# Introduction

# Program at a Glance

# Program

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# About the Knight Institute
INTRODUCTION

How might law need to adapt to safeguard self-government in this data-intensive age? This symposium—the product of a year-long collaboration between the Knight Institute, our Senior Visiting Research Scholar Amy Kapczynski of Yale Law School, and the Law and Political Economy Project, which Prof. Kapczynski co-founded—will try to answer this urgent question.

We live in the age of big data and algorithmic governance. Moore’s Law, operating over decades, today enables the collection, storage, and analysis of vast amounts of data. Ubiquitous sensors and digital networks, combined with new algorithmic and machine-learning techniques, have made possible new ways of knowing and acting that are already having significant impact in both the public and private spheres.

They are also creating new challenges for our democracy. Government actors are today allocating Medicaid resources, evaluating employees, assessing health and environmental concerns, orienting policing and surveillance, and making bail decisions using algorithmic and data-intensive approaches, often in conjunction with private actors. New capacities to harvest and analyze data are also impacting key intermediary institutions for self-government, such as political parties, the infrastructure of elections, and the free press. How should law respond to the threats posed by algorithmic capabilities to democratic will-formation? In the private sector, new modes of data-processing are influencing the shape of a wide range of consumer products, from driverless cars to health apps. How will consumers, regulators, and legislators be able to access the data and information they need to understand and shape these new technologies? Speech platforms, guided by the incentive structures embedded in data or surveillance capitalism, are shaping what we see and say in ways that have accelerated polarization and misinformation. If the algorithms and data that drive the design of the new public sphere are secret, and companies claim First Amendment
privileges against government oversight, do we have the tools we need to protect our democracy? How are all of these developments shaped by law, and what legal reforms might be needed to address emerging problems? How should the political economy of data be reorganized to meet democratic needs?

We are excited to be hosting so many leading thinkers and looking forward to a series of energizing and illuminating discussions. Over the course of two days, we will hear from a mix of scholars and technologists presenting 11 original papers that address the questions sketched above from a variety of perspectives. We’ll explore their proposals and arguments with the hope that our discussions will inform the Knight Institute’s research and litigation activities and advance public debate and understanding. Thank you so much for joining us.

Sincerely,
Jameel Jaffer, Amy Kapczynski, and Katy Glenn Bass
Thursday, October 15
Online

11:45 am – 12:00 pm  Welcome
Jameel Jaffer and Amy Kapczynski

12:00 pm – 1:30 pm  Theories of Democratic Regulation and Lawmaking in the Big Data Era
Panelists
Yochai Benkler
Kiel Brennan-Marquez
Julie E. Cohen
Mariano-Florentino Cuéllar
Aziz Huq
Daniel Susser
Moderator
Amy Kapczynski

2:30 pm – 4:00 pm  Public Will Formation and Big Data
Panelists
Dan Bouk
danah boyd
Bertrall Ross
Douglas Spencer
Ethan Zuckerman
Moderator
Katy Glenn Bass
### PROGRAM AT A GLANCE

#### Friday, October 16

**Online**

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Thursday, October 15
Online

Welcome
11:45 am – 12:00 pm

Jameel Jaffer, Knight First Amendment Institute at Columbia University
Amy Kapczynski, Yale Law School

Theories of Democratic Regulation and Lawmaking in the Big Data Era
12:00 pm – 1:30 pm

How do big data, artificial intelligence, and algorithmic governance influence our ability to govern ourselves democratically? Do new information technologies create new modalities or concentrations of power, and if so what should that mean for how we legislate and regulate? Does our technological landscape challenge conventional paradigms of governance that rely on individualized consent or that see markets as superior because of their ability to reflect and adapt to decentralized information? This panel will address these questions and explore the implications of increasingly data-intensive processes and technologies for how we understand political economy, privacy, and the regulatory state.

Panelists
Yochai Benkler, Harvard Law School
Kiel Brennan-Marquez, University of Connecticut School of Law
Julie E. Cohen, Georgetown University Law Center
Mariano-Florentino Cuéllar, Stanford Law and California Supreme Court
Aziz Huq, University of Chicago School of Law
Daniel Susser, Penn State University

Moderator
Amy Kapczynski, Yale Law School
Privacy, Autonomy, and the Dissolution of Markets
Kiel Brennan-Marquez and Daniel Susser

Throughout the 20th century, market capitalism was defended on parallel grounds. Defense one: it allocates resources efficiently. Defense two: it promotes freedom by enabling individuals to exploit their own property. Recently, however, both defenses have begun to unravel—as capitalism has moved into its “platform” phase. Today, the pursuit of allocative efficiency, bolstered by pervasive data surveillance, often undermines individual freedom rather than promoting it. And more fundamentally, the very idea that markets are necessary to achieve allocative efficiency has come under strain. Even supposing, arguendo, that the claim was true in the early 20th century when Von Mises and Hayek pioneered it, advances in computing have rekindled the old “socialist calculation” debate. And this time around, markets—as information technology—are unlikely to have the upper hand.

All of this, we argue, raises an important set of governance questions regarding the political economy of the future. We focus, specifically, on two: how much should our economic system prioritize freedom—or better yet, autonomy—and to what extent should it rely on markets? The arc of platform capitalism bends, increasingly, toward a system that neither prioritizes autonomy nor relies on markets; and the dominant critical response, exemplified by Shoshana Zuboff’s work, has been to call for a restoration of market capitalism. Longer term, however, it would be more productive to think carefully about how “post-market” economic arrangements might promote autonomy more effectively than markets themselves—and the practical steps necessary to realize that possibility.

How (Not) to Write a Privacy Law
Julie E. Cohen

After many years of failed starts, proposed information privacy legislation has begun moving forward in both houses of Congress. As of this writing, the privacy reform docket is crowded, with a number of different proposals jostling for attention and no consensus yet on which deserves to be the front runner. Even so, there is growing agreement on the list of features that a successful bill will need to include. This paper critically assesses those zones of emerging consensus. It argues that many of the shared features of proposed privacy legislation embody fundamentally backward-looking approaches that cannot hope to constrain the
activities they attempt to address. They are legal artifacts, designed around the drafting conventions of a prior era and deeply unsuited to contemporary networked realities.

**Toward the Democratic Regulation of AI Systems: A Prolegomenon**

Mariano-Florentino Cuéllar and Aziz Huq

Cuéllar and Huq explore the challenge of regulating “artificial intelligence” (AI) in democracies. They begin with a definition of what is being regulated. In contrast to the relatively narrow focus on technical details of computational tools in many discussions about governing AI, they suggest that it is more useful to identify “AI systems”—embedding not only particular algorithms but design choices structuring human-computer interaction and the allocation of responsibility over decisions—as the appropriate object of regulation. They make the case that even in constitutional democracies, regulation of these systems should often depend primarily on how these systems embed forward-looking “policies” and on the social consequences of such policies, rather than on expecting clear answers to deontologically flavored questions about whether these systems violate “rights,” such as those to privacy or nondiscrimination. They canvas some of the challenges associated with carefully designed, prudent regulation of AI in democracies. They suggest that as democratic societies contend with the mix of risks and benefits associated with AI systems, candid acknowledgment of the challenges will bring valuable attention to the endogeneity of democratic preferences and to the characteristics of institutions that have an outsized role in shaping how societies evolve.
Our changing capacities to capture, analyze, and manipulate data have potentially drastic implications for our ability to exercise self-government and to ensure a truly representative and participatory democracy. How do changes in how we think about and manipulate data change who we understand the public to be, and how it expresses its will? This panel will explore the social and political history of how data has been used for core political objectives like an accurate census count and voter mobilization efforts, how changing technological means to manipulate data are impacting inequality and stratification, and how law and policy should respond.

**Panelists**
Dan Bouk, *Colgate University*
danah boyd, *Data & Society*
Bertrall Ross, *University of California, Berkeley, School of Law*
Douglas Spencer, *University of Connecticut School of Law*
Ethan Zuckerman, *University of Massachusetts at Amherst*

**Moderator**
Katy Glenn Bass, *Knight First Amendment Institute at Columbia University*
Democracy’s Data Infrastructure: The Entanglement of Politics and Science
Dan Bouk and danah boyd

Bouk and boyd examine the technopolitics of the U.S. census, showing that despite their efforts, Census Bureau scientists and their peers in the academy have always ended up working in the political (not to be confused with partisan) sphere. Bouk and boyd use three case studies to illustrate this point: (1) the formalization of congressional apportionment and the rise of professional statistics and tools for dealing with aggregates; (2) the relationship between the problem of the “undercount” and the probabilistic revolution of the mid-20th century, and the combined influences of microeconomics and data science on the census; (3) the difficulty of avoiding the disclosure of confidential information and the current debate over Census Bureau use of differential privacy. This series of technopolitical controversies, they argue, demonstrates that the legitimacy of data infrastructure depends as much on social, political, and historical factors as on the quality and accuracy of the data.

Voter Data and Democratic Inequality
Bertrall Ross and Douglas Spencer

The mobilization activities of parties and candidates prior to elections can be a critical vehicle for encouraging participation. Thanks to recent advances campaigns have shifted mobilization efforts toward microtargeting strategies based on individual and household level data rather than neighborhood data. One of the most valuable pieces of information is whether someone voted in prior elections. Ross and Spencer trace the history of voter history data and highlight the role of federal and state law in facilitating campaign access to it. They then examine the consequences. Drawing on a novel dataset of voter history laws in every state, Ross and Spencer find that after states change their laws to provide voter history to campaigns, these campaigns are far less likely to contact the poor. Because the poor are less likely to have voted in prior elections, they are less likely to appear in the mobilization models employed by data-savvy campaigns, exacerbating the rich-poor turnout gap. To address this, Ross and Spencer advance two proposals. First, they argue that states should prohibit the collection and distribution of voting history data. However, because campaigns might respond by using proxies for individuals’ voting histories, they suggest an alternative. States could continue to collect and distribute voting history data, but create financial incentives for campaigns to use the data to expand their mobilization strategies to a more representative target population.
Friday, October 16
Online

Data Publicity and Public Control
12:00 pm – 1:30 pm

Government actors are today allocating Medicaid resources, evaluating employees, conducting surveillance and criminal investigations, and making bail decisions using algorithmic and data-intensive approaches. These approaches often involve partnerships with private actors who control the development of the technology being used and the access to relevant data. This panel will contemplate whether the resulting systems can be reconciled with commitments to due process and nondiscrimination, what challenges they raise for accountability, and how courts, legislatures, and agencies should address those challenges to protect democratic prerogatives.

Panelists
Margot Kaminski, University of Colorado Law and Silicon Flatirons
Martin Murillo, Institute of Electrical and Electronics Engineers
Frank Pasquale, Brooklyn Law School
Wendy Wagner, University of Texas School of Law
Rebecca Wexler, University of California, Berkeley, School of Law

Moderator
Paul Ohm, Georgetown University Law Center
Licensing Big Data Analytics in an Era of Invasive and Contested AI
Frank Pasquale

Pasquale argues that the use of big data analytics necessitates regulatory action, specifically arguing in favor of a licensing regime. He starts by highlighting the opportunities and threats posed by AI, exploring examples in the health industry and facial recognition. Pasquale lays out the many weaknesses of the current, consent-focused regulatory model. Instead, he argues in favor of a governance-driven approach that would explicitly bar certain collection, analysis, and use of data, while promoting other, more socially useful analytics. Many civil libertarians have rallied behind restrictions on facial recognition; this logic may also apply to limitations on other forms of recognition by data (for example, diabetic recognition by employers). Using Senator Sherrod Brown’s DATA Act as a case study, he provides theoretical rigor and practical specificity for the proposal. Pasquale ends by discussing the threat free-expression fundamentalism poses to licensing regimes in particular and data regulation in general. He argues that in many instances data processing is less a form of communication than an exertion of power. Free expression law must recognize this critical distinction in order to promote democratic control over data policy.

Is the Administrative State Ready for Big Data? Exploring the Accountability Challenges that Big Data Tools Present for Environmental and Public Health Regulation
Wendy Wagner and Martin Murillo

Murillo and Wagner look at the administrative state’s growing use of complex statistical models and the challenges the trend poses for accountable administrative governance. They document how agencies’ use of big data can obscure critical framing decisions underlying policies, hide subjectivity in the design and development of models, and undermine scientific integrity. Legal process requirements should in theory counteract these tendencies to sideline public deliberation and oversight. But in practice, they argue, administrative process tends to perversely reward agencies for using models that are inaccessible to the public due to the threat of judicial review and protracted comment processes. To address these challenges, they propose a formal, interdisciplinary review process that requires agency staff to comprehensibly explain—using best practices—the framing, algorithm choices, and procedures used to ensure the integrity of their analyses. They also suggest using rewards such as increased judicial deference for accessible explanations to incentivize quality and transparent models.
The Law and Political Economy of Privacy Asymmetries
Rebecca Wexler

Wexler focuses on how law enforcement’s capacity to capture and analyze data is far surpassing that of the accused. Recent developments in cross-border access to data aggravate this asymmetry by creating new access mechanisms available to law enforcement alone. Meanwhile, privacy justifications can be used superficially to withhold relevant evidence from the accused. Wexler’s central claim is that exceptions to privacy protections that enable law enforcement to access data across borders should also apply to defense investigators. She argues that the asymmetrical expansion of law enforcement’s investigative power is an unreasoned, likely unintentional, and largely unjustified side effect of the political economy of bilateral negotiations. Wexler ends with two constitutional arguments. First, principles of due process restrict the government from enacting privacy regulations that foreclose defendants’ access to exculpatory data while maintaining law enforcement’s access to inculpatory data. Second, such asymmetrical access regimes should be presumed unconstitutional unless the government provides nonarbitrary and proportionate justifications for the asymmetry.
Julia Angwin is an award-winning investigative journalist and editor-in-chief of The Markup, a nonprofit newsroom that investigates the impacts of technology on society. Angwin was previously a senior reporter at ProPublica, where she led an investigative team that was a finalist for a Pulitzer Prize in Explanatory Reporting in 2017 and won a Gerald Loeb Award in 2018. From 2000 to 2013, she was a reporter at The Wall Street Journal, where she led a privacy investigative team that was a finalist for a Pulitzer Prize in Explanatory Reporting in 2011 and won a Gerald Loeb Award in 2010. In 2003, she was on a team of reporters at The Wall Street Journal that was awarded the Pulitzer Prize in Explanatory Reporting for coverage of corporate corruption. She is also the author of *Dragnet Nation: A Quest for Privacy, Security and Freedom in a World of Relentless Surveillance* (Times Books, 2014). She earned a B.A. in mathematics from the University of Chicago, and an MBA from the Graduate School of Business at Columbia University.
Concerns over the spread of disinformation, misinformation, and hate online have never been higher. Similarly, the ongoing adoption of AI and machine learning tools by local, state, and federal government has generated increasing pressure for public access to information about those tools and how they are being used. Journalists, researchers, and activists say they do not have sufficient ability to access the data and information needed to hold government and powerful companies to account. But these calls for more transparency and access often collide with objections by private companies that they cannot release more data to researchers and/or the public due to privacy concerns or because the information constitutes “trade secrets.” What approaches might help secure better access to privately held data for researchers and the public in practice? This panel will explore this question, and what it implies about the limits of traditional understandings of transparency and accountability.

Panelists
Hannah Bloch-Wehba, Texas A&M University School of Law
John Bowers, Harvard Berkman Klein Center
evelyn douek, Harvard Law School and Harvard Berkman Klein Center
Elaine Sedenberg, Harvard Berkman Klein Center and Facebook
Mathias Vermeulen, AWO
Jonathan Zittrain, Harvard University

Moderator
Alex Abdo, Knight First Amendment Institute at Columbia University
Transparency’s AI Problem
Hannah Bloch-Wehba

Bloch-Wehba argues that AI reflects and amplifies systemic weaknesses in the transparency regime, including privatization, secrecy, private sector cooptation, and reactive disclosure. This highlights the urgent need to reorient transparency and accountability law toward meaningful public engagement in ongoing oversight. She says this shift requires rethinking FOIA’s core commitment to public disclosure of agency records, exploring instead alternative ways to empower the public and shed light on decision making. Bloch-Wehba uses criminal law enforcement as a case study for these issues, illustrating the difficulties activists face in obtaining information about AI and the limits of a technocratic approach to transparency. Finally, she lays out two proposals for addressing these issues. First, she suggests that states and municipalities reform procurement laws to consider factors beyond price such as the vendor’s commitment to openness. Second, she proposes new forms of proactive disclosure that foster openness in AI, similar to efforts to promote open science.

Platform Accountability Through Digital “Poison” Cabinets
John Bowers, Elaine Sedenberg, and Jonathan Zittrain

Bowers, Sedenberg, and Zittrain draw on the history of a centuries-old German archival institution, the Giftschränke (literally “poison cabinet”), to explore potential means of surmounting barriers to data sharing faced by contemporary internet platforms—particularly those engaged in content moderation. Dating back to the 16th century, Giftschränke were restricted sections of libraries stocked with texts perceived as dangerous to the public, often accessible only to properly credentialed researchers seeking to understand or countervail them. Today’s platforms, reasonably wary of the prospect of developing a record of the very content they deem unacceptable, could—as an alternative to a status quo defined largely by deletion—build their own moderation-focused Giftschränke, preserving detailed records of what they take down and why. The platforms might embargo the release of such archives, before ultimately making them available to academic researchers, enabling better-informed research into content ecosystems over the long term. Drawing on the lessons, innovations, and public spirit of the archival sciences, the authors examine the risks, upsides, and constraints of such an approach.
The Keys to the Kingdom: Overcoming GDPR Concerns to Unlock Access to Platform Data for Independent Researchers
Mathias Vermeulen

Independent researchers have requested access to a wide variety of platform data in order to scrutinize the actors and methods responsible for the spreading of disinformation, as well as to assess the effectiveness and impact of the self-regulatory measures platforms have taken to counter disinformation. Over the past two years, the European Union has increasingly supported these requests, including by facilitating the adoption of the EU Code of Practice on Disinformation, in which platforms committed themselves to provide such access through a variety of mechanisms. However, both European decision makers and researchers have consistently criticized the insufficient responses by some platforms—in particular in handing over proprietary data. On a number of occasions platforms have invoked their obligations under the EU’s General Data Protection Regulation (GDPR) as rationale for failing to make certain data sets available. This paper aims to assess those claims in order to clarify to which extent, if any, GDPR concerns prevent the disclosure of (sensitive) personal data by platforms to independent researchers. The paper will argue that the GDPR currently allows the sharing of personal data for such purposes in a number of ways, but recommends the adoption of a binding legal obligation for platforms to hand over data and a Code of Conduct on Access To Platform Data under Article 40 of the GDPR as necessary measures to provide more legal certainty about the specific roles and responsibilities of both platforms and independent researchers.
PARTICIPANTS

Alex Abdo is Litigation Director of the Knight First Amendment Institute at Columbia University. Prior to joining the Institute, he was a senior staff attorney at the ACLU. He has litigated civil liberties cases in multiple federal appeals courts and the U.S. Supreme Court, and he has been at the forefront of litigation relating to free speech online, encryption, government transparency, and NSA surveillance. In 2015, he argued the closely watched appeal that resulted in the Second Circuit invalidating the NSA’s call-records program. He graduated from Yale College and Harvard Law School. After law school, Abdo clerked for the Hon. Barbara M.G. Lynn, U.S. District Judge for the Northern District of Texas, and for the Hon. Rosemary Barkett, U.S. Circuit Judge for the Eleventh Circuit Court of Appeals.

Julia Angwin is an award-winning investigative journalist and editor-in-chief of The Markup, a nonprofit newsroom that investigates the impacts of technology on society. Angwin was previously a senior reporter at ProPublica, where she led an investigative team that was a finalist for a Pulitzer Prize in Explanatory Reporting in 2017 and won a Gerald Loeb Award in 2018. From 2000 to 2013, she was a reporter at The Wall Street Journal, where she led a privacy investigative team that was a finalist for a Pulitzer Prize in Explanatory Reporting in 2011 and won a Gerald Loeb Award in 2010. In 2003, she was on a team of reporters at The Wall Street Journal that was awarded the Pulitzer Prize in Explanatory Reporting for coverage of corporate corruption. She is also the author of Dragnet Nation: A Quest for Privacy, Security and Freedom in a World of Relentless Surveillance (Times Books, 2014). She earned a B.A. in mathematics from the University of Chicago, and an MBA from the Graduate School of Business at Columbia University.

Yochai Benkler is the Berkman Professor of Entrepreneurial Legal Studies at Harvard Law School and the Berkman Klein Center for Internet & Society at Harvard University. Since the 1990s he has played a role in characterizing the role of information commons and decentralized collaboration to innovation, information production, and freedom in the networked economy and society. His books include Network Propaganda: Manipulation, Disinformation, and Radicalization in American Politics (Oxford University Press, 2018) and The Wealth of Networks: How social production transforms markets and freedom (Yale University Press, 2006). In 2012, he received a lifetime achievement award from Oxford University. His work is socially engaged, winning him the Ford Foundation Visionaries Award in 2011, the Electronic Frontier Foundation’s Pioneer Award for 2007, and the Public Knowledge IP3 Award in 2006. Benkler has advised governments and international
organizations on innovation policy and telecommunications. His work can be freely accessed at benkler.org.

**Hannah Bloch-Wehba** is an Associate Professor of Law at Texas A&M University School of Law who teaches and writes on law and technology. Her scholarship primarily focuses on free expression, privacy, and government accountability. Her interests include transparency and accountability for law enforcement, public access to information, and the use of new technologies in government decision making. She is also an Affiliated Fellow at Yale Law School’s Information Society Project, an Affiliated Scholar at NYU School of Law’s Policing Project, and a Fellow at the Center for Democracy & Technology.

**Dan Bouk** is Associate Professor of History at Colgate University and a Faculty Fellow at Data & Society. He researches the history of bureaucracies, quantification, and other modern things shrouded in cloaks of boringness. His work investigates the ways that corporations, states, and the experts they employ have used, abused, made, and re-made the categories that structure our daily experiences of being human. His first book, *How Our Days Became Numbered: Risk and the Rise of the Statistical Individual* (University of Chicago Press, 2015), explored the spread into ordinary Americans’ lives of the U.S. life insurance industry’s methods for quantifying people, discriminating by race, justifying inequality, and thinking statistically. His recent writings put today’s political and economic values of personal data in a much wider historical context. He is currently completing a book on the U.S. census for MCDxFSG titled *Democracy’s Data and How to Read It*.

**John Bowers** is a J.D. candidate at Yale Law School and an affiliate at Harvard University’s Berkman Klein Center for Internet & Society, where he worked as a Senior Research Coordinator before coming to Yale. Bowers’ research interests center primarily on questions of content governance, intermediary liability, and artificial intelligence.

**danah boyd** is a Partner Researcher at Microsoft Research, the founder and president of Data & Society, and a Visiting Professor at New York University. Her research is focused on addressing social and cultural inequities by understanding the relationship between technology and society. Her most recent book—*It’s Complicated: The Social Lives of Networked Teens and Participatory Culture in a Networked Age* (Yale University Press, 2014)—examines the intersection of everyday practices and social media. She is a 2011 Young Global Leader of the World Economic Forum, a member of the Council on Foreign Relations, a Director of both
Crisis Text Line and Social Science Research Council, and a Trustee of the National Museum of the American Indian. She received a bachelor’s degree in computer science from Brown University, a master’s degree from the MIT Media Lab, and a Ph.D. in Information from the University of California, Berkeley.

Kiel Brennan-Marquez is an Associate Professor at the University of Connecticut School of Law, where he teaches courses in constitutional law, policing, evidence, and law and technology. Broadly speaking, his research explores the nature of human judgment, as we confront the possibility—in the legal system and elsewhere—of powerful machines capable of outperforming human experts. He lectures widely, to both academic and non-academic audiences, and has published dozens of articles in law reviews and peer-reviewed journals. He received his J.D. from Yale and a B.A. in Religious Studies and Philosophy from Pomona College.

Julie E. Cohen is the Mark Claster Mamolen Professor of Law and Technology at the Georgetown University Law Center. She teaches and writes about surveillance, privacy and data protection, intellectual property, information platforms, and the ways that networked information and communication technologies are reshaping legal institutions. She is the author of Between Truth and Power: The Legal Constructions of Informational Capitalism (Oxford University Press, 2019); Configuring the Networked Self: Law, Code and the Play of Everyday Practice (Yale University Press, 2012), which won the 2013 Association of Internet Researchers Book Award and was shortlisted for the Surveillance & Society Journal’s 2013 Book Prize; and numerous journal articles and book chapters.

Justice Mariano-Florentino (Tino) Cuéllar began serving on the California Supreme Court in January 2015. Previously he was the Stanley Morrison Professor of Law, Professor (by courtesy) of Political Science, and Director of the Freeman Spogli Institute for International Studies at Stanford University. A fellow of the American Academy of Arts and Sciences, Cuéllar is a scholar of public law, complex organizations, and political economy whose work explores how change happens in administrative agencies and legislation, cyberlaw, public health and safety, and international affairs. In the Obama administration he led the White House Domestic Policy Council’s teams working on civil and criminal justice, public health, and immigration (2009-2010), and co-chaired the U.S. Department of Education’s Equity and Excellence Commission (2011-2013). Currently, he chairs the boards of the Center for Advanced Study in the Behavioral Sciences, AI Now, and Stanford Seed, and serves on the Harvard Corporation (President & Fellows of Harvard College), the board of Hewlett Foundation, and the council of the American Law Institute.
PARTICIPANTS

evelyn douek is a Lecturer on Law and S.J.D. candidate at Harvard Law School, and affiliate at the Berkman Klein Center for Internet & Society. Her scholarship focuses on international and transnational regulation of online speech and content moderation institutional design. Her research has appeared or is forthcoming in numerous outlets, including the Columbia Law Review, the University of Chicago Law Review Online, The Atlantic, and Slate. She also blogs at Lawfare. Before joining Harvard to complete a Master of Laws, douek clerked for Chief Justice Susan Kiefel of the High Court of Australia and worked as a corporate litigator.

Katy Glenn Bass is the Knight Institute’s Research Director. She was previously the Director of PEN America’s Free Expression Research and Policy program, where she supervised the production of reports analyzing free expression issues, including the lack of protections for national security whistleblowers, attacks on journalists covering the 2014 protests in Ferguson, MO, the impact of mass surveillance on online speech, and other topics. Glenn Bass has also taught at NYU Law’s Center for Constitutional Transitions and at the Walter Leitner International Human Rights Clinic at Fordham Law School. She holds a B.A. from Princeton University and a J.D. from Harvard Law School, where she received the Kaufman Pro Bono Service Award.

Aziz Huq is the Frank and Bernice J. Greenberg Professor of Law and the Mark Claster Mamolan Teaching Scholar at the University of Chicago. His scholarship focuses broadly on how institutional design influences individual rights and liberties. His book How to Save a Constitutional Democracy (with Tom Ginsburg) was published by the University of Chicago Press in October 2018, and won the International Society of Public Law I-CON Book Prize (2019). Before teaching, Huq worked as Associate Counsel and then Director of the Liberty and National Security Project of the Brennan Center for Justice at NYU School of Law. He was also a Senior Consultant Analyst for the International Crisis Group. He clerked for Judge Robert D. Sack of the U.S. Court of Appeals for the Second Circuit and for Justice Ruth Bader Ginsburg of the U.S. Supreme Court.

Jameel Jaffer is the inaugural Director of the Knight First Amendment Institute at Columbia University. Under his leadership, the Institute has brought precedent setting litigation, published influential research, and become a distinctive voice in debates about free speech in the digital age. Jaffer previously served as deputy legal director at the ACLU, where he litigated cases at all levels of the federal court system and oversaw the organization’s work on free speech, privacy, technology, national security, and international human rights. He is an executive editor of Just
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Security, a national security blog, and his most recent book, *The Drone Memos*, was one of the Guardian’s “Best Books of 2016.” He currently serves on the board of the Pierre Elliot Trudeau Foundation, on the advisory board of First Look Media’s Press Freedom Litigation Fund, and on the advisory board of the Center for Democracy and Technology.

**Margot Kaminski** is an Associate Professor at the University of Colorado Law and the Director of the Privacy Initiative at Silicon Flatirons. She specializes in the law of new technologies, focusing on information governance, privacy, and freedom of expression. In 2018, she researched comparative and transatlantic approaches to sensor privacy in the Netherlands and Italy as a recipient of the Fulbright-Schuman Innovation Grant. Her academic work has been published in UCLA Law Review, Minnesota Law Review, Boston University Law Review, and Southern California Law Review, among others, and she frequently writes for the popular press. She is a co-founder of the Media Freedom and Information Access (MFIA) Clinic at Yale Law School and served as a law clerk to the Honorable Andrew J. Kleinfeld of the Ninth Circuit Court of Appeals in Fairbanks, Alaska.

**Amy Kapczynski** is Professor of Law at Yale Law School. She co-directs Yale University’s Global Health Justice Partnership, the Collaboration for Research Integrity and Transparency, and the Law and Political Economy Project. In 2017, she co-founded the Law and Political Economy blog, which grew out of her seminar of the same name. Prior to joining the Yale faculty in 2012, Kapczynski taught at the University of California, Berkeley, School of Law. She also served as a law clerk to Justices Sandra Day O’Connor and Stephen G. Breyer at the U.S. Supreme Court, and to Judge Guido Calabresi on the U.S. Court of Appeals for the Second Circuit. She is currently a Senior Visiting Research Scholar with the Knight Institute.

**Martin Murillo** is a researcher focused on the intersection of political science and engineering. His work includes early conceptualization of the role of data and algorithms in government transparency, the role of data breaches on government transparency and accountability, and the addressing of jurisdictional issues of Internet of Things architectures and technologies. His peer-reviewed work has been published in venues such as the International Political Science Review, the IEEE Internet of Things Journal, the American Control Conference and the American Institute of Aeronautics and Astronautics. He has participated in policy-related venues sponsored by the W3C, IEEE, UNFCCC, and IETF with the aim to influence the development of more inclusive standards and technologies. He holds a B.S. degree from Brigham Young University and a Ph.D. degree from Idaho State University;
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The Knight First Amendment Institute at Columbia University defends the freedoms of speech and the press in the digital age through strategic litigation, research, and public education. It promotes a system of free expression that is open and inclusive, that broadens and elevates public discourse, and that fosters creativity, accountability, and effective self-government.

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If you plan on posting about the symposium on social media, please include the hashtag #DataAndDemocracy.

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