist in Residence and Joseph Goldstein Lecturer in Law at Yale Law School. She covered the Supreme Court for The New York Times between 1978 and 2008 and currently writes a biweekly column on law. Ms. Greenhouse is a fellow of the American Academy of Arts and Sciences, where she serves on the council, and is one of two non-lawyer honorary members of the American Law Institute, which in 2002 awarded her its Henry J. Friendly Medal. She is a member of the Council of the American Philosophical Society, which in 2005 awarded her its Henry Allen Moe Prize for writing in the humanities and jurisprudence. She is a member of the Harvard University Board of Overseers and of the Senate of Phi Beta Kappa. She is a 1968 graduate of Radcliffe College (Harvard), where she was elected to Phi Beta Kappa. She earned a Master of Studies in Law degree from Yale Law School (1978), which she attended on a Ford Foundation fellowship.

A Conversation with Rachel Maddow, March 28

Rachel Maddow, political analyst and host of the critically acclaimed "Rachel Maddow Show" on MSNBC, was at Yale Law School on Monday, March 28, for a Q&A with Visiting Associate Professor Amy Kapczynski '03.

Maddow first gained national prominence as a host on Air America Radio, where she worked from its inception in 2004. In January of 2008, she was named an MSNBC political analyst and soon after, began filling in as guest host for Countdown with Keith Olbermann and Race for the White House.

When The Rachel Maddow Show debuted in August 2008, it was the most successful show launch in MSNBC history, immediately boosting ratings in its time period and drawing national attention. It was named

one of the top shows of the decade by The Washington Post in 2009.

Maddow herself was honored as a "Breakout Star of 2008" by The Washington Post, among the "Best of Television 2008" by The Los Angeles Times, and one of the "Top Ten Political Newcomers of 2008" by Politico.com.

Rachel holds a bachelor's degree in public policy from Stanford University and a doctorate in political science from Oxford University.

Jack Balkin & Jack Goldsmith on Confronting Cybersecurity Challenges, April 5

Recent attacks on the computer networks of Google, Estonia, and Georgia highlight the vulnerability of American computer networks to attack and exploitation. Professors Jack Goldsmith (Harvard Law School) and Jack Balkin (Yale Law School) discussed the extent of those vulnerabilities and the challenge of securing our cyber infrastructure without hobbling innovation or violating civil liberties.

Sherry Turkle Discusses "Alone Together: Why We Expect More from Technology and Less from Each Other, April 6

Sherry Turkle and Abby Rockefeller Mauzé Professor of the Social Studies of Science and Technology in the Program in Science, Technology, and Society, at MIT, joined the Ethics Study Group to discuss her new book.

Technology proposes itself an architect of our intimacies. And these days, networked devices offer substitutes for direct face-to-face connection with people. As we instant message, e-mail, text, and Twitter, the network redraws the boundaries between intimacy and solitude. We talk of getting "rid" of our e-mails, as though these notes were so much excess baggage. Teenagers avoid the telephone, fearful that it reveals too much. Besides, it takes too long; they would rather

text than talk. Adults, too, choose keyboards over the human voice. Some who say "I live my life on my BlackBerry" are forthright about avoiding the "real time" commitment of a phone call. Here, we use technologies to "dial down" human contact, to titrate its nature and extent. We seem comforted by being in touch with a lot of people whom they also keep at bay.

What this means is that we often find ourselves too busy communicating to think, too busy communicating to create, and in a final irony, too busy communicating to connect in the ways that matter. In personal life, we need to put technology in its place. Every technology challenges our human values, which is a good thing because it causes us to define, once again, what they are.

Sherry Turkle is a professor, author, consultant, researcher, and licensed clinical psychologist who has spent the last 30 years researching the psychology of people's relationships with technology. She is the Abby Rockefeller Mauzé Professor of the Social Studies of Science and Technology in the Program in Science, Technology, and Society at MIT. Her many books include a trilogy on digital technology and human relationships: The Second Self: Computers and the Human Spirit, Life on the Screen: Identity in the Age of the Internet, and most recently, Alone Together: Why We Expect More From Technology and Less From Each Other. Turkle's investigations – from the early days of personal computers to our current world of robotics, artificial intelligence, social networking, and mobile connectivity – shows that technology doesn't just catalyze changes in what we do – it affects how we think.

A Talk about Geospatial Law and Public Policy with Peter Schreiber, April 8

On Friday, April 8 Peter Schreiber discussed current and future legal and public policy implications facing geospatial technology, the GIS industry, and GIS users.

The discussion focused on the expanding application of geospatial technology relative to contracts and licensing law; tort law including

mission critical applications and navigational guidance; software patents, "copyrightability" of GIS data and the battle between copyright and public records laws; the availability of geospatial data in the post-9/11 era under FOIA and Public Records acts; the 4th Amendment and GPS tracking and redistricting; geopolitical boundary controversies; geo-locational privacy; and the potential legal liability risk exposure that these topics bring.

Peter C. Schreiber is the Managing Attorney for the Contracts and Legal Services Department of Environmental Systems Research Institute, Inc. (Esri). He is Guest Lecturer at the GIS Master Program at the University of Redlands, and has also been an Adjunct Professor at the University of California, Riverside Extension and where he has developed and taught a class entitled The Digital Information Age: Law and Public Policy that explores GIS and other high technology-related legal issues. He is currently working on a legal casebook tentatively entitled Geospatial Law and Public Policy. One federal government agency considers him one of the top three legal practitioners in the area of map law in the country.

Mr. Schreiber is a member of the State Bar of California and the American Bar Association, and a member of the Intellectual Property Law sections of each organization. His practice areas include intellectual property, licensing, data rights, and related transactional business matters including mergers and acquisitions. He received his Juris Doctorate from the McGeorge School of Law, University of the Pacific in Sacramento, California, and has a Bachelor of Science degree with an emphasis in Marketing Management from the Walter A. Haas School of Business Administration, University of California, Berkeley.

"The Role of Social Media in Japan During Natural Disasters" with Kyoko Yoshinaga, April 20

A devastating earthquake hit northeastern Japan followed by a major tsunami on 3.11 and a nuclear crisis. Many people in the coastal areas lost their lives. During and following these catastrophic events, people used Facebook and Twitter to locate their family and friends.

The talk reviewed those information technologies that worked and those that did not work as well as how people used social media in creative ways following the disasters. Finally, it considered regulatory changes and technical innovations that might foster more effective implementation of social media during future times of crisis.

Kyoko Yoshinaga is a Visiting Fellow of the Information Society Project (ISP) at Yale Law School where she conducts research on the legal issues of the convergence of communications and broadcasting, focusing on content regulation from the perspective of protecting minors and copyright owners.

Before joining the ISP, Kyoko worked as a researcher in the area of laws and policies on information, communications and security at Mitsubishi Research Institute (MRI), a leading private think-tank in Tokyo, Japan, for seven years. Most of her research was under contract from the Japanese Government Ministries to assist them in their policy-making in these areas. At MRI, Kyoko conducted research on privacy, data protection, defamation, information security governance, intellectual property rights, electronic signatures, phishing, spyware, SPAM, broadcasting and Alternative Dispute Resolutions of Japan, the United States, as well as the European Union, United Kingdom, France, Germany, Denmark, Estonia, Canada, Australia, China and South Korea. She has contributed to forming legal systems and policies in this field in Japan by proposing new legal frameworks, policies or revisions to laws through reports for the government ministries.

Kyoko received an LL.M. from the University of Tokyo and a B.A. in Law from Sophia University. She grew up in the U.S., U.K., and Japan.

YALE INFORMATION SOCIETY PROJECT LUNCH SPEAKER SERIES

September 14

Joe Karaganis, Vice President at the American Assembly and Program Director at the Social Science Research Council, delivered a talk on "Media Piracy in Emerging Economies."

October 8

James Grimmelmann, Associate Professor at New York Law School, delivered a talk on "Sealand and Havenco: A New Interpretation."

October 22

Aram Sinnreich, Assistant Professor at Rutgers University's School of Communication and Information, discussed his book, *Mashed Up: Music, Technology, and the Rise of Configurable Culture.*

October 15

Phil Howard, Associate Professor of Communication at the University of Washington, discussed his book, *The Digital Origins of Democracy: Information Technology and Political Islam*.

November 5

Milton Mueller, Professor at Syracuse University's School of Information Studies, delivered a talk on "Networks and States."

November 9

Barbara van Schewick, Associate Professor of Law at Stanford Law School, delivered a talk on "Internet Architecture and Innovation."

December 1

Jonathan Zittrain, Professor of Law at Harvard Law School, a co-founder of the Berkman Center for Internet & Society, delivered a talk on "Minds for Sale."

November 30

Monroe Price, Professor at Cardozo School of Law and Director of the Center for Global Communication Studies at the Annenberg School for the University of Pennsylvania, delivered a talk on "Adventures in Transnational Communications: Defining the Stake one State has in the Media Systems of Another."

December 9

Nate Persily, Charles Keller Beekman Professor of Law and Professor of Political Science, delivered a talk on "The 2010 Redistricting Cycle and the Internet."

December 10

Jeanne Fromer, Associate Professor of Law at Fordham University School of Law, delivered a talk on "The Dormant IP Clause."

February 4

Amy Kapczynski, Visiting Associate Professor of Law and Irving S. Ribicoff Fellow in Law at Yale Law School delivered a talk on "Free Beer and the Cost of Price."

February 10

Dave Levine, Assistant Professor of Law at Elon University School of Law, delivered a talk on "The People's Trade Secrets."

February 18

Christina Speisel, Senior Research Scholar at Yale Law School, and **Michael Fischer**, Professor of Computer Science at Yale, delivered a talk on "Legitimacy and Democracy in the Face of Electronic Voting."

February 25

Tarleton Gillespie, Assistant Professor in the Department of Communication at Cornell University, delivered a talk on "The Private Governance of Digital Content or How Apple Intends to Offer You Freedom from Porn."

March 4

Edmund Yeh, Associate Professor of Electrical Engineering, Computer Science, and Statistics at Yale University delivered a talk on "From Where to What: A New Architecture for the Internet."

April 1

John Palfrey, Professor of Law and Vice Dean for Library and Information Resources at Harvard Law School, and **Urs Gasser**, Executive Director of the Berkman Center for Internet & Society at Harvard University, delivered a talk on "Interop: The Art and Science of Working Together."

April 15

Talha Syed, Assistant Professor at the University of California, Berkeley Law School, and **Amy Kapczynski**, Visiting Associate Professor of Law and Irving S. Ribicoff Fellow in Law at Yale Law School, discussed "Nonexcludability and the Limits of Patents."

YALE INFORMATION SOCIETY PROJECT "IDEAS LUNCHES"

The ISP has continued its weekly "ideas lunches." The following are some of the special guests who joined us:

November 3

Yale World Fellow **Marvin Rees** is a BBC Radio talk show host, a member of the National Community Forum, and Director of the Bristol Partnership. He is a leading voice on race relations and race equality in the U.K.

Yale World Fellow **Alexey Navalny** is a Russian lawyer, social activist, and blogger and the founder of Minority Shareholders Association and Co-founder of the Democratic Alternative movement. He discussed how he used his popular blog to organize social action related to corporate corruption and discussed the problem of governmental use of copyright enforcement to suppress dissent.

November 10

Digital Journalism with **Emily Bell**, Director of the new Tow Center for Digital Journalism at Columbia University. Prior to joining Columbia, Emily was the Director of Digital Content for Britain's Guardian News and Media.

November 17

MIT media lab doctoral candidate **Andrés Monroy-Hernández**, discussed his work designing online social spaces for young people (including online gaming environments) and examining issues such as young people's perceptions of intellectual property and how these perceptions shape the development of a remix culture.

Yale World Fellow **Fares Mabrouk**, who will discuss his Democracy 2.0 Project for Tunisia

December 1, 2010

Filmmaker **Rob Moss**, showed and discussed parts of his recent documentary film, Secrecy, directed with Peter Galison. Secrecy explores the vast, invisible, expanding world of government secrecy in the United States. Premiering at the Sundance Film Festival in 2008, Secrecy has since been invited to show at festivals in Tribeca, San Francisco, Austin (SXSW), Boston, Nantucket, Philadelphia, Palm Beach, Ashland, Croatia, Warsaw, Rio de Janeiro, and Vancouver. Moss will also share thoughts on interdisciplinary media scholarship at Harvard, including his joint initiative with Peter Galison to combine the intensive analysis of cinematic representations of science with rigorous film-making assignments in visual science studies, and broader trans-disciplinary media initiatives across the University stemming from Harvard President Drew Faust's Arts Task Force. Moss's films have premiered at the Telluride Film Festival and the Sundance Film Festival, and have been shown at Lincoln Center and the Museum of Modern Art in New York, and at numerous venues around the world including in Holland, Russia, Sweden, Turkey, Munich, Paris, Israel, Australia, and Brazil. Moss was on the documentary jury at the 2004 Sundance Film Festival and the 2005 Denver and Chicago International Film Festivals, and has thrice served as a creative adviser for the Sundance Institute Documentary Labs. Moss is Rudolf Arnheim Lecturer on Filmmaking at Harvard University.

December 8

Tunisian activist and entrepreneur **Slim Amamou** discussed his work fighting against Internet censorship in Tunisia.

ISP Fellow David Karpf joined us to talk about part of his current book project. Specifically, he discussed "Moore's Law and politics." Moore's Law (1965) states that computational capacity will double every 18 to 24 months. For more about this, please see David's blog posting:

http://www.shoutingloudly.com/2010/11/14/book-blogging-moores-law-and-politics/

January 26

Dr. Cynthia Farrar, the Founder and CEO of Purple States shared some information about Purple States, a video-based media company that specializes in using citizen journalists in professionally edited news content. She has a Ph.D. in classics and political theory from Cambridge and is a graduate of Yale College.

Derek Lomas, the founder of Powerplay (see http://playpower.org/). Derek is a Ph.D. student in Human-Computer Interaction at Carnegie Melon University.

Victor Liang, the General Counsel of Baidu.

Feb₂

Tunisian activist and entrepreneur **Houeida Anouar** (http://twitter.com/houeida). Houeida gave a firsthand account of what had been transpiring in Tunisia in the weeks prior to her visit. She also talked about her innovative project for new social networking software that matches people with particular skills with those who need these skills. ISP affiliate Nagla Rizk has described Houeida as "one of the pillars of Tunisian dissent."

Feb 9

Robin Feldman, Professor of Law at U.C. Hastings. Professor Feldman discussed her forthcoming Harvard University Press book *Rethinking Patent Law*.

About Professor Feldman:

Robin Feldman is a Professor of Law at U.C. Hastings. She specializes in Law and Science and is the Director of the Hastings Law & Bioscience Project (LAB Project). She has also served as the Herman Phleger Visiting Professor of Law at Stanford Law School. Professor Feldman has received the Rutter Award for Teaching Excellence and the 1066 Foundation Award for Scholarship. Professor Feldman's first book, "The Role of Science in Law," was published by Oxford University Press in 2009. Her second book, "Rethinking Patent Law," is forthcoming from Harvard University Press, and she has a book chapter forthcoming

in the Amherst Series in Law, Jurisprudence, and Social Thought (Austin Sarat ed. Stanford University Press 2011) entitled, "Coming to the Community."

February 16

Ian Ayres discussed his contractual code project examining what contract law can learn from User Exerience (UX). Software programmers have well-developed UX Guidelines which lay out a theory of i) when features should be mandatory versus optional, ii) how to set defaults, and iii) how to allow users to alter the defaults (including "are you sure?"). He will share what he has learned and is learning from technology company terminology for core concepts and examples of default and altering rule differences (including examples of penalty defaults).

February 23

Journalism with **Nayan Chanda**. Chanda discussed journalism in the pre- and post-Internet worlds. In 1975, Chanda was one of a handful of foreign journalists to stay in Saigon when the American military left: His last dispatch was cut off when North Vietnamese soldiers walked up to him and pulled the plug on the Reuters Telex as he typed. In 2011, he has published on the role of the Internet in the Tunisian and Egyptian revolutions. To illustrate the conditions in which reporters operated at the beginning of Chanda's career, a copy of his last dispatch from Saigon is attached, and more information about it is available here:http://www.nytimes.com/2004/11/03/opinion/03wed3.htm l?_r=1&scp=4&sq=Nayan+Chanda&st=nyt

Nayan Chanda is currently the Director of Publications and the Editor of YaleGlobal Online Magazine at the Yale Center for the Study of Globalization. For nearly thirty years prior, Chanda was with the Hong Kong-based magazine the Far Eastern Economic Review as its editor, editor-at-large and correspondent. He is the author of Bound Together: How Traders, Preachers, Adventurers and Warriors Shaped Globalization, and of Brother Enemy: The War After the War and co-author of over a dozen books on Asian politics, security and foreign policy. Chanda writes a fortnightly

column 'Bound Together' in India's BusinessWorld magazine and Singapore Straits Times.

March 2

A2K (Access to Knowledge) issues related to information and communication technologies for development (ICT4D) and scholar Dorothea Kleine discussed her forthcoming book Technologies of Choice (MIT Press).

Dorothea Kleine is Lecturer in Development Geography at the UNESCO Chair/Centre in ICT4D at Royal Holloway, University of London. Her work focuses on the relationship between notions of "development", choice and technology. She is a Fellow of the Royal Geographical Society and has worked as a consultant/advisor to EuropeAid, DFID, GTZ and to NGOs. She is the author of Surfen in Birkenstocks (Oekom, 2005), a book on the potential of the Internet for the Fair Trade movement and has recently been managing action research using smartphones to assist socially and environmentally responsible consumption choices (www.fairtracing.org). She is currently completing her new book, which offers an operationalisation of the capabilities approach for evaluation and project design in ICT4D.

March 9

Intellectual Property and Genetic Research Innovation P IP, innovation, and genetic research with Dr. Heidi Williams.

Heidi Williams is a fellow of the National Bureau of Economic Research and an incoming Professor of Economics at MIT. ISP Fellow Lisa Ouellette has drawn our attention to Heidi's interesting empirical paper demonstrating how IP protection for genes has led to declines in subsequent declines in product R&D. http://www.nber.org/papers/w16213. She holds a Ph.D. in Economics from Harvard University, an MSc in Economics from Oxford, and is a graduate of Dartmouth College.

March 23

Fenwick McKelvey, a third-year PhD Candidate in the Communication & Culture program at Ryerson and York Universities. He researches digital political communication and digital research methods. His dissertation charts the politics of traffic management software — how it controls information and how it meets resistance. He is a research associate with the Infoscape Research Lab: Centre for the Study of Social Media. He holds a Joseph-Armand Bombardier Canada Graduate Scholarship from the Social Sciences and Humanities Research Council.

March 30

Doctoral students **Paul Lagunes** and **Leonid Peisakhin**, from the Yale political science department discussed their recent studies, conducted separately in India and Mexico, on freedom of information and government corruption. For more information, please see the following papers:

Lagunes: http://isps.research.yale.edu/publication/ISPS09-006/

Peisakhin: http://isps.research.yale.edu/publication/ISPS10-029/

April 1

"Interop: The Art and Science of Working Together." John Palfrey and Urs Gasser from the Berkman Center for Internet & Society at Harvard Law School.

John Palfrey is Henry N. Ess Professor of Law and Vice Dean for Library and Information Resources at Harvard Law School. He is the co-author of "Born Digital: Understanding the First Generation of Digital Natives" (Basic Books, 2008, with Urs Gasser), "Access Denied: The Practice and Politics of Internet Filtering" (MIT Press, 2008), and "Access Contested: The Shaping of Power, Rights, and Rule in Cyberspace" (MIT Press, 2010), among other books. His research and teaching is focused on Internet law, intellectual property, and international law. He practiced intellectual property and corporate law at the law firm of Ropes & Gray. He is a faculty co-director of the Berkman Center for Internet & Society at Harvard University. Outside of Harvard

Law School, he is a Venture Executive at Highland Capital Partners and serves on the board of several technology companies and non-profits. He is a graduate of Harvard College, the University of Cambridge, and Harvard Law School. He writes a blog at http://blogs.law.harvard.edu/palfrey/.

Urs Gasser is the Executive Director of the Berkman Center for Internet & Society at Harvard University. He teaches at Harvard Law School, at the University of St. Gallen (Switzerland) and Fudan University School of Management (China). He is a visiting professor at KEIO University (Japan) and a Fellow at the Gruter Institute for Law and Behavioral Research. Urs Gasser has written several books, is the co author of "Born Digital: Understanding the First Generation of Digital Natives" (Basic Books, 2008, with John Palfrey) that has been translated into 10 languages (including Chinese), and has published over 70 articles in professional journals. His research and teaching activities focus on information law and policy issues. Current projects, several of them in collaboration with leading research institutions in the U.S., Europe, and Asia, explore policy and educational challenges for young Internet users, the regulation of digital technology (currently with focus on cloud computing), ICT interoperability, information quality, the law's impact on innovation and risk in the ICT space, and alternative governance systems. He graduated from the University of St. Gallen (J.D., S.J.D.) as well as Harvard Law School (LL.M.) and received several academic awards and prizes for his research.

April 6

Alex Halavais, incoming President of the Association of Internet Researchers (AoIR) and author of "Search Engine Society."

Alex helps people discover ways in which social media changes the nature of scholarship and learning, and allows for new forms of collaboration and self-government. He is an associate professor at Quinnipiac University, where he teaches in a masters program in interactive communications. He was formerly graduate director of Informatics at the University at Buffalo (SUNY), and was Research Director for the New Media Research Lab at the University of

Washington. He is currently vice president of the Association of Internet Researchers and serves as Technical Director of the Digital Media and Learning Hub based at the University of California Humanities Research Institute.

His most recent book is "Search Engine Society" (Polity Press), and he is presently doing work that relates the transparency of metrics (personal and social) to social change.

April 13

ISP Fellow **Lisa Ouellette** will be discussing her new paper on patent disclosure.

Lisa is a 3L at Yale Law School. She holds a Ph.D. in Physics from Cornell, where she investigated biochemical sensing with carbon nanotubes. Her research interests include the relationship between patents and innovation, particularly as applied to basic research. She has recently written about the effects of university patents on climate change and access to biomedical materials. In addition to her involvement with the Yale ISP, Lisa was the Director of the Yale Chapter of Universities Allied for Essential Medicines (UAEM) and is an Articles Editor of the Yale Law Journal.

April 20

Dr. Beth Simone Noveck discussed some of her current projects, such as the ExpertNet Project on next generation citizen engagement.

Beth Noveck is the Founding Fellow of the Yale Information Society Project. She served in the White House as United States Deputy Chief Technology Officer (2009-2011) and leader of the White House Open Government Initiative(@opengov). She served on the Obama-Biden Transition Team and was a volunteer advisor to the Obama for America campaign on issues of technology, innovation, and government reform. She focuses her scholarship, activism and teaching on the future of democracy in the 21st century. Specifically, her work addresses how digital networks impact institutions and how we can use such technologies to

strengthen democratic culture. With the support of the MacArthur Foundation in 2011-12, she is developing an agenda for interdisciplinary research on institutional innovation.

A graduate of Harvard University and Yale Law School, she holds a PhD from the University of Innsbruck and is the author of Wiki Government: How Technology Can Make Government Better, Democracy Stronger, and Citizens More Powerful (Brookings Institution Press 2009) and co-editor of The State of Play: Law, Games and Virtual Worlds (NYU Press 2006). She tweets @bethnoveck.

May 11

Sustaining Democracy in a Digital Age: U.S. Cybersecurity Policy & National Security

About Rebekka Bonner, YLS '03

Rebekka Bonner, a Visiting Fellow of the Yale ISP, recently served as Deputy Director and Chief of Staff of the Pentagon's Task Force for Business & Stability Operations, focused stabilizing the economies of key foreign countries. Following her work for then-Sen. Barack Obama's senior national security adviser during his presidential campaign, Ms. Bonner worked to support the Obama transition team in areas relating to FCC

cybersecurity/cyberterrorism policy and universal broadband initiatives. Prior to her government service, she was a vice president and assistant general counsel at Goldman, Sachs & Co., where she worked in hedge fund and international asset management. Before Wall Street, Ms. Bonner practiced investment management, M&A and hedge fund regulatory law with Skadden, Arps LLP in London and New York. Her prior government service includes serving as Press Secretary to then-Sen. Joseph R. Biden (D-DE) on the Senate Foreign Relations Committee, and she has also worked on the staffs of several other U.S. senators and in the Clinton White House. Ms. Bonner is a graduate of the Harvard Business School and the Yale Law School, where she previously served as a Visiting Fellow conducting policy research on U.S. constitutional issues, cybersecurity/national security matters, international economic development and financial

markets. She is a member of the Board of Directors of the U.S. Senate Federal Credit Union. A former newspaper columnist, she has written broadly on U.S. politics, business and American law.

June 8

Steve Schultze, the Associate Director of Princeton's Center for Information Technology Policy (CITP) discussed future collaborations between CITP and the Yale Information Society Project.

<u>June 29</u>

Albert Wong discussed the project he's working on with Nabiha Syed on whether intrusive TSA screens (via advanced imaging or physical pat-downs) unconstitutionally burden the fundamental right to interstate travel. Albert explained, "We further argue that given the importance and ubiquity of air travel in the modern world, given the large number of scenarios where there is no practical or effective alternative to air travel (e.g., most interstate business trips except for trips within the Northeast), and given that residents of certain states/territories (AK, HI, American Samoa, CNMI, Guam, PR, VI) are disproportionately burdened by restrictions on air travel due to their necessary dependence on such travel as a means of accessing other states, suspicionless, intrusive airport screens alone (even considered independently of the highway/rail screens) violate the right to interstate travel."



Summary of Pilot Year 2010-11

Visual Law Practicum: During the academic year, nine students and three teaching fellows met weekly in an inter-disciplinary course integrating film theory, legal theory, and production skills. Generally, the first hour of class focused on discussion between students, faculty, and guest lecturers. The second hour facilitated film production and taught students visual advocacy skills.

Films: Students wrote, directed, and produced two short films. One captures the impact of stop and frisk practices in NYC, and the other tells the story of an immigration raid in Baltimore, MD. Students produced legal memos and story outlines, conducted pre-interviews and interviews with law professors and people on the ground, organized a series of production shoots, and worked with professional cinematographers and editors to make the films.

Yale Partnerships: We developed an internal partnership with Prof Charles Musser's Documentary Film Workshop to provide the Visual Law Project with access to camera equipment, technical support, and special workshops at the Digital Media Center for the Arts.

Advisory Board: We developed an advisory board comprised of filmmakers engaged with the law. Advisers have met with us as guest speakers and provided feedback on films.

Website: We are working with Mindgate Media, a company that brings film into higher learning. They are developing our website pro bono, slated for launch in May 2011. The website includes resources, a blog, and a multi-media distribution

platform for films and selects.

Vision: For next year, we are exploring collaboration with Yale Law School faculty to produce films as clinical and scholarly projects. We would like to invite our counterparts at UPenn, Stanford, and Harvard to a roundtable discussion on teaching visual advocacy at law schools.

Students Learned How To...

Explore making legal arguments through a visual medium

Think critically about the role of narrative in the law

Research, write, produce, and direct films from conception to release

Operate a camera, set up sound and lighting, and shoot footage

Edit films on Final Cut Pro

Work in partnership with professional cinematographers and editors

Interview subjects abiding by ethical standards

Navigate uncharted waters together in an ambitious pilot program

(FALL SEMESTER 2010) The following sessions have been held to date:

Week 1, September 7

Topic: Film as Knowledge Production in the Law: What does film add as an analytic tool in legal scholarship? What kinds of subjects take the most advantage of the analytic possibilities of the film medium?

Readings/Screenings:

- Read: Sergei Eisenstein, "Film Form: Essays in Film Theory";
- Read: Shulamit Almog and Ely Aharonson, "Law as Film: Representing Justice in the Age of Moving Images";
- 3. Watch: Errol Morris, "The Thin Blue Line";
- 4. Watch: Errol Morris, "Standard Operating Procedure."
- Watch: Sergei Eisenstein, "The Battleship Potemkin" montage sequence with baby and carriage.

Production Assignment:

- Identify subjects in legal scholarship that would benefit from examination using film production as a mode of analysis.
- 2. Determine subject for the VisLaw film.

Week 2, September 14

Topic: Law and Visual Media: How are visual media used in legal contexts? **Guest Speaker:** Christina Spiesel, Information Society Project Fellow and teacher of "Visual Persuasion in the Law."

Readings/Screenings:

- 1. Read: Christina Spiesel, Law on Display (chapters 1 and 2).
- Read: Kenji Yoshino, "The City and The Poet" (excerpt).

Production Assignment:

- Research current legal scholarship on the subject identified in Week 1, and isolate the new contribution that film as analysis can offer the present body of legal knowledge.
- Identify expert interviewees among current scholars on the topic, and contact them to determine interest in appearing in the film.

Week 3, September 21

Topic: Determine Film Topic: Discuss how to find interesting stories for the films, and methods of approaching possible expert and story voices.

Readings/Screenings:

- Read: L. Williams, "The Ethics of Intervention."
- 2. Read: Society of Professional Journalists Code of Ethics.
- Read: International Federation of Journalists Declaration of Principles on the Conduct of Journalists.
- Recommended: Read M. DeVault, "Liberating Method."
- 5. Recommended: Read S. Reinharz, "Feminist Methods in Social Research."

Week 3, September 21 (Cont.)

Production Assignment:

- Research compelling personal stories.
- Contact individuals willing to appear in the film. Use the sources and strategies for contacting story subjects, and the model telephone introductory paragraph posted to the Google docs account to guide you.
- Read the legal case histories of the individuals/communities you are interested in filming.

Week 4, September 28

Topic: Interviewing: Techniques for interviewing. What are the similarities and differences between interview methodologies in the courtroom and on camera?

Readings/Screenings:

Focus on Pre-Production for the films.

Production Assignment:

- 1. Write a 5-page project pitch, due next Tuesday.
- Pre-interview experts identified in Week 2 and individuals identified in Week 3.
 Use the pre-interview questions and strategy instructions, and model write-up, posted to the Google docs account to guide you.

Week 5, October 5

Topic: Point of View: How do images create perspectives, both aesthetically and conceptually? What roles do framing, mise-en-scene, and cultural association play in this process?

Readings/Screenings:

- 1. Read: Jean-Luc Lioult, "Framing the Unexpected," Jump Cut 47 (Winter 2005);
- 2. Read: John Berger, "Understanding a Photograph";
- 3. Read: Roland Barthes, "The Photographic Message";
- 4. Read: Roland Barthes, "The Third Meaning".

Production Assignment:

- 1. Continue Pre-Interviews.
- Begin drafting a treatment to outline the thematic and narrative elements of the film

Week 6, October 12

Topic: Camera Training: Crash-Course "How To" in Framing, Composition, Exposure, Focus, White Balance, Lighting Strategies, and Audio Recording.

Guest Speaker: Lee Faulkner, Yale School of Art Film and Video Department faculty member. (Lee conduced a four-hour private master class for VisLaw at the Yale Digital Media Center for the Arts.)

Readings/Screenings:

Focus on Pre-Production for the films.

Week 6, October 12 (Cont.)

Production Assignment:

- Begin shooting, transcribing, and logging on-camera interviews with individuals, and live-action footage of personal narratives.
- 2. Continue drafting treatment.
- October 12 Supplemental Ethics Training Workshop at Youth Rights Media
 Offices. Executive Director Janis Astor del Valle provides instruction in
 disclosure and release policies and shares strategies for avoiding
 misunderstanding with subjects.

Week 7, October 19

Topic: Ethics and Fundamentals of Narrative: What are our responsibilities to our subjects, sources, and audiences as law and film practitioners? How does storytelling help to construct our perception of reality?

Guest Speakers: Emily Bazelon, Slate Journalist; Sharat Raju, AFI Filmmaker Readings/Screenings:

- Watch: "The Oath" (2010) by Laura Poitras. This film follows the Hamdan trial from the perspective of Hamdan's brother-in-law in Yemen. It relies strongly on interview technique, and also uses hidden cameras.
- Watch: "Divided We Fall" (2008) by Valarie Kaur and Sharat Raju. Consider strategies for narrative structure in first person storytelling.
- Recommended: www.storycorps.org/listen Pick one story and listen to it start to finish (40 minutes).
- Recommended: <u>Listening is an Act of Love: A Celebration of American Life from</u> the StoryCorps Project, Dave Islay (Penguin 2009).
- Recommended: "What is Storycorps, Anyway?" Nancy Abelmann, Susan Davis, Cara Finnegan and Peggy Miller, <u>The Oral History Review.</u> Oxford University Press Vol 36 No 2 (Summer-Fall 2009) 255-260.

Production Assignment:

- Begin shooting, transcribing, and logging on-camera interviews with individuals, and live-action footage of personal narratives.
- 2. Continue drafting treatment.

Week 8, October 26

Topic: Experts v. Subjects in Argument Construction: What are the differences between narrative and argument, and where do they overlap? What are the differences between expert and lay witnesses in law, and between commentators and characters in film, and where do these roles overlap?

Readings/Screenings:

 Read: "The Jury as Critic: An Empirical Look at How Capital Juries Perceive Expert and Lay Testimony," Scott E. Sundby Virginia Law Review, Vol. 83, No. 6 (Sep., 1997), pp. 1109-1188;

Week 8, October 26 (Cont.)

- Read: "Subversive Witnessing: Mediating Indigenous Testimony in Australian Cultural and Legal Institutions," Rosanne Kennedy in Women's Studies Quarterly, Vol. 36, No. 1/2, Witness (Spring - Summer, 2008), pp. 58-75;
- 3. Watch: Errol Morris: The Nut Expert i.e. Expert Commentaries in Film

Production Assignment:

- Begin shooting, transcribing, and logging on-camera interviews with individuals, and live-action footage of personal narratives.
- 2. Continue drafting treatment.
- Create a story-map representing the narrative and argument strains of the film and the desired impact on the audience.

Week 9, November 2

Topic: Non-Text Communication in Law: What are the ways in which meaning, argument and communication go beyond what is expressed in written text?

Readings/Screenings:

- Read: "The Train Driver" (Athol Fugard, 2010) and note initial impressions of the script.
- 2. Read: Theater Review, "Size Banzi is Dead", Daniel Larlham, 2008;
- Robert Post and Reva Siegel. "Roe Rage: Democratic Constitutionalism and Backlash". 42 Harv. C.R.-C.L.L. Rev. 378 (2007);
- Read: Robert Post. "Law and Cultural Conflict" (2003); and Robert Post.
 "Theories of Constitutional Interpretation". Representations 30 (1990).

Production Assignment:

- 1. Begin analysis of materials from weeks 6-8.
- Complete drafting a treatment to outline the thematic and narrative elements of the film.
- Share story-maps with the group and discuss.

Week 10, November 9

Topic: Non-Text Communication in Theater, Film, and Law: How might the non-text concepts, vocabulary, and techniques that we can learn from theater professionals contribute to and enhance legal scholarship and legal practice?

Guest Speaker Panel: Robert Post, Yale Law School Dean; Gordon Edelstein, Long Wharf Theater Artistic Director; and Daniel Larlham, Yale Theater Studies Lecturer Readings/Screenings:

 Attend a live performance of "The Train Driver" noting similarities and differences between the meaning of the play in written script versus live action.

Production Assignment:

 Continue shooting, transcribing, and logging on-camera interviews with individuals, and live-action footage of personal narratives.

Week 11, November 16

Topic: Short-Form Narrative Strategies for Web Video: How can we create interesting narratives and compelling characters in short-form film?

Guest Speaker: Adam Ellick, The New York Times Video Journalist

Readings/Screenings:

 Watch 3-4 of Ellick's ten-minute films from Afghanistan, Pakistan, and rural U.S, available on *The New York Times* website. Consider Ellick's techniques for grabbing viewer attention in a short timeframe.

Production Assignment:

 Continue shooting, transcribing, and logging on-camera interviews with individuals, and live-action footage of personal narratives.

THANKSGIVING BREAK

Production Assignment:

- Continue shooting, transcribing, and logging on-camera interviews with individuals, and live-action footage of personal narratives.
- Conduct film production sessions that require significant travel, including travel to Baltimore to film stories for the immigration team.

Week 12, November 30

Topic: Professional Work-in-Progress – Flexible Strategies for Surmounting Obstacles **Guest Speakers:** Robb Moss, Filmmaker, Harvard Film Production Department; Charles Musser, Yale Film Studies Professor

Readings/Screenings:

 Watch "in-progress" selects from films by Robb and Charlie, and learn about how their creative and practical concepts changed over time during the production process.

Production Assignment:

- Continue shooting, transcribing, and logging on-camera interviews with individuals, and live-action footage of personal narratives.
- December 3 Supplemental Camera Training Workshop with Rebecca, 3:00-5:00PM.

Week 13, December 7

Topic: Ambiguity: How does ambiguity play an advantageous role in film and in law? What is the relationship between convincing an audience, and encouraging them to question?

Readings/Screenings:

 Watch: "Rashomon," (1950) Akira Kurosawa. This film presents competing, contradictory explanations of the details of a violent crime.

Production Assignment:

 Write: Production Schedules for next semester, working backwards from delivery date, through faculty review deadlines, to today.

Week 13, December 7 (Cont.)

- Continue shooting, transcribing, and logging on-camera interviews with individuals, and live-action footage of personal narratives.
- December 7 Supplemental Light and Audio Training Workshop with Rebecca, 5:30-6:30PM.

Week 14, December 14

Topic: Reconstruction Techniques in Film: How to represent events that have already taken place at the time of filming.

Guest Speakers: Filmmakers Charles Vogl and Socheata Poeuv

Readings/Screenings:

1. Watch "New Year Baby" (2008) by Charles Vogl and Socheata Poeuv

Production Assignment:

- Feedback: Survey forms and strategies for next semester.
- Continue shooting, transcribing, and logging on-camera interviews with individuals, and live-action footage of personal narratives. 95% of shooting should be completed.
- 3. Edit Systems set-up and fully functional.

Harvard-MIT-Yale Cyberscholar Working Group

The "Harvard-MIT-Yale Cyberscholar Working Group" is a forum for fellows and affiliates of the Comparative Media Studies Program at MIT, the Yale Information Society Project, and the Berkman Center for Internet & Society at Harvard University to discuss their ongoing research.

Wednesday, May 11

Malte Ziewitz, Institute for Science, Innovation and Society (InSIS) at Saïd Business School, University of Oxford.

Over the past decade, web-based review and rating schemes have become increasingly popular as a techno-scientific solutions to public problems. With eBay and Amazon often considered as the archetypes, the idea has spread across a range of industries and targets, including hotels, movies, restaurants and web search, but also lawyers, teachers, doctors, drivers, dates, haircuts and tattoos. Even public services have mobilized such schemes in areas like health care or policing. While some have greeted online feedback as an innovative way of fostering transparency, accountability and participation, others have criticized the forced exposure and alleged lack of accuracy and legitimacy, pointing to the potentially devastating consequences of public evaluations.

How's my feedback? is a project based at Oxford University that tackles these issues head-on. In a collaborative design experiment with social commerce managers, government innovators, media experts, web developers, consumer spokespeople, academics, reviewers and targets of online reviews and ratings, we are currently exploring the idea of a website that allows users publicly to evaluate review and rating schemes — a feedback website for feedback websites. What happens when we turn the rationale of public evaluation on itself? What is it to evaluate the evaluators? And will this business ever stop?

In this talk, I will provide some background to the project and sketch

six puzzles that motivated it. Drawing on my experience of organizing the discussions and related research, I will argue that many of these schemes defy the simple logic of their underlying models. Web-based evaluation is not simply about 'data' or 'information', but deeply entangled in and constitutive of social relations. As a result, feedback schemes are not the innocent technical solutions as which they are sometimes portrayed, but focal points in an ongoing, work-intensive and highly political process. http://www.howsmyfeedback.org/

Malte Ziewitz is a doctoral candidate at the Institute for Science, Innovation and Society (InSIS) at Saïd Business School, University of Oxford. Broadly based in science & technology studies, law and public policy, his research revolves around new and non-obvious modes of governance in digitally networked environments—the dynamics at work, the values at stake, the design options at hand. Recently, he has been exploring the practical politics of online reviews and ratings ethnographically in two areas: web-based patient feedback and search engine optimization (SEO). Malte holds a First State Exam in Law from the University of Hamburg School of Law and a Master in Public Administration from Harvard Kennedy School, where he was also a McCloy Scholar. He is still affiliated with his former homestead, the Hans Bredow Institute in Hamburg, was a Non-resident Fellow at the Research Center for Information Law at the University of St. Gallen, and worked on a number of multidisciplinary research teams at Oxford, St. Gallen, Hamburg and the OECD. Malte has designed and taught courses on governance, technology and society. As Principal Investigator, he is heading "How's My Feedback?", an ESRC-funded collaborative project to rethink and evaluate web-based rating and ranking schemes. http://ziewitz.org/

Nicholas Bramble, Lecturer in Law and MacArthur Fellow in Law at the Information Society Project at Yale Law School.

Consider three sets of laws. Libel and defamation laws protect "an individual's right [in] his own good name." Copyright and patent laws stimulate the progress of science and useful arts. Legislative and judicial safe harbors—such as CDA § 230(c), DMCA § 512(c), and the "capable of substantial non-infringing use" doctrine—promote the development of communications tools and networks.

But consider the ways in which these laws operate. The first two sets of laws set up individual entitlements and exclusive rights. Upon violation of such rights, the law offers some measure of compensation, whether the harm takes the form of defamatory falsehood or unlicensed use of a protected expression or invention. Safe harbors, on the other hand, do not set up new rights or entitlements, but instead seek to promote the leakiness of these rights in networked spaces, rendering them less enforceable. Such promotion of "leakiness" and spillovers represents a fundamentally different kind of lawmaking and judicial decision-making.

My talk explores what we can learn from the success of safe harbors. What does it mean when the essential components of the Internet's legal structure are laws that work by making other laws work less well? How have CDA 230, DMCA 512, and Sony v. Universal been used as part of an emerging regulatory strategy to set up a layer of private intermediary watchdogs between private information owners and private infrastructure providers? What happens when these intermediaries become better equipped to represent the communicative interests of users than users themselves? How might legislators continue to build and protect backwater spaces for discourse and innovation while simultaneously minimizing opportunities for capture of these building and protection tools? And what are the limits of legislation by safe harbor?

Nicholas Bramble is a Lecturer in Law and MacArthur Fellow in Law at the Information Society Project at Yale Law School. While at the Yale ISP, he has filed several comments with the Federal Communications Commission and Department of Commerce, taught the Access to Knowledge practicum at Yale Law School, and researched telecommunications, copyright, privacy, and First Amendment issues.

He has published articles in the Michigan Telecommunications and Technology Law Review, the Harvard Journal of Law & Technology, and Slate. He holds a J.D. from Harvard Law School and degrees in literature and linguistics from Stanford University. http://twitter.com/nbramble

Wednesday, April 20

Acting in the networked public sphere: The Obama campaign's strategic use of new media to shape narratives of the 2008 presidential race

Daniel Kreiss, Yale Information Society Project

While many scholars provide analytical accounts of the "networked public sphere" (Benkler, 2006), outside of a few case studies (Karpf, 2010) little is known about how campaigns act within it to drive media narratives of electoral politics. As a number of scholars have documented, sociotechnical changes over the last decade have resulted in professional media outlets, civil society organizations, governmental actors, political blogs, campaigns, and citizens interacting to an unprecedented extent to produce political culture. Building from recent work that analyzes how these actors produce "political information cycles" (Chadwick, forthcoming) shaped by the particularities of "networked news ecosystems" (Anderson, 2010), this paper provides an in-depth look at the new media messaging practices of the Obama campaign. Through interviews with much of the campaign's New Media Division, this paper details what staffers valued in the networked public sphere, the interaction of actors within it, and the sociotechnical dynamics on new media sites and within ecosystems that helped shape what content gets attention. I show how the campaign, much like its predecessors, defined 'winning the day' in terms of professional broadcast media values and audiences.

The paper also shows how the campaign leveraged platforms such as YouTube and sites in the progressive "netroots" for the at times surreptitious circulation of content attacking other candidates. As such, the paper reveals how new media offer new venues for campaigns to disseminate strategic, and often anonymous, political communication.

Daniel Kreiss is a Postdoctoral Associate in Law and Fellow of the Information Society Project at Yale Law School. He is currently working on a book titled Taking Our Country Back: The Crafting of Networked Politics from Howard Dean to Barack Obama (Oxford

University Press, 2012). The book tells the history of new media and Democratic politics over the last decade and reveals how a group of young internet staffers came together on the Dean campaign, created innovations in online electoral politics, and helped bring about a number of subsequent victories, including Obama's historic bid for the presidency. Daniel received a Ph.D. and M.A. in Communication from Stanford University and a B.A. in Political Science from Bates College. Daniel will be an Assistant Professor in the School of Journalism and Mass Communication at the University of North Carolina at Chapel Hill beginning the 2011-2012 academic year.

Matthew Hindman, George Washington University & Berkman Center Faculty Associate

Best of Both Worlds: Issues of Structure and Agency in Computational Creation, In and Out of School

Karen Brennan, MIT Media Lab

Hundreds of thousands of young people have created more than 1.7 million interactive digital media projects with Scratch and shared those projects with others through the Scratch online community. How can we make the best computational creation experiences that take place in this learning environment, which is characterized by low structure and high learner agency, accessible to more young people in learning environments like schools, which are often characterized by high structure and less learner agency? In this talk, I will describe how the online community and school contexts enable – or do not enable – young people to develop as computational creators, and what these contexts have to offer each other.

Karen Brennan is a PhD candidate at the MIT Media Lab, a member of the Scratch Team, and leads the ScratchEd project. She studies the ways in which learning communities support computational creators.

February 16

LilyPad in the Wild: How Hardware's Long Tail is Supporting New Engineering and Design Communities Leah Buechley, Assistant Professor at the MIT Media Lab

This paper examines the distribution, adoption, and evolution of an open-source toolkit we developed called the LilyPad Arduino. We track the two-year history of the kit and its user community from the time the kit was commercially introduced, in October of 2007, to November of 2009. Using sales data, publicly available project documentation and surveys, we explore the relationship between the LilyPad and its adopters. We investigate the community of developers who has adopted the kit—paying special attention to gender—explore what people are building with it, describe how user feedback impacted the development of the kit and examine how and why people are contributing their own LilyPad-inspired tools back to the community. What emerges is a portrait of a new technology and a new engineering/design community in coevolution. http://hlt.media.mit.edu/publications/buechley_DIS_10.pdf

Leah Buechley is an Assistant Professor at the MIT Media Lab where she directs the High-Low Tech research group. The High-Low Tech group explores the integration of high and low technology from cultural, material, and practical perspectives with the goal of engaging diverse groups of people in developing their own technologies. Leah received PhD and MS degrees in computer science from the University of Colorado at Boulder and a BA in physics from Skidmore College. http://web.media.mit.edu/~leah/

Don't Think of an Online Elephant: Explaining the Dearth of Political Infrastructure Online in America

Dave Karpf, Assistant Professor in the School of Communication and Information at Rutgers University

This paper explores the failed attempts by American Conservatives to replicate the online political infrastructure developed by "Netroots" Progressives. Organizations like DailyKos.com, MoveOn.org, and ActBlue.com have provided a major advantage to leftwing political campaigns, and the success of these groups has gone unmatched by the Right. While the rise of the "Tea Party" movement has mitigated some of the infrastructure deficit, conservatives continue to face major

challenges in several key areas. The paper proposes an "Outparty Innovation Incentives" thesis as a general explanation of the uptake of campaign innovations over time. According to this thesis, it is the party out-of-power that is most likely to embrace new technologies in electoral campaigns, invest in new consultants and new ideas, and launch new advocacy groups. The Outparty Innovation Incentives thesis is presented in contrast to an Ideological Determinism thesis and an Online Disruption thesis, and the three are compared based on data from the Blogosphere Authority Index, elite interviews, and several case examples.

The paper is a work-in-progress, chapter 6 of a larger book project that looks at the rise of a new generation of internet-mediated organizations among progressive advocacy groups.

Dave Karpf is an Assistant Professor in the School of Communication and Information at Rutgers University. He is also a Faculty Associate at the Eagleton Institute of Politics and a Visiting Fellow with the Yale Information Society Project. Dave's research focuses on the internet's effect on American political associations. His work has been published in the Journal of Information Technology and Politics, IEEE Intelligent Systems, IPDI Politics and Technology Review, and Policy & Internet. He received his PhD in political science from the University of Pennsylvania and his BA in politics from Oberlin College. http://www.davidkarpf.com

Copyright and the Vagueness Doctrine

Brad Abruzzi, Berkman Center Fellow & Associate Attorney in the Office of the General Counsel at Harvard University

The article's title is "Copyright and the Vagueness Doctrine," and it undertakes a searching constitutional review of the Copyright Act against the void-for-vagueness doctrine, which requires that laws identify with some measure of specificity and clarity what sort of conduct is prohibited and what is not. Certain aspects of vagueness review, which courts apply more rigorously in the case of laws that regulate expression, may point the way to appropriate reforms of the law that would salvage its constitutionality and mitigate the effects of

the infringement action's uncertainty upon speakers.

Brad Abruzzi is an Associate Attorney in the Office of the General Counsel at Harvard University. Brad graduated cum laude from Harvard Law School in 2001, where he served as Executive Editor of the Harvard Law Review. A former law clerk to The Honorable Nancy Gertner in the United States District Court for the District of Massachusetts, Brad joined the Harvard OGC in 2005. At Harvard Brad maintains a vibrant practice advising University clients on copyright, information law, privacy, and publication tort matters. At the Berkman Center, Brad researches uncertainty in copyright law and its implications for free speech and online self-publication.

January 12

What Should an Educated Person Know about Computers?

Brian Kernighan, Department of Computer Science, Princeton University

All of us are affected by computing, in ways we may not even realize. Some of the technology is highly visible, like laptops, cell phones and the Internet; most is invisible, like the processors in everything from gadgets to infrastructure, or the myriad systems that quietly collect personal data about us.

For the past decade, I have been teaching "Computers in Our World," a course for students in the humanities and social sciences. The course describes how computing works — hardware, software, networks, and systems built upon them — for a very non-technical audience. The intent, or perhaps just fond hope, is to help students understand computing and communications technologies, how to reason about how systems work, and how to be intelligently skeptical about technology and technological claims. I'm writing a book on this during my sabbatical at Harvard and the Berkman Center, and would love to get advice and opinions from the Cyberscholars group.

Brian Kernighan received his PhD from Princeton in 1969, and was in the Computing Science Research center at Bell Labs until 2000. He

is now in the Computer Science Department at Princeton. His research areas include programming languages, tools and interfaces that make computers easier to use, often for non-specialist users. He is also interested in technology education for non-technical audiences.

Visualizing Human Presence Tools for the Social Study of Human, Remote, and Autonomous Operations

Yanni Loukissas, Postdoctoral Associate, Program in Science, Technology, and Society, Massachusetts Institute of Technology

The research team at the MIT Laboratory for Automation, Robotics, and Society (LARS) is developing tools for information visualization that will bring social science questions into view for human-centered computing. The goal is to create open-source software that will enable broad professional audiences to more easily trace social relationships in short (~10 minute), real-time, technical activities. This project will make timely use of data from ongoing LARS ethnographic studies in order to develop these tools and demonstrate their usefulness in understanding the changing meaning and importance of presence in human, remote, and autonomous operations. Visualizing Human Presence follows upon PI David Mindell's most recent book, Digital Apollo: Human and Machine in Spaceflight (2008), which narrates the history of the Apollo guidance and control system and its relationship to debates about pilots' roles in aviation during the twentieth century.

The qualities of human participation in technical operations like Apollo have implications for control, repeatability, and safety. But perhaps more importantly, our enduring conceptions of human judgment, perception, and skill are shaped in the face of such interactions with automation and the importance they assign to human presence in different forms. The LARS team has already experimented with visualizing data from the Apollo 11 moon landing. The proposed tools for information visualization will generalize the lessons of Digital Apollo to help researchers, designers and operators of automated systems who wish to account for the human context of their work.

Yanni Alexander Loukissas, PhD is an interdisciplinary designer and researcher working across multiple fields, including visual art,

architecture, computer science, and anthropology. His work is driven by a persistent interest in how new technologies shape our social, spatial and intellectual landscapes. At present, he is developing visualization tools for the study of human-machine relationships in complex environments. He is also writing a book based on his doctoral dissertation, "Conceptions of Design in a Culture of Simulation." Dr. Loukissas is currently a postdoctoral associate at MIT, where he works with the Laboratory for Automation, Robotics, and Society (LARS). He has taught at Cornell, MIT, and the Museum School. He also consults on projects that bring together art and technology in innovative ways. Most recently, he worked with Small Design Firm on an art information system for the Metropolitan Museum of Art in New York City. He holds a PhD and a SMArchS in Design and Computation from MIT and a BArch from Cornell University. www.mit.edu/~yanni

The Anonymous Internet

Bryan H. Choi, Kauffman Fellow, Information Society Project at Yale Law School

In a set of recent publications, Jonathan Zittrain has posited that the key benchmark in designing future internet regulations should be "generativity," a quality he defines as "a system's capacity to produce unanticipated change through unfiltered contributions from broad and varied audiences." In this paper, I explore how we might implement a regulatory principle of least harm to generativity. In particular, I propose that we look to regulating anonymity as an alternative to regulating generativity. Not only would it be effective at mitigating much of the impulse to lock down new technologies, but it would be less intrusive because it is already consistent with the way we regulate behavior offline.

Bryan H. Choi (J.D. Harvard) is a Kauffman Fellow with the Information Society Project at Yale Law School. Previously, he was a law clerk on the U.S. Court of Appeals for the Third Circuit and the U.S. Court of Appeals for the Federal Circuit. His research interests include anonymity, digital identity, privacy, and reputation, particularly as they relate to the internet.

November 17

Japanese Youths, Mobile Phones, and Social Media

Toshie Takahashi, Faculty Fellow, Berkman Center for Internet & Society, Harvard University

Young people of today have been described as 'digital natives'. The term has been criticized for being essentialist, technologically deterministic or western-centric. I will touch on some of the general criticisms on the digital natives discourse before turning to how the notion has been taken up and debated in the social context of Japan. By way of a background, I will offer an account of the historical and current trends of mobile internet use among Japanese youth. I will then delve into a number of issues concerning Japanese youths and mobile media in everyday life, using data from my on-going ethnographic research, which I started in 2000 and had continued to do periodically since. I shall frame the discussion in terms of the related notions of freedom and control, opportunities and risks, and de-traditionalisation and reflexive traditionalisation. Finally, I examine the implications for young people and digital media in today's mobile-saturated society.

Toshie Takahashi is a faculty fellow at the Berkman Center for Internet & Society at Harvard University. She is also Associate Professor in the Department of Communication and Media Studies, Rikkyo University, in Tokyo, Japan. Before joining the Berkman Center, she was appointed visiting research fellow at the Department of Education at the University of Oxford.

Textual Tunnel-Hops and Narrative Chutes-and-Ladders: The HTML Link as an Uncertain Object of Journalistic Evidence

C.W. Anderson, Visiting Fellow at the Information Society Project, Yale Law School

To date, communications research has incorporated science and technology studies ("STS") primarily as a way of providing a nuanced perspective on how new technologies impact newsroom innovation and media management.

The larger contributions of science and technology as a field, however, lie in the ways that it has helped us rethink the roles played by both communities and material objects in the ratification of scientific evidence. Through a preliminary case study of the hyperlink — why, after nearly 20 years, do so few traditional news outlets link out to other news outlets — I bring this ontological perspective to bear on questions about journalism and media practice more generally. I argue first for an "object oriented" approach to understanding journalism (one that supplements traditional scholar concerns with objectivity) before turning to a more in-depth overview of the literature on hyperlinks. I conclude by suggesting some ways in which this "objectoriented" approach to journalistic practice can be broadened and used to study other media phenomena. The paper draws on three years of ethnographic research in newsrooms across Philadelphia, Pennsylvania, as well as on current work on news aggregation in New York City.

C.W. Anderson (Ph.D. Columbia) is a Visiting Fellow at the Information Society Project, Yale Law School, as well as an Assistant Professor at College of Staten Island (CUNY). His research interests lie at the intersection of journalistic practices, new media technologies, and social and communications theory. http://www.library.csi.cuny.edu/mediaculture/faculty/anderson.html

Recursive Learning in Computer Games. Game Design & Learning Theories

Konstantin Mitgutsch, Max Kade visiting researcher at the Education Arcade of the Comparative Media Studies Program of the MIT

Are computer games a constructive tool to foster learning? In this talk a novel concept of experience-based recursive learning through playing computer games will be outlined. By relating to investigations into the process of experiencing by philosophers like Aristotle, Francis Bacon, Hans-Georg Gadamer, Edmund Husserl and Gregory Bateson and by combining these insights with results of learning and cognitive sciences the elemental patterns of learning in games will be discussed.

In particular the key role of patterns such as anticipations, confrontation and refutation will be highlighted and illustrated by a case study. In the summer of 2010 the game "Afterland" was developed at the Singapore-MIT GAMBIT Game Lab. The game is based on the theory of recursive learning and is used as research tool to observe learning patterns in games.

Konstantin Mitgutsch is a Max Kade visiting researcher at the Education Arcade of the Comparative Media Studies Program of the MIT. He studied Media Education and Philosophy of Education at the University of Vienna and the Humboldt University Berlin and earned a M.A. in Education Science, Sociology, Media Studies and Philosophy (2003) and a PhD in 2009. He is participating as an expert member for the Austrian Federal Office for the Positive Assessment of Computer and Console Games and is on the expert council of the Pan European Game Information (PEGI).

CLINICAL ACTIVITIES

Media Freedom and Information Access (MFIA) Practicum

Yale Law School has long focused on the intersection of law, media and journalism. The Media Freedom and Information Access (MFIA) Practicum is a team of student practitioners dedicated to increasing government transparency and supporting both traditional and emerging forms of newsgathering through impact litigation and policy work.

MFIA Wins Appeal Seeking Access to Sealed Records; Ruling Guarantees Strong Protections for Newsgatherers

Yale Law School's Media Freedom and Information Access Practicum scored a victory in July when a New York state appellate court ruled in the case Mosallem v. Berenson.

More information: http://www.law.yale.edu/intellectuallife/12077.htm

MFIA and New York Times Win FOIA Case; Ruling Clarifies Law Surrounding Personal Privacy Exemption

Yale Law School's Media Freedom and Information Access Practicum and The New York Times prevailed in a New York Federal District Court when a Magistrate Judge granted a motion for summary judgment in a Freedom of Information Act suit.

More information: http://www.law.yale.edu/intellectuallife/12466.htm









The Media Freedom and Information Access Clinic and Information Society Project Present:

FOIA BootCamp

Interested in:

Government Transparency?

Researching Administrative Law?

Have an clinic case you could use more evidence for?

Support the role of the press in ensuring a healthy democracy?

Want to know what records the government is holding on *you*?

Speakers Include:

Friday, April 8, 2011 2:00 p.m. - 4:00 p.m.

Room 120

Dessert and Coffee will be Provided

AMICUS BRIEFS

IN THE

Supreme Court of the United States

LAWRENCE GOLAN, ET AL.,

Petitioners,

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ERIC H. HOLDER, JR., ATTORNEY GENERAL, ET AL.,

—v.—

Respondents.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

BRIEF OF AMICI CURIAE, INFORMATION SOCIETY PROJECT AT YALE LAW SCHOOL PROFESSORS AND FELLOWS, IN SUPPORT OF THE PETITIONERS

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INTEREST OF AMICI CURIAE1

Amici are Professors and Fellows affiliated with the Information Society Project at Yale Law School intellectual center addressing implications of new information technologies for law and society. Jack M. Balkin is Knight Professor of Constitutional Law and the First Amendment and the founder and director of the Information Society Project at Yale Law School. Marvin Ammori, a Visiting Scholar at Stanford Law School and a Legal Fellow at the New America Foundation, publishes in First Amendment and Internet policy. Nicholas Bramble, a Lecturer in Law at Yale Law School and a MacArthur Fellow in the Information Society Project at Yale Law School, has written articles on First Amendment law and information policy. Bryan Choi is a Postdoctoral Associate in Law and Kauffman Fellow in the Information Society Project

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¹ No counsel for a party authored this brief in whole or in part, and no person or entity other than *amici* and their counsel made any monetary contribution toward the preparation or submission of this brief. Counsel for the respondents, on April 20, 2011, and counsel for the petitioners, on May 19, 2011, have filed in this Court consent to the filing of amicus curiae briefs in support of either party or of neither party in fulfillment of S. Ct. Rule 37.3. This brief was written by Nicholas Bramble, Lecturer in Law and MacArthur Fellow in the Information Society Project at Yale Law School, Bryan Choi, Postdoctoral Associate in Law and Kauffman Fellow in the Information Society Project at Yale Law School, and Bradley Wilson Moore, Visiting Fellow in the Information Society Project at Yale Law School, under the supervision of the undersigned Senior Fellow of the ISP, Priscilla Smith.

The Professors and Fellows participate in this case in their personal capacity; titles are used only for purposes of identification.

at Yale Law School. Adam Cohen is a Lecturer in Law and Kauffman Fellow in the Information Society Project at Yale Law School.

SUMMARY OF ARGUMENT

abrogating the rule that works permanently into the public domain, Section 514 of the Uruguay Round Agreements Act ("URAA") violates one of the traditional contours of copyright law that serve to balance copyright and freedom of speech. These traditional contours, including the idea/expression distinction, the fair use defense, and limited times, are constitutional privileges that keep copyright law consistent with the requirements of the First Amendment. Congress may not abridge them any more than it could require that defamation for public figure plaintiffs should be governed by a negligence standard instead of the actual malice rule of New York Times v. Sullivan. Therefore strict scrutiny should apply.

The permanence of public domain status is a constitutional privilege that is justified both by long tradition and by the logic of the copyright system as an engine of free expression.

Congress's revocation of works from the public domain is unprecedented. Legislative history since the time of the Framers reveals an unbroken congressional practice of preserving the finality of the public domain. Only wars and other exceptional disasters resulting in serious disruptions of communications systems that would unfairly prevent authors from claiming copyrights have warranted deviation from that basic agreement.

Congress has made policy judgments about which works should receive copyright protection, how copyrights are granted and expire, and when works will enter the public domain. But the public domain been subjected to has never this level congressional manipulation. The contents of the public domain have always been free for all to use without fear that the privilege could be revoked at any time and works made in good faith would suddenly become illegal to publish or perform. The evidence in this case amply demonstrates the free speech harms imposed on creators, publishers, archivists, distributors, and other citizens who have come to rely on free and stable access to public domain works.

The URAA undermines central features of the constitutional arrangements that drive copyright's engine of free expression. That engine of free expression consists of a three-stage life cycle in which works are created, exclusive rights are granted to authors for limited times to incentivize production. and finally works are permanently into the public domain. The last stage in the life cycle is crucial to copyright's free speech bargain because it allows future creators to make use of public domain material to produce new creations and new innovations. If Congress could take works out of the public domain at its pleasure, these future creative uses would be chilled because authors and artists would never know whether compositions using public domain material would later become contraband. Hence the finality of the public domain, like the idea/expression distinction and the fair use

defense, is a key constitutional privilege protected by the First Amendment.

The parties to this case were incorrect to stipulate that the URAA is content-neutral, and therefore that intermediate scrutiny is the appropriate standard of review. This Court's First Amendment doctrine often uses constitutional privileges, like the actual malice rule of New York Times v. Sullivan or the rule of Brandenburg v. Ohio, to demarcate zones of free speech protection in areas like defamation or conspiracy law; there, legislatures may justifiably regulate communications because of their content. These constitutional privileges balance important free speech values against interests in social order.

It is for this Court, and not for Congress, to strike this crucial balance. Thus, Congress may not change the actual malice rule because it wishes to balance speech and reputation differently from this Court. So too. Congress may not discard the traditional doctrine contours of copyright such as idea/expression distinction, or, in this case, the permanent passage of works into the public domain. When Congress attempts to subvert a constitutional privilege that preserves the compatibility of the First Amendment with other areas of law—such as libel. obscenity, and incitement—it attempts to subvert a categorical balance already struck. Hence strict scrutiny should apply.

Section 514 cannot survive strict scrutiny. None of the interests articulated by the government—protecting the interests of American authors abroad, remedying past inequities suffered by foreign authors, and compliance with the Berne

Convention—are compelling. Even if they were, Section 514 is badly drafted to achieve these ends: it either fails to fulfill these goals or burdens far more speech than is necessary to fulfill them.

No. 11-1111

IN THE UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

GREATER BALTIMORE CENTER FOR PREGNANCY CONCERNS, INC.,
Appellee/Plaintiffs,

v.

MAYOR AND CITY COUNCIL OF BALTIMORE; STEPHANIE RAWLING-SBLAKE, in her official capacity as Mayor of Baltimore; and OXIRIS BARBOT, M.D., in her official capacity as Baltimore City Health Commissioner, Appellants/Defendants.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MARYLAND

BRIEF OF AMICI CURIAE HUMAN RIGHTS EXPERTS HUMAN RIGHTS WATCH AND PROFESSOR SUSAN DELLER ROSS, DIRECTOR, INTERNATIONAL WOMEN'S HUMAN RIGHTS CLINIC OF GEORGETOWN UNIVERSITY LAW CENTER

IN SUPPORT OF APPELLANTS

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INTEREST OF THE AMICI CURIAE

Human Rights Watch ("HRW"), the largest U.S.-based international human rights organization, was established in 1978 and investigates and reports on violations of human rights in the US and over 80 countries worldwide. HRW's Women's Rights Division and program in Health and Human Rights conduct research, analysis and advocacy on women's exercise of their rights, including freedom of expression and right to information as well as sexual and reproductive health rights. HRW has documented the link between access to information and equality in both the exercise of rights to privacy and in access to health care. Specifically, HRW has revealed an association between the ability to seek and obtain information and the ability to obtain comprehensive family planning services, insist on the use of condoms (both as a form of birth control and HIV prevention), and access safe and legal abortion.

Susan Deller Ross is a Professor of Law, Director of the International Women's Human Rights Clinic ("IWHRC") at Georgetown University Law Center, and an expert in international human rights, comparative law, family law, and gender and the law. Under her direction, the IWHRC promotes women's human rights throughout the world through its scholarship and advocacy, including litigation about women's health rights.

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Because both HRW and IWHRC work to document the importance of upholding international human rights standards on information and expression in the context of reproductive health globally, and believe that the values of international human rights law and those of the United States Constitution are congruent in their common purpose of ensuring equality and freedom, Amici have a substantial interest in the proper resolution of this case.¹

I. BACKGROUND

Indicators for maternal and child health in the City of Baltimore ("Baltimore"), Maryland are very poor. Maryland is ranked among the worst states in the country for low birth weight (43rd), infant mortality (39th) and preterm births (34th), despite having the highest median household income in the nation in 2008.² In 1999, 22.9% of the population was living below the poverty level in Baltimore,

¹ Pursuant to Federal Rules of Appellate Procedure 27(a) and 29, Amici have requested leave to file this brief because Appellees have declined to consent to its filing. Amici also state that no party's counsel authored this brief in whole or in part; no party or party's counsel contributed money to fund the brief's preparation or submission; and no person other than Amici and their counsel contributed money intended to fund the brief's preparation or submission.

² THE MARYLAND TITLE V PROGRAM, 2010 MCH NEEDS ASSESSMENT 4 (2010), available at: https://perfdata.hrsa.gov/MCHB/TVISReports/Documents/NeedsAssessments/2 011/MD-NeedsAssessment.pdf.

almost twice the national average of 12.4%.³ Baltimore is the poorest jurisdiction in Maryland, with 20.9% of women living in poverty, compared with the state average of 9.4%.⁴ Baltimore also has the highest rate of low birth weight newborns in the state, and was one of the three worst jurisdictions in the number of women receiving late or no prenatal care in 2008.⁵ Maryland's average maternal mortality rate between 2001 and 2005 was 18.9 per 100,000 births, compared to a national average of 11.8.⁶ These indicators are inconsistent with commitments made by the U.S. to reduce infant and maternal mortality rates, low birth weight and preterm births, and barriers to the accessibility of prenatal care.⁷

The U.S. has also committed to the elimination of racial and ethnic disparities in reproductive health outcomes, which are particularly stark for African Americans. In 2000 64.3% of Baltimore's residents were African American.

³ U.S. CENSUS BUREAU, POVERTY: 1999, available at: http://www.census.gov/prod/2003pubs/c2kbr-19.pdf.

⁴ THE MARYLAND TITLE V PROGRAM, *supra* note 2, at 23.

⁵ *Id.* app. C, at 40, 56.

⁶ *Id.* at 23.

⁷ U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES, HEALTHY PEOPLE 2020, MATERNAL, INFANT, AND CHILD HEALTH OBJECTIVES, available at: http://www.healthypeople.gov/2020/topicsobjectives2020/objectiveslist.aspx?topicid=26.

⁸ *Id*

compared with 12.9% in the United States as a whole. ¹⁰ As more fully described in Section III B. 4 below, the distribution of preventable morbidity and mortality is inequitably skewed across race, in particular as between white and African American women, a distribution that renders the role of centers offering free health services in a poor, 64% African American jurisdiction even more crucial—and potentially more damaging if those in need of them do not have full and accurate information on the range and limitations of available services.

Against this background, in 2006 U.S. Representative Henry A. Waxman commissioned a report investigating deceptive practices of some crisis pregnancy or pregnancy resource centers ("the Waxman Report"). The Waxman Report found that the centers often advertise themselves as offering abortion services when in fact they are opposed to legal abortion and will not provide any information about or referral to legal services, and present limited choices to

⁹ U.S. CENSUS BUREAU, BALTIMORE CITY QUICK FACTS, available at: http://quickfacts.census.gov/qfd/states/24/2404000.html.

¹⁰ U.S. CENSUS BUREAU, THE BLACK POPULATION: 2000, available at: http://www.census.gov/prod/2001pubs/c2kbr01-5.pdf.

Minority Staff, Special Investigations Division, Committee on Government Reform, U.S. House of Representatives, FALSE AND MISLEADING HEALTH INFORMATION PROVIDED BY FEDERALLY FUNDED PREGNANCY RESOURCE CENTERS i (2006), available at: http://www.chsourcebook.com/articles/waxman2.pdf.

pregnant teenagers under the guise of complete information. 12 The Waxman Report found that these centers deliberately hide their pro-life mission in order to attract "abortion vulnerable clients." The Waxman Report found that 87% of the centers contacted "provided false or misleading information about the health effects of abortion,"14 including statements that "abortion could increase the risk of breast cancer, result in sterility, and lead to suicide and 'post-abortion stress disorder.'",15 The Waxman Report's findings were confirmed by a 2008 report on the situation in Maryland ("Maryland Report"), which documented similar deceptive practices used by pregnancy centers in Maryland, including in the City of Baltimore. 16 The Maryland Report concluded that the deceptive practices utilized by pregnancy centers endanger the public health by causing confusion leading to significant delays in accessing the services sought.¹⁷ The Maryland Report found that potential clients who respond to deceptive pregnancy center advertising are

¹² *Id.* at 2, 14.

¹³ *Id.* at 1.

¹⁴ *Id.* at 7.

¹⁵ *Id.* at i.

¹⁶ NARAL PRO-CHOICE MARYLAND, MARYLAND CRISIS PREGNANCY CENTERS: THE TRUTH REVEALED (2008), available at: http://www.prochoicemaryland.org/assets/files/cpcreportfinal.pdf. J.A. at 326-

¹⁷ *Id.* at 6–7.

disproportionately poor women, young women, and women of low educational attainment, who tend to be less knowledgeable about their healthcare options and more vulnerable to deceptive practices. ¹⁸ The City Council also heard testimony of victims who had been deceived by pregnancy centers about how the deception negatively impacted their health. ¹⁹

In response to these findings, in December 2009, the City of Baltimore enacted a consumer protection regulation ("Ordinance"), which requires that pregnancy centers disclose the limited extent of the services that they provide.²⁰

The Ordinance states that each limited-service pregnancy center "must provide its clients and potential clients with a disclaimer substantially to the effect that the center does not provide or make referral for abortion or birth-control services" that is "posted in the center's waiting room or other area where individuals await service." It was enacted to prevent deception in the provision of pregnancy and other sexual and reproductive health (family planning) services. It requires only the truthful disclosure of fact: centers must disclose the range of services that they do and do not provide, in their own words. In January 2011,

¹⁸ *Id.* at 2.

¹⁹ See, e.g., J.A. at 257-58, 261, 273-76.

 $^{^{20}}$ Baltimore, Md., Health Code §§ 3-501-3-506 & Baltimore, Md., Code Art I, §§ 40-14, 41-14 (2010). J.A. at 25-28.

following a challenge by the Respondents, the District Court concluded that the Ordinance violated the Free Speech Clause of the First Amendment and enjoined its enforcement.

I. SUMMARY OF ARGUMENT

Amici do not contend that international law is binding in this case but that when determining if governmental action is constitutional it is appropriate to have regard to the extent to which that action is in fulfillment of international human rights obligations.

Under international human rights treaties by which the U.S. has agreed to be bound, the City of Baltimore may require limited-service pregnancy centers to post a sign on their premises disclosing truthful information about the scope of their services (specifically, that they do not provide or make referrals for abortion or birth-control services). Not only is the Ordinance compatible with applicable international human rights treaties, but it also serves the compelling governmental interests arising out of U.S. obligations to respect and protect a number of rights under those treaties (such as the rights to privacy, life, and non-discrimination).

 $[\]frac{1}{21}$ Id.

Amici argues that two treaties in particular ratified by the United States, the International Covenant on Civil and Political Rights ("ICCPR")²² and the International Convention on the Elimination of All forms of Racial Discrimination ("ICERD"),²³ contain provisions and protections for fundamental rights that are directly relevant to assessing the constitutionality of the government action in this case. The ICCPR and ICERD taken together address the circumstances under which speech can be regulated to promote important governmental interests in "public health" and "protecting the rights of others" in ways that can offer useful guidance to U.S. courts considering these issues under the First Amendment's exacting protections for speech. An analysis of the applicable human rights obligations and standards demonstrates that the Ordinance is not only compatible with international human rights standards, but with the U.S. Constitution.

The Ordinance constitutes a very narrow and limited interference with free speech, and was enacted in pursuit of of the following compelling governmental interests:

²² International Covenant on Civil and Political Rights (ICCPR), adopted December 16, 1966, G.A. Res. 2200A (XXI), 21 U.N. G.A.O.R. Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, entered into force March 23, 1976, ratified by the United States on June 8, 1992 [hereinafter ICCPR].

²³ International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), adopted December 21, 1965, G.A. Res. 2106 (XX), Annex, 20 U.N. G.A.O.R. Supp. (No. 14) at 47, UN Doc A/6014 (1966), 660

- a) to ensure that women and girls have timely access to accurate and truthful information about the scope of services a pregnancy resource center offers so that they can exercise their right to make fully informed decisions consistent with their rights to equality, privacy, dignity, liberty and life;
- b) to address the extremely poor health indicators in Maryland, particularly amongst African-American women, and underscoring a pressing public health need to ensure that women and girls are fully and accurately informed about reproductive health services available to them so that they can make fully informed decisions consistent with their rights to equality, privacy, dignity, liberty and life; and
- e) to meet its obligation under international law to protect individuals particularly women and girls—seeking sexual and reproductive health services from deceptive practices that interfere with their rights to make fully informed decisions consistent with their rights to equality, privacy, dignity, liberty and life.

U.N.T.S. 195, entered into force January 4, 1969, ratified by the United States on November 20, 1994.

IN THE

Supreme Court of the United States

JUAN PINEDA-MORENO,

Petitioner,

—v.— United States of America,

Respondent.

ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

BRIEF OF AMICI CURIAE, INFORMATION SOCIETY PROJECT AT YALE LAW SCHOOL FELLOWS NABIHA SYED, ALBERT WONG, DAVID THAW AND PRISCILLA SMITH IN SUPPORT OF THE PETITION

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INTEREST OF AMICI CURIAE¹

Amici are Fellows of the Information Society Project at Yale Law School (ISP),² an intellectual implications addressing the information technologies for law and society. Nabiha Sved is a Marshall Scholar at Oxford University researching comparative freedom of information laws. Syed holds a J.D. from Yale Law School, a B.A. from Johns Hopkins. and is the author "Replicating Dreams" (Oxford University Press. Albert Wong is a Ph.D. student in Cell Biology at Yale University, holds a S.M. in Health Sciences and Technology from MIT, and an Honors B.S. from the University of Texas at Arlington. Wong has published multiple peer-reviewed articles in engineering and biology, and is supported by an NIH National Research Service Award. David Thaw is a Ph.D. candidate in Information Management and Systems at Berkeley, holds a J.D. from Berkeley Law, an M.A. in Political Science from Berkeley, and a B.S. (Computer Science) and B.A. (Government) from the University of Maryland. Thaw practiced information privacy law in Washington, D.C., and has published articles and book chapters based on

¹ No counsel for a party authored this brief in whole or in part, and no person or entity other than *amici* and their counsel made any monetary contribution toward the preparation or submission of this brief. Pursuant to Supreme Court Rule 37.3, letters indicating the parties' consent to the filing of this *amicus* brief have been submitted to the Clerk. Fellows of the Information Society Project at Yale Law School, Nabiha Syed, Albert Wong, and David Thaw, helped to prepare this brief under the supervision of Priscilla Smith.

² The Fellows participate in this case in their personal capacity; titles are used only for purposes of identification.

his research in information security and spyware. He will join the University of Maryland Computer Science faculty in spring 2011. Priscilla Smith is a Senior Fellow of the ISP, researching reproductive rights and privacy law, with a particular focus on information policy and new technologies. Smith litigated cases concerning constitutional rights to liberty, privacy and freedom of speech for 13 years at the Center for Reproductive Rights, and has published on these issues. She holds a J.D. from Yale Law School and a B.A. from Yale College.

SUMMARY OF ARGUMENT

used properly, advanced surveillance technologies significantly enhance the ability of law enforcement to maintain order and public safety. However. in ofrapidly advancing an era technologies, from thermal imagers to minuscule automated tracking devices, it is critical to ensure that these technologies, especially given their advanced capabilities, are only used "in a manner which will conserve ... the interests and rights of individual citizens," Kyllo v. United States, 533 U.S. 27. 40 (2001) (internal citation omitted). preserve core Fourth Amendment values. In most cases, "requiring a warrant will have the salutary effect of ensuring that use of [new technology] is not abused." See United States v. Karo, 468 U.S. 705. 717 (1984). In this case, though, the Government argued and the panel below agreed that Global Positioning System ("GPS") surveillance technology used for prolonged, automated, remote surveillance should be exempt from the warrant requirement.

Almost thirty years ago, this Court specifically

reserved the question at issue here, whether warrants should be required if technology allowed "twenty-four hour surveillance of any citizen of this country . . . without judicial knowledge supervision," stating "there will be time enough then determine whether different constitutional principles may be applicable." United States v. Knotts, 460 U.S. 276, 283-94 (1983); see also Dow Chemical Co. v. United States, 476 U.S. 227, 237-38 Since that time, the use of GPS satellite technology for prolonged surveillance has become reality and is proliferating. Without guidance from this Court, federal and state courts struggle to understand the Fourth Amendment implications of this surveillance. Review of its status by this Court can no longer be delayed.3

Prolonged surveillance using GPS technology should be subject to the warrant requirement for two First, because surveillance with GPS is conducted not by people but by minuscule, advanced tracking devices communicating with satellites in orbit, the potential for law enforcement abuse of GPS technology to conduct automated and prolonged surveillance both against individuals as well as groups of individuals is unprecedented. Evidence exists that such abuse is occurring. Where a technology enables invasion of interests at the heart of the Fourth Amendment's concern -- protection of citizens from arbitrary government intrusions into their private lives -- this Court requires warrants to prevent abuse.

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³ See Renee McDonald Hutchins, Tied Up in Knotts? GPS Technology and the Fourth Amendment, 55 UCLA L. REV. 409, 445-47 (2007-2008) (hereafter "Tied Up".

prolonged surveillance using technology provides the government with detailed information about an individual's movements and gathering places and allows the storage, analysis. and comparison of that data with data gathered from with minimal involvement of law enforcement officers. The type and scope of information collected by GPS surveillance enables government to monitor a person's associations, their medical conditions and their amorous interests, in a way that invades their privacy and chills expression of other fundamental rights. See NAACP v. Alabama, 357 U.S. 449 (1958) (forced disclosure of names of members of NAACP violated right to freedom of association protected by It allows surveillance of federal Constitution). citizens on a scale that this country has never seen. United States v. Pineda-Moreno, 617 F.3d 1120, 1126 (9th Cir. 2010) (Kozinski, C.J., dissenting from denial of rehearing en banc) (making comparison surveillance under a totalitarian regime).

In relying on *Knotts* to exempt the use of GPS technology for prolonged surveillance from the warrant requirement, the lower court ignored this Court's reservation of the question of prolonged surveillance in *Knotts*. *United States v. Pineda-Moreno*, 591 F.3d 1212, 1216 (9th Cir. 2010). It also ignored that the *Knotts* holding is limited to the use of beeper technology as a sense-enhancement of, *not a replacement for*, visual surveillance, 4 and that this

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⁴ See Knotts, 460 U.S. at 282 (beepers enhancing visual surveillance authorized without warrant); compare Karo, 468 U.S. at 714-15 (warrant required to monitor beeper signals providing information not obtainable by visual surveillance).

Court has always required warrants for the use of technologies that replace human senses with technological ones. See Kyllo, 533 U.S. at 40; Karo, 468 U.S. at 717; Katz v. United States, 389 U.S. 347 (1967); Walter v. United States, 447 U.S. 649 (1980).

Therefore, the Court should grant the Petition for Certiorari and finally resolve the important question left open in *Knotts* and *Dow Chemical*, as well as the split in the circuits on this issue.⁵ This Court should clarify that while law enforcement may employ advanced GPS tracking devices in their efforts to enhance public safety, use of this technology for prolonged, automated, remote surveillance is subject to the Fourth Amendment's protections of a warrant issued by a neutral arbiter on probable cause.

COURSES

YALE INFORMATION SOCIETY PROJECT COURSES AND READING GROUPS

Courses

FALL SEMESTER 2010

Constitutional Law: Jack Balkin

Media Law: This course studied the regulation of communications media, including newspapers, broadcast media, cable, and the Internet. Topics included telecommunications regulation, defamation, rights of publicity, privacy, access to information, and press freedom. Jack Balkin and Adam S. Cohen

Media Freedom and Information Access Practicum: Students in this practicum worked with attorneys on cases involving media freedom and information access; they also were required to write related research papers. Jack Balkin and David Schulz

International Intellectual Property Law: The Principles, Politics, and Law Governing Global Flows of Information: It is common today to hear that we live in a "global information society." Information and cultural objects—books, movies, music, software, data, genetic sequences, brands, medical technologies, etc.—are increasingly important to the global economy, and increasingly manipulable and mobile. They are also increasingly important to the fate of individuals and groups around the world, whether with regard to access to medicines and food, or opportunities to participate in education, culture, and governance. International intellectual property [IP] law has expanded substantially over the past few decades, and today seeks broadly to regulate transnational flows of information and culture. It has become accordingly more important to businesses and individuals alike, and more contested. This course will analyze the international IP regime, situating it within the dynamics of globalizing flows of information and cultural

objects. It provided an overview of the law, principles, and politics of this area of law. We used case studies to illuminate the interaction among the three, and pay particular attention to the implications of IP law for development. Subjects covered included patent law and related rights; traditional knowledge and genetic resources; trademark; and copyright and related rights. Case studies included considerations of access to medicines, private use and copyright levies in Europe, and "piracy" in China. Amy Kapczynski

Law and Social Movements: This seminar investigated the relationship between law and social movements in both domestic and transnational contexts, asking how law matters to social movements and how movements matter to law. Theories of law do not typically identify a (legitimate) role for social movements, and they at times even treat social movements as a threat to the rule of law. But recent legal theory (e.g., democratic constitutionalism, demosprudence) has begun to analyze how law and movements help constitute one another. Can legal theory bring social movements clearly into view? If so, how, and with what consequences for our conception of law? Can movement conflict play a role in establishing the authority of supranational law? Conversely, can law play a role in establishing transnational publics? The course considered these and other questions through readings in sociological and political theory on mobilization, counter-mobilization, and conflict. The class also considered examples of movement mobilization, around constitutional issues ranging from guns, abortion, race, and marriage to transnational topics in public and private law. Several visitors presented to the seminar on law and social movements. Amy Kapczynski and Reva Siegel

Supreme Court Advocacy (Fall and Spring semesters):. This course furnished the opportunity to combine hands-on clinical work with seminar discussion of Supreme Court decision making and advocacy. It began with several sessions analyzing the Court as an institution, focusing on the practicalities of how the Court makes its decisions and how lawyers present their cases. Thereafter, students worked on a variety of actual cases before the Court, preparing petitions for certiorari and merits briefs. Students worked under the supervision of Yale faculty and experienced Supreme Court

practitioners. The course was a two-term offering and satisfied the Substantial Writing requirement. Linda Greenhouse, Dan.M. Kahan, Jeff Meyer, Andrew J. Pincus, and Charles A. Rothfeld

SPRING SEMESTER 2011

The First Amendment: Jack Balkin

Access to Knowledge Practicum: Students in this course worked on projects that promote innovation and democratic values through the design and reform of intellectual property and telecommunications laws, regulations, treaties, and policies both internationally and in specific countries. These laws and policies shape the delivery of health care services, the design of new technology and telecommunications services, access to education, and sharing of research and culture around the globe. Students supplemented projects with theoretical readings, engagement with policy makers, and frequent contact with Information Society Project Fellows. Laura E. DeNardis and Nicholas Bramble

Internet Privacy: The creative destruction of the Internet is upending settled expectations of all kinds, and nowhere is that more true than with privacy. There used to be a zone of privacy around the letters people wrote, the books and articles they read, the financial and medical records they kept, and their physical comings and goings. Now, the Web pages people visit and the e-mail they write are monitored by corporations for "behavioral targeting" advertising, and online book sellers keep track of book purchases. A vast amount of confidential financial and medical data is now stored in the "cloud," where it is vulnerable to hackers and subpoenas. Online "street view" services put images of private homes online. Increasingly, GPS and cell phones allow corporations and the government to track people's physical location in real time. Internet users have voluntarily given up some of their privacy, as the rise of Facebook, Twitter, and other self-disclosure forums demonstrates. But much of the erosion has occurred without people's consent, or even knowledge. The technology in this area has been moving at Internet speed, but the law has not kept up. This course explored how the Internet and other technologies are changing the privacy

landscape, and how courts, legislatures, agencies, advocacy groups, and legal commentators are responding. **Adam S. Cohen**

Media Freedom and Information Access Practicum: Students in this practicum worked with attorneys on cases involving media freedoms and information access; they were required to write related research papers. Jack Balkin and David Schulz

Reading Groups

Free Speech, Information Security, and Democratic Values:

Curated each week by different ISP fellows, discussions addressed a broad range of concerns related to the rise of information intermediaries and to debates over policies for Internet freedom and information security. Topics included: secrecy and national diplomacy, (new) media ethics, reasonable protection for anonymity, corporate censorship of internet speech, and information activism. Led by **Seeta Peña Gangadharan with** convenors: Nicholas Bramble, Bryan Choi, Perry Fetterman, Daniel Kreiss, William New, Rebecca Wexler, and Kyoko Yoshinaga

Reproductive Rights: Senior Fellow Priscilla Smith led a reading group each semester focused on different reproductive justice topics. The fall's offering considered "Problems in Reproductive Justice," and focused on hot topics and current litigation; Spring's group considered issues related to fertility and assisted reproductive technologies.

Perspectives on International Intellectual Property
Policymaking: William New led a reading group exploring
perspectives on crafting international policy on intellectual property
rights and innovation, with a focus on multilateral institutions and
government agencies, particularly in Geneva, Switzerland. Sessions
provided opportunities to discuss current policy debates in
development; public health; trade; piracy, counterfeiting and
enforcement; copyright and related rights, access to knowledge and
internet governance; biotechnology, food security, and biodiversity,
climate; geographical indications and traditional knowledge.
Emphasis was on understanding government and stakeholder

positions and advantages and disadvantages of prospective outcomes. Several expert guest lecturers were invited during the semester.

FELLOWS

Yale Information Society Project 2010 - 2011 Fellows





Faculty Directors

- Jack M. Balkin, Director, Information Society Project and Knight Professor of Constitutional Law and the First Amendment
- Laura DeNardis, Executive Director, Information Society Project and Lecturer in Law, Yale Law School

Faculty Fellows

- Ian Ayres, William K. Townsend Professor of Law
- Emily Bazelon, Senior Research Scholar in Law and Truman Capote Fellow for Creative Writing and Law
- Joan Feigenbaum, Grace Murray Hopper Professor of Computer Science
- Owen M. Fiss, Sterling Professor of Law
- Linda Greenhouse, Senior Research Scholar in Law, Knight

Distinguished Journalist-in-Residence, and Joseph Goldstein Lecturer in Law

- Christine Jolls, Gordon Bradford Tweedy Professor of Law and Organization
- Amy Kapczynski, Visiting Associate Professor of Law and Irving S. Ribicoff Fellow in Law at Yale Law School
- S. Blair Kauffman, Librarian and Professor of Law
- Daniel J. Kevles, Stanley Woodward Professor of History, Professor of History of Medicine, American Studies, and Law (adjunct)
- **Thomas Pogge**, Leitner Professor of Philosophy & International Affairs
- Robert C. Post, Dean and Sol and Lillian Goldman Professor of Law
- Jessica Pressman, Assistant Professor of English
- Carol Rose, Gordon Bradford Tweedy Professor Emeritus of Law and Organization and Professorial Lecturer in Law
- Jed Rubenfeld, Robert R. Slaughter Professor of Law
- Edmund M. Yeh, Associate Professor of Electrical Engineering, Computer Science & Statistics

Resident Postdoctoral Fellows

• Nicholas Bramble

• Daniel Kreiss

Bryan Choi

• Seeta Peña Gangadharan

• Adam Cohen

• Priscilla Smith

Visiting Fellows

- C.W. Anderson
- Leah Belsky
- Rebekka Bonner
- Eun Chang Choi
- Shay David
- Perry Fetterman
- Laura Forlono
- Vali Gazula
- David Karpf
- Fikremarkos Mersos
- Bradley Moore

- Christina Mulligan
- William New
- Guy Pessach
- Ri Pierce-Grove
- Julia Sonnevend
- Elizabeth Stark
- Ramesh Subramania
- Rebecca Wexler
- Christopher Wong
- Kyoko Yoshinaga

Knight Law and Media Scholars

Current Knight Law and Media Scholars:

- Grace Armstrong, 2011
- Sava Berhane
- Jennifer Bishop
- Molly Boyle
- Betsy Cooper, 2012
- Eric Fish, 2011
- Jake Gardener, 2011
- Stephen Gikow, 2011
- Behesht Heidary
- Matthew Hengreness

- Noorain Khan
 - Mike Knobler
- Jeremy Kutner
- Jennifer Jones
- Jeff Love
- Matthew Maddox, 2011
- Nic Marais, 2011
- Lisa Larrimore Ouellette, 2011
- David Robinson
- Kristin Shaffer

- Adam Hockensmith
- Isia Jasiewicz
- Valerie Kaur, 2011
- Chris Suarez, 2011
- Qian Julie Wang, 2012
- Adam Yoffie, 2011

Previous Knight Law and Media Scholars:

- BJ Ard, 2010
- Anjali Dalal, 2010
- Sarah Edelstein, 2010
- Adam Farbiarz, 2010
- Dov Fox, 2010
- Patrick Kabat, 2010
- Margot Kaminski,
- Maren Klawiter, 2010
- Dror Ladin, 2010

- Nadia Lambek, 2010
- Alexandra Orme, 2010
- Lauren Pardee, 2010
- Sohail Ramirez, 2010
- Doug Rand, 2010
- Michael Seringhaus, 2010
- 2010 Nabiha Syed, 2010
- Marisa B. Van Saanen, 2010
- AdriennaWong, 2010

Student Fellows

- Grace Armstrong
- Sava Berhane
- Jennifer Bishop
- Molly Boyle
- Betsy Cooper, 2012
- Eric Fish, 2011
- Jake Gardener, 2011
- Stephen Gikow, 2011
- Behesht Heidary
- Matthew Hengreness

- Mike Knobler
- Jeremy Kutner
- Jennifer Jones
- Jeff Love
- Matthew Maddox, 2011
- Nic Marais, 2011
- Lisa Larrimore Oullette, 2011
- David Robinson, 2011
- Kristin Shaffer
- Chris Suarez, 2011

- Adam Hockensmith
- Qian Julie Wang, 2012
- Valeri Kaur, 2011
- Albert Wong, 2015
- Noorain Khan
- Adam Yoffie, 2011

Yale University Affiliates

- Jason Eiseman
- Christina Spiesel
- Bonnie Kaplan
- Tina Weiner

• Limor Peer

Affiliated Fellows

- Marvin Ammori, Assistant Professor of Law, University of Nebraska-Lincoln, College of Law
- Anita Allen-Castellitto, Professor of Law, University of Pennsylvania Law School
- Shyam Balganesh, Assistant Professor of Law, University of Pennsylvania Law School
- Stuart Benjamin, Professor of Law, Duke Law School
- Yochai Benkler, Professor, Harvard Law School
- Daniel Benoliel, Professor, University of Haifa School of Law
- Molly Beutz Land, Associate Professor of Law, New York Law School
- James Boyle, Professor of Law, Duke Law School
- Herbert Burkert, Professor of Information Law, University of St. Gallen. President, Legal Advisory Board (LAB), European Commission
- Anupam Chander, UC Davis School of Law

- Danielle Citron, Associate Professor of Law, University of Maryland Law School
- Susan Crawford, Professor, University of Michigan Law School
- Niva Elkin-Koren, Lecturer, Faculty of Law, University of Haifa
- Jeanne Fromer, Associate Professor of Law, Fordham Law School
- Michael Froomkin, Professor of Law, University of Miami School of Law
- Christine Greenhow, University of Maryland
- David Singh Grewal, Harvard Society of Fellows, Harvard University
- James Grimmelmann, New York Law School
- Andreas Grünwald, Assistant to Professor Bernd Holznagel at the Institute for Information, Telecommunications and Media Law, University of Münster, Germany
- Robert A. Heverly, Assistant Professor at Albany Law School of Union University
- David Johnson, Distinguished Visitor, New York Law School
- Eddan Katz, International Affairs Director, Electronic Frontier Foundation
- Dan Klau, Adjunct Professor, University of Connecticut Law School & Attorney, Pepe & Hazard, LLP
- Douglas Lichtman, Professor of Law, UCLA Law
- Christopher Mason, Assistant Professor of Computational Genomics Department of Physiology and Biophysics and the Institute for Computational Biomedicine Weill Cornell Medical College
- Ernest Miller
- Caio Mario da Silva Pereira Neto, Getulio Vargas Foundation

(FGV) School of Law

- Beth Noveck, Associate Professor of Law, New York Law School
- Frank Pasquale, Loftus Professor of Law, Seton Hall Law School; Associate Director of the Gibbons Institute of Law, Science, and Technology, Seton Hall University
- **Guy Pessach**, Lecturer, Faculty of Law, Hebrew University of Jerusalem
- Arti Rai, Professor of Law, Duke Law School
- Nagla Rizk, Professor of Economics, American University in Cairo
- Kermit Roosevelt, Professor, University of Pennsylvania School of Law
- David Schulz, Lecturer, Columbia Law School and Partner, Levine, Sullivan, Koch & Schulz, LLP
- Lea Shaver, Associate Professor, Hofstra Law School
- Daniel J. Solove, George Washington University Law School
- Victoria Stodden, Columbia University
- Madhavi Sunder, UC Davis School of Law
- Stefaan Verhulst, Markle Foundation
- Tal Zarsky, Lecturer, Faculty of Law, University of Haifa
- Michael Zimmer, Assistant Professor, School of Information Studies, University of Wisconsin, Milwaukee

SCHOLARSHIP AND ACADEMIC PRESENTATIONS

Highlights of Fellow Activities

Emily Bazelon - Yale University Faculty Fellow

Awards:

• Finalist for The Michael Kelly Award 2011, Atlantic Media Company.

Publications:

- Emily Bazelon, *Shaken-Baby Syndrome Faces New Questions in Court*, N.Y Times, February 2, 2011.
- Emily Bazelon, *The New Abortion Providers*, N.Y. Times, July 14, 2010.
- Emily Bazelon, *The Reincarnation of Pro-Life*, N.Y. Times, May 27, 2011.
- Emily Bazelon, *How to Unmask the Internet's Vilest Characters*, N.Y. Times, April 22, 2011.
- Emily Bazelon, Mysterious Justice, N.Y. Times, March 18, 2011.

Danielle Citron - Affiliated Fellow

Publications:

- "Mainstreaming Privacy Torts," 99 *California Law Review* (forthcoming 2011).
- "Fulfilling Government 2.0's Promise with Robust Privacy

Protections," 78 George Washington Law Review 822 (2010).

Citron, Danielle, "Civil Rights in Our Information Age" from <u>The Offensive Internet: Speech, Privacy, and Reputation</u>, Ed. Martha Nussbaum and Saul Levmore, Harvard University Press (2010).

Distinguished Lecture at Columbia University entitled Digital Discrimination

Spoke at Berkeley, Stanford, NYU, and Yale alumni weekend

January 2011, the Stanford Center on Internet and Society devoted a roundtable discussion to my latest work entitled Intermediaries and Hate Speech: Fostering Digital Citizenship in the Information Age, bringing together popular intermediaries (such as Google, YouTube, Facebook, Mozilla, Microsoft, and others), NGOs, and academics to discuss my proposals.

Affiliate Fellow at Stanford Center on Internet & Society

Serves on the advisory board of The Future of Privacy, Teach Privacy, and Without My Consent

Interviewed for the NY Times Magazine, NPR, L.A. Times, Glamour, and San Francisco Chronicle

Bryan Choi - Postdoctoral Fellow

Presentations:

- Conference chair and moderator, Mad Men to Mad Bots: Advertising in the Digital Age, Yale Law School, March 25-26, 2011.
- Panelist, Access to Knowledge Global Academy Meeting, Cape Town, South Africa, January 18-19, 2011.

• Panelist, Privacy and Innovation Symposium, Yale Law School, October 29, 2010.

Briefs:

Brief of amici curiae, Information Society Project at Yale Law School Professors and Fellows, In Support of the Petitioners, Golan v. Holder.

Linda Greenhouse – ISP faculty fellow

Conferences and lectures:

- National Association of Women Judges, annual meeting, plenary session discussion of my new book, BEFORE ROE V. WADE: VOICES THAT SHAPED THE ABORTION DEBATE BEFORE THE SUPREME COURT'S RULING (Kaplan Publishing, 2010) (with Reva B. Siegel)
- American Society for Legal History, panel discussion of the book, above
- Midwest Political Science Assoc. annual meeting, panel discussion of the book, above
- Legal History Workshop, Harvard Law School, presenter (with Reva Siegel)
- Association of American Law Schools, annual meeting, panel on criminal law
- Bar Ilan University, Israel, lecture on the relationship between the U.S. courts and the media
- Harvard Law School, American Constitution Society chapter, lecture on the Roberts court
- Fordham Law School, American Constitution Society chapter, lecture on the Roberts court
- Stanford Law School, American Constitution Society chapter, lecture on the Roberts court
- New York Law School, American Constitution Society chapter, lecture on the Roberts court

- Queens College, City University of New York, political science dept., lecture on the Roberts court
- George Washington University Law School, American Constitution Society chapter, discussion on abortion rights
- Yale Club of New Haven, lecture on the Roberts court
- Northwestern University Law School, panel on legacy of Justice Stevens
- Millstone Lecture, St. Louis University, on the subject of "Truth in Journalism."
- Pennsylvania State University Law School, commencement speaker and recipient of honorary Doctor of Laws

Yale Law School activities:

- Panel discussion, judicial nomination & confirmation issues
- Public interview of Iowa Supreme Court Justice Wiggins on challenges to judicial independence
- Moot court competition judge, fall and spring semesters
- Faculty workshop, presenter (with Reva Siegel)

Publications:

- Democracy and the Courts: The Case of Abortion, 61 HASTINGS L. J. 1333 (2010)
- Before (and After) Roe v. Wade: New Questions About Backlash, 120
 YALE L. J. 2028 (2011) (with Reva B. Siegel)
- Two dozen op-ed columns in the NEW YORK TIMES (on line)
- Completed manuscript for THE U.S. SUPREME COURT: A VERY SHORT INTRODUCTION, to be published Feb. 2012 by Oxford University Press

Teaching:

Fall 2010: seminar: "Rights in Conflict: Abortion and Same Sex Marriage (with Reva Siegel)

Spring 2011: seminar: "Guantanamo" (with Eugene Fidell)

Both semesters: Supreme Court Advocacy Clinic, member of 5-person faculty

New-York Historical Society, co-taught (with Reva Siegel) six-session graduate seminar on history and law of reproductive rights

David Singh Grewal -

Will join the YLS faculty this fall as an Associate Professor, leaving the Harvard Society of Fellows.

Helping draft the BioBrick(tm) Public Agreement, which is a legal tool for sharing standardized biological parts. The Agreement goes online this summer.

On the Board of the Biobricks Foundation.

Bonnie Kaplan - Yale University Affiliate

Publications:

- Boyd, A.D., Funk, E.A., Schwartz, S.M., Kaplan, B., and Keenan, G.M., "Top EHR Challenge in Light of the Stimulus: Enabling Effective Interdisciplinary, Intradisciplinary, and Cross Setting Communication," Journal of Healthcare Information Management, 24(1):18-24, Winter 2010.
- Goodman K.W., Berner E., Dente M.A., Kaplan B., Koppel R., Rucker D., Sandz D.Z., Winkelstein P., "Challenges in Ethics, Safety, Best Practices, and Oversight Regarding HIT Vendors, Their Customers, and Patients: A Report of an AMIA Special Task Force," Journal of the American Medical Informatics Association, 18(1):77-81, January 2011, doi:10.1136/jamia.2010.008946.

• Kaplan, B., "Ethical Issues in Biominformatics: Privacy and More," Journal of Medical Implants and Devices (in press).

Presentations:

- "Making 'Meaningful Use' More Meaningful and Useful," American Medical Informatics Association Annual Symposium, November 2010. Session organizer, chair, and panelist.
- "HIT or Miss: Learning from Failures to Get Success," American Medical Informatics Association Annual Symposium, November 2010. Session co-organizer (with J. Leviss) and panelist.
- "Ethical Issues in Biominformatics: Privacy and More," 6th International Conference on Ethical issues in Biomedical Engineering, April, 2011. Presentation.

Teaching:

- MIS 687-Clinical Systems in Healthcare, Howe School of Technology Management, Stevens Institute of Technology.
- American Medical Informatics Association 10x10 Program, Biomedical and Health Information Sciences, University of Illinois at Chicago.

Service (selected):

- Chair: Ethical, Legal, and Social Issues Working Group, American Medical Informatics Association.
- Mentor: Consortium for the Science of Socio-technical Systems (CSST) 2011 Summer Research Institute (NSF-funded event).
- Member: Vendor Contract Issues Task Force, American Medical Informatics Association.
- Faculty: Doctoral Consortium on Organizational Issues, American

David Karpf - Visiting Fellow

Publications:

- December 2010. "Online Political Mobilization from the Advocacy Group's Perspective: Looking Beyond Clicktivism." *Policy & Internet*, Volume 2, Issue 4, Article
 2 http://www.psocommons.org/policyandinternet/vol2/iss4/art2/
- January 2011. "Implications of the Mobile Web for Online/Offline Reputation Systems. *IEEE Intelligent Systems*. Volume 26, No 1, 40-47.
- (Forthcoming) "Open Source Political Community Development: A Five-Stage Adoption Process." *Journal of Information Technology and Politics*. Volume 8, Issue 3.

Co-organized, with Jim Katz (Rutgers University), a daylong conference on "Social Media as Politics by Other Means." Yale ISP Fellows Chris Anderson and Daniel Kreiss participated in the conference, and are in the process of developing an edited volume out of the papers presented there (should be a 2012 publication date).-

Daniel Kreiss - Postdoctoral Fellow

Journal Articles:

 Kreiss, Daniel, Megan Finn, and Fred Turner. "The Limits of Peer Production: Some Reminders From Max Weber For the Network Society." New Media & Society, 13(2): 243-259, 2011.

- Ananny, Michael, and Daniel Kreiss. "A New Contract For the Press: Copyright, Public Domain Journalism, and Self-Governance In a Digital Age." *Critical Studies in Media Communication*, First published on November 15, 2010.
- Howard, Philip N., and Daniel Kreiss. "Political Parties and Voter Privacy: Australia, Canada, the United Kingdom, and United States in Comparative Perspective." First Monday, 2010.
- Kreiss, Daniel, and Philip N. Howard. "New Challenges to Political Privacy: Lessons from the First U.S. Presidential Race in the Web 2.0 Era." *International Journal of Communication*, 4: 1032-1050, 2010.

Christina Mulligan - Visiting Fellow

Op-Eds:

Christina Mulligan, Op-Ed., *The Twilight copyright saga: Forbidden love and forbidden T-shirts*, The Washington Post. July 4, 2010.

Lisa Larrimore Ouellette - Student Fellow

Publications:

- What Are the Sources of Patent Inflation? An Analysis of Federal Circuit Patentability Rulings, 121 Yale L.J. Online (forthcoming 2011).
- How Many Patents Does It Take To Make a Drug? Follow-On Pharmaceutical Patents and University Licensing, 17 Mich. Telecomm. & Tech. L. Rev. 299 (2010), available at http://ssrn.com/abstract=1685979.
- Started a blog called Written Description that reviews recent

scholarship in patent law, IP theory, and innovation: http://writtendescription.blogspot.com/.

Frank Pasquale—Affiliated Fellow

Publications:

- Network Accountability for the Domestic Intelligence Apparatus (with Danielle Citron), Hastings Law Journal, Vol. 62 (2011) http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1680390.
- Restoring Transparency to Automated Authority, Journal on Telecommunications and High Technology Law, 9:235, 2011 http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1762766.
- Joining or Changing the Conversation? Catholic Social Thought and Intellectual Property, Cardozo J. Arts & Ent. L. (2011).
- Dominant Search Engines: An Essential Cultural & Political
 Facility, chapter in THE NEXT DIGITAL DECADE, ESSAYS
 ON THE FUTURE OF THE INTERNET, Chapter 7, p. 401,
 Berin Szoka, Adam Marcus, eds., TechFreedom, Washington,
 D.C., 2010
 http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1762241.
- William H. Sorrell, Attorney General of Vermont, et al. v. IMS Health Inc., et al. - Amicus Brief in Support of Petitioners (for NEJM) (co-author on brief) http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1770524.
- Trusting (and Verifying) Online Intermediaries' Policing, chapter in THE NEXT DIGITAL DECADE, ESSAYS ON THE FUTURE OF THE INTERNET, Chapter 6, p. 347, Berin Szoka, Adam Marcus, eds., TechFreedom, Washington, D.C., 2010 http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1762236.

- Search, Speech, and Secrecy: The Inversion of Network
 Neutrality, 1 Yale L. & Pol'Y Rev. Inter Alia (2010) (Invited piece
 for Yale Law School symposium on network neutrality) at
 http://yalelawandpolicy.org/29/search-speech-and-secrecycorporate-strategies-for-inverting-net-neutrality-debates.
- Reputation Regulation: Disclosure and the Challenge of Clandestinely Commensurating Computing, in Privacy, Free Speech, and the Internet (Martha Nussbaum and Saul Levmore, eds.) (Harvard University Press, 2010).
- The Troubling Trend Toward Trade Secrecy in Rankings and Ratings, in The Law and Theory of Trade Secrecy: A Handbook of Contemporary Research (Rochelle C. Dreyfuss and Katherine J. Strandburg, eds.) (Edward Elgar Publishing, forthcoming 2011).
- Data and Power: From Individual Consent to Societal
 Transparency, Kauffman Foundation/Yale ISP Thought Piece for
 Symposium on Privacy and Innovation (2010) (version will appear
 in NCURA Magazine, a publication of the National Council of
 University Research Administrators).
- Closed Circuit Economics, Editorial Statement of the New City Reader Business Section, New Museum of Contemporary Art (2010).

Memberships/Fellowships:

- Chairman, AALS Committee on Defamation and Privacy.
- Executive Committee, AALS Committee on Health Law Visiting Fellow, Princeton Center for Information Technology Policy.

Presentations:

Constitutionalizing the Kafkaesque, U. Penn. Law School.

- The Next Digital Decade: Search Engines, TechFreedom Launch Conference.
- Federalism and Fusion Centers, McGill University Dep't of Political Science.
- From Medical Record to Medical Reputation, ASLME Annual Conference.
- The Politics of PPACA, Florida Int'l University.
- Technology of Transparency, Elon University.
- Fractal Inequality and Access to Medicine, St. Louis University Distinguished Scholars Series.
- Medical Privacy Protection, New York Law School Innovate/Activate Conference.
- The "Why" of Pharma Compliance, Seton Hall Corporate Compliance Program.
- Defending Search Neutrality, George Mason Conference on the Law & Economics of Search Engines.

Priscilla Smith - Postdoctoral Fellow

Briefs:

Pineda-Moreno v. United States of America, No. 10-7515.

Greater Baltimore Center for Pregnancy Concerns v. City of Baltimore, No. 11-1111.

Golan v. Holder, No. 10-545.

Equality Roundtable: On December 17, 2010, Smith hosted a roundtable with the ACLU Reproductive Freedom Project and Professor Reva Siegel. The roundtable brought reproductive rights litigators and advocates together for a high level one-day meeting with four academic experts in the area to talk about pressing equality arguments in reproductive rights cases. The group of approximately 20 advocates and academics discussed the pros and cons of making such arguments and how to structure equality arguments in reproductive rights cases.

Annual Reproductive Rights 101 with Priscilla Smith and Louise Melling of the ACLU – The theme of this year's fall discussion of Roe was "Why Roe v. Wade Was Good for America...and How It Could Be Better." According to several Yale law students, some constitutional law professors at YLS argue that Roe was a horrible decision, some even calling it the worst decision ever written. Working with the Yale chapter of Law Students for Reproductive Justice, the Program for the Study of Reproductive Justice organized this event to provide a counterweight to that argument.

Papers:

After the Equality Roundtable, Smith presented a paper at a symposium sponsored by the Harvard Journal of Law and Gender in which she tackled the divide between advocates and academics over the benefits of pressing equality arguments in reproductive rights cases. In the paper, entitled Give Justice Ginsburg What She Wants: Using Sex Equality Arguments to Demand Examination of the Legitimacy of State Interests in Abortion Regulation, which will be published in the fall 2011 volume of the Harvard Journal of Law and Gender, Smith examines some of the stated reasons for litigators' reluctance to press sex equality arguments in their cases, including some of the practical impediments to bringing and preserving these claims, as well as ongoing skepticism about the benefits of equality arguments. Despite the positive evolution of sex equality analyses in both equal protection and liberty jurisprudence, and despite urging from the academy to press sex equality arguments, litigators have not wholeheartedly pursued these arguments in federal court challenges to restrictions on abortion. Smith contends that equality arguments not only provide

additional support for a woman's right to abortion, but will also force courts to grapple with the regressive views of women that propel many abortion restrictions. Because they focus the inquiry on a potential discriminatory purpose, sex equality arguments have the capacity to reinvigorate the required analysis of the legitimacy of state interests in abortion regulations.

Smith also worked with her fellow ISP Fellows with whom she drafted the amicus brief in *Pineda-Moreno v. United States* to write a paper based on the arguments they presented in the brief. The resulting article, *When Machines Are Watching: How Warrantless Use of GPS Surveillance Technology Terminates The Fourth Amendment Right Against Unreasonable Search*, will be published in the Yale Law Journal Online in the Fall of 2011.

Reading Groups:

Reproductive justice topics. The fall's offering considered "Problems in Reproductive Justice."

Christina Spiesel - Yale University Affiliate

Spoke to the ISP on issues pertaining to electronic voting.

Gave a three hour visual persuasion workshop sponsored by Seattle University School of Law.

Retained as a visual consultant on a medical malpractice suit heard in Superior Court New London that achieved the highest award yet for damages in that county. Retained by Koskoff, Koskoff & Bieder

David Thaw - Alumni

ISP Affiliated Fellow David Thaw received his Ph.D. from UC Berkeley in May. David's dissertation examined the effects of various regulatory approaches on driving information security practices in large organizations. David was advised by Professor Deirdre K. Mulligan of UC Berkeley's School of Information and Berkeley Law.

ISP Affiliated Fellow David Thaw joined the University of Maryland faculty appointed in the Department of Computer Science and the Maryland Cybersecurity Center (MC2), which is part of the University of Maryland Institute for Advanced Computer Studies. David will be teaching courses in cybersecurity law and policy and continuing his research in technology policy and usable security.

ISP Fellows Priscilla Smith, Albert Wong, Nabiha Syed, and David Thaw filed a brief amicus curiae in support of certiorari to the U.S. Supreme Court in United States v. Pineda-Moreno, a case involving the question of whether a warrant is required for law enforcement to conduct continuous, prolonged surveillance of an individual via the Global Positioning System (GPS). The Circuit Courts of Appeals have split on this issue, and the Supreme Court granted certiorari in a related case from the D.C. Circuit to consider this question. Smith, Wong, Syed, and Thaw have an article forthcoming this fall in The Yale Law Journal Online discussing the issue of GPS surveillance by law enforcement.

Rebecca Wexler -

Publications:

Associate Produced the PBS documentary series, "Forgiveness: A Time to Love and a Time to Hate," directed by Helen Whitney. This documentary film about forgiveness and transitional justice broadcast nationally on PBS in April, 2010.

Wexler, Rebecca, "The Post-Wikileaks World," Yale Global Online Magazine (17 December 2010). An investigative journalism report on the "Anonymous Operation Payback" distributed denial of service

attacks on Mastercard and Visa.

Awards & Grants:

Fulbright Senior Scholar Research Grant to conduct research with the Tulana Film and Video Unit in Sri Lanka.

Albert Wong - Student Fellow

Briefs:

Brief of amici curiae, Information Society Project at Yale Law School Fellows Nabiha Syed, Albert Wong, David Thaw and Priscilla Smith in support of the petition. *Juan Pineda-Moreno v. United States of America*, No. 10-7515 (U.S. Supreme Court) (2010).

Publications:

Priscilla Smith, Nabiha Syed, David Thaw, and Albert Wong. When Machines Are Watching: How Warrantless Use of GPS Surveillance Technology Terminates the Fourth Amendment Right Against Unreasonable Search. 121 Yale L.J. Online (forthcoming 2011).

Kyoko Yoshinaga - Visiting Fellow

Presentations:

• "The Role of Social Media in Japan During Natural Disasters," Yale Law School, April 20, 2011 http://yaleisp.org/2011/04/kyoko-yoshinaga/

http://relief.yale.edu/japan-earthquake-2011/role-social-media-japan- during-natural-disasters

- "Broadcasting in the Digital Age" at "Yale Media Theory & History Conference," Yale University, April 23, 2011 http://mediaconference.commons.yale.edu/conference-info/conference-schedule
- Convenor, "ISP Reading Group: Free Speech, Information Security, and Democratic Values, "Freedom of Speech and National Security" February 16, 2011. see: http://yaleisp.org/2011/02/isp-reading-group-free-speech-information-security-and-democratic-values/



The Information Society Project at Yale Law School is an intellectual center addressing the implications of the Internet and new information technologies for law and society, guided by the values of democracy, human development, and social justice

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