Wisconsin International Law Journal Annual Symposium

Stamping Privacy’s Passport: The Role of International Law in Safeguarding Individual Privacy

Friday, April 8, 2016, Room 2260, UW Law School

CLE Credit for WI Attorneys Pending

Program

Overview: The symposium seeks to explore how the right to privacy continues to develop and affect international law, how countries are balancing this right with other contemporary issues, such as law enforcement and business, and what the future might look like as technology grows exponentially. The symposium will broadly explore these central themes: is privacy more important than national security? Data retention, surveillance, and similar laws are continuously challenged on the ground that they infringe upon individuals' privacy. How can countries ensure their citizen’s private information stays safe? Information travels like water, following the path of least resistance. Is the “right to be forgotten” an effective tool in the hands of individuals? Do nations themselves deserve a right to privacy from other nations? How should nations respond to the events brought about by actors like Julian Assange and Edward Snowden?

8:30 Breakfast and Registration

9:00 Welcome
Lawrence Drewry and Emmeline Lee
WILJ Symposium editors, UW Law School

9:05 Welcome Remarks and Introduction of Keynote Speaker
Heinz Klug
Evjue-Bascom Professor in Law; Director, Global Legal Studies Center and WILJ advisor

9:10-10:00 Keynote Address
“The Role of International Law in Developing Privacy Protection”
Joseph A. Cannataci
UN Special Rapporteur on Right to Privacy & Head, Department of Information Policy and Governance, Faculty of Media and Knowledge Sciences, University of Malta
Panel 1: Cross-border Information Flows and Data Transfers

Chair: Heinz Klug
Evjue-Bascom Professor in Law; Director, Global Legal Studies Center, UW Law School

Speakers:

“Is the New General Data Protection Regulation a Harbinger for a General Crisis in Trans-border Information Flow?”
**David Erdos**
Lecturer, Faculty of Law, University of Cambridge, UK

“Essential Equivalence’ and European Adequacy After Schrems: The Canadian Example”
**Gabriel Maldoft** (joint paper with Omer Tene)
International Association of Privacy Professionals

“Identifying New Challenges to Cross-Border Data Requests Between the EU and the US”
**Suzanne Vergnolle**
Fulbright and Georges Lurcy Visiting Researcher at Georgia Institute of Technology

**Justin Hemmings**
Research Associate, Georgia Institute of Technology Scheller College of Business
(joint paper with Peter Swire)

12:15-1:30 Lunch (served in the Atrium)
Sponsored by WI Experience

Lunch time presentation:

““The Wicked Crossroads’ - Where Data Security and Technology Meets Privacy and Compliance”
**Jeff Grady**
Senior Director, Security and Compliance Solutions Advisor, Madison

Panel 2: Comparative perspectives

Chair: Alexandra Hunceus
Associate Professor of Law and Legal Studies, UW-Madison
Speakers:

“Secret Surveillance and Legal Archetypes in the U.S. and EU”
Alan Rubel
Assistant Professor, School of Library and Information Studies, UW-Madison

“A System of Checks and Balances: The Comparative Strength of the U.S. Privacy Protection Regime”
Clayton G. Northouse
Associate, Sidley Austin LLP

“Actions Speak Louder Than Words: Some Comparative Perceptions on International Privacy and Data Protection”
Gerard M. Stegmaier
Partner, Goodwin Procter LLP

3:30 -3:45  Break

3:45- 5:30     Panel 3:  Addressing Challenges

Chair: Alan Rubel
Assistant Professor, School of Library and Information Studies, UW-Madison

Speakers:

“Anonymous versus Personal Data: A False Debate?”
Sophie Stalla-Bourdillon
Associate Professor in Information Technology/Intellectual Property Law, University of Southampton, United Kingdom

“Children, Consent and Data Protection — Balancing Paternalism and Liberalism Under Children’s Rights Law”
Simone van der Hof
Professor, Department eLaw- Center for Law and Digital Technologies, Leiden University, The Netherlands

6:30  Dinner for speakers, chairs, WILJ members and other invited guests
Harvest Restaurant (21 North Pinckney, Madison, WI 53703)
Biographies of Speakers and Chairs

Joseph A. Cannataci
http://www.ohchr.org/EN/Issues/Privacy/SR/Pages/JoeCannataci.aspx

Joseph Cannataci was appointed UN Special Rapporteur on the right to privacy in July 2015. He is the Head of the Department of Information Policy and Governance at the Faculty of Media and Knowledge Sciences of the University of Malta. He also holds the Chair of European Information Policy and Technology Law within the Faculty of Law at the University of Groningen, where he co-founded the STeP Research Group. He is an Adjunct Professor at the Security Research Institute and the School of Computer and Security Science at Edith Cowan University Australia, a UK Chartered Information Technology Professional & Fellow of the British Computer Society, and an Expert Consultant to a number of international organizations. He has written books and articles on data protection law, liability for expert systems, legal aspects of medical informatics, copyright in computer software and co-authored various papers and textbook chapters on self-regulation and the Internet, the EU Constitution and data protection, on-line dispute resolution, data retention and police data. In 2002 he was decorated by the Republic of France and elevated to Officier dans l'ordre des palmes académiques for his role in the development of technology law and especially privacy law.

David Erdos
http://www.law.cam.ac.uk/people/academic/do-erdos/5972

David Erdos is University Lecturer in Law and the Open Society in the Faculty of Law and a Fellow in Law at Trinity Hall, University of Cambridge. Before joining Cambridge in October 2013, he spent six years as a research fellow at the Centre for Socio-Legal Studies, Faculty of Law and Balliol College, University of Oxford. His current research explores the nature of Data Protection especially as it intersects with the right to privacy, freedom of expression, freedom of information and freedom of research. In addition, he continues to have a research interest in bill of rights and related constitutional developments, especially in the UK and other ‘Westminster’ democracies. His Data Protection and the Open Society project has developed arguments about the nature, substance and operation of the law by drawing on rigorous comparative empirical analysis and has explored, firstly, the difficulties of determining what sort of activities fall within the data protection derogation for journalism, art and literature and, more specifically, how data protection has affected the flow of information within research – an area where its stipulations are taken relatively seriously.

Jeff Grady
http://www.threepillarstechnology.com/team-member/jeff-grady/

Jeff Grady is the senior director and co-founder of Three Pillars Technology Solutions LLC in Madison. Three Pillars is a technology consulting group that delivers data security solutions to organizations, with a focus on those who need to address data security protection under
regulatory compliance mandates with an emphasis on the broad sector of healthcare and HIPAA compliance. Three Pillars provides skilled, subject area expertise to address the data security and compliance needs of clients in various regulatory areas. Attorney Grady has presented seminars and educational programs on data security and HIPAA security compliance to a multitude of associations both within and outside the healthcare sector. He earned his B.A. and J.D. degrees from the University of Wisconsin-Madison and holds the credential of HCISPP - HealthCare Information Security and Privacy Practitioner (HCISPP – ISC2).

Alexandra Huneeus
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Alexandra Huneeus is an associate professor in Law and Legal Studies at University of Wisconsin-Madison and is a leading authority on human rights law in Latin America. She has written extensively about international human rights courts, with an emphasis on their relation to national courts, as well as to other international courts. Her work stands at the intersection of law, political science and sociology, and has been published in the American Journal of International Law, Law and Social Inquiry, Yale Journal of International Law, Cornell International Law Journal and by Cambridge University Press. In 2013, she was awarded the American Association for Law Schools Scholarly Papers Prize, as well as the American Society for Comparative Law Award for Younger Scholars (for two different articles). Currently, she holds an NSF grant to explore the impact of the Inter-American Court of Human Rights on domestic prosecutions of state atrocity. She received her PhD, JD and BA from University of California, Berkeley, and was a postdoctoral researcher at Stanford's Center on Development, Democracy and the Rule of Law.

Professor Huneeus is on the Board of Editors of the American Journal of International Law, and is a founding board member of the Brazilian Journal of Empirical/Socio-Legal Studies. She holds a permanent visiting professorship at the Universidad Diego Portales Law School in Santiago, Chile. She serves as Chair of the Steering Committee of the UW-Madison’s Human Rights Program, which she co-founded, Chair of the American Society for International Law Midwest Interest Group, and is on the Board of the Inter-American Human Rights Network. Previously, she has served on the Board of Trustees of the Law and Society Association and the American Society for Comparative Law, and as section chair for the Midwest Political Science Association (Law and Courts).

Heinz Klug (University of Wisconsin Law School)
https://law.wisc.edu/profiles/klug@wisc.edu

Heinz Klug is Evjue-Bascom Professor of Law at the University of Wisconsin Law School and an Honorary Senior Research Associate in the School of Law at the University of the Witwatersrand, Johannesburg, South Africa. Growing up in Durban, South Africa, he participated in the anti-apartheid struggle, spent 11 years in exile and returned to South Africa in 1990 as a member of the ANC Land Commission and researcher for Zola Skweyiya, chairperson of the ANC Constitutional Committee. He was also a team member on the World Bank mission to South Africa on Land Reform and Rural Restructuring. He has taught at Wisconsin since September 1996.

Professor Klug taught law at the University of the Witwatersrand in Johannesburg from 1991-1996, offering courses on Public International Law, Human Rights Law, Property Law, Post-Apartheid Law and Introduction to South African Law, among others. He also worked as a legal
advisor after 1994 to the South African Ministry of Water Affairs and Forestry as well as the Ministry of Land Affairs on water law and land tenure issues.

Professor Klug has presented lectures and papers on the South African constitution, land reform, and water law, among other topics, in Australia, Canada, Colombia, Ethiopia, Germany, South Africa, the Netherlands, and at several U.S. law schools. His research interests include: constitutional transitions, constitution-building, human rights, international legal regimes and natural resources. His current teaching areas include Comparative Constitutional Law, Constitutional Law, Human Rights and Humanitarian Law, Property, and Natural Resources Law. Professor Klug’s book on South Africa’s democratic transition Constituting Democracy was published by the Cambridge University Press in 2000.

Justin Hemmings (joint paper with Peter Swire)
https://www.linkedin.com/in/justinhemmings

Justin Hemmings is a Research Associate at the Georgia Institute of Technology Scheller College of Business. He is also a Policy Analyst with Alston & Bird, LLP. Attorney Hemmings graduated from Rutgers University, and American University’s Washington College of Law cum laude.

Gabriel Maldoff (joint paper with Omer Tene)
https://iapp.org/about/person/0011a00000DlO9KAAV

Gabriel Maldoff is a Fellow at International Association of Privacy Professionals Westin Research Center. He graduated magna cum laude from the University of Maryland School of Law. During his time at Maryland, Gabe interned at the World Bank in Washington, DC, the Maryland Office of the Attorney General and with a federal judge in Baltimore. Attorney Maldoff’s interest in law and privacy stems from his work with HIV/AIDS patients in the Southern Highlands of Tanzania in 2008. He furthered his interest in privacy law as an executive member of the Maryland Moot Court Board, where he authored and managed a competition focused on an employee’s right to privacy in the government workplace.

Clayton G. Northouse
http://www.sidley.com/people/clayton-g-northouse

Clayton G. Northouse is an Associate in Sidley Austin LLP’s Washington, D.C. office and an integral part of Sidley’s Privacy, Data Security and Information Law practice. He counsels clients on privacy program management, cyber incident response, surveillance, information sharing, and regulatory compliance in domestic and international contexts. Attorney Northouse is a magna cum laude graduate of Georgetown University Law Center and was senior articles editor of the Georgetown Law Journal. He is the author of Federal Trade Commission Enforcement of Privacy and Data Security (Bloomberg BNA) and editor of Protecting What Matters: Technology, Liberty, and Security Since 9/11 (Brookings Institution Press). Prior to joining the firm, he served as a law clerk to the Honorable D. Michael Fisher of the U.S. Court of Appeals for the Third Circuit.
Alan Rubel
http://www.slis.wisc.edu/faculty-rubel.htm

Alan Rubel is an Assistant Professor in the School of Library and Information Studies and in the Legal Studies Program at the University of Wisconsin-Madison. He is also an affiliate of the UW Law School, and served recently as a senior advisor to the Presidential Commission for the Study of Bioethical Issues. He holds a Ph.D. in Philosophy from the UW-Madison, and a J.D. from the University of Wisconsin Law School. Prior to joining the faculty at UW-Madison, he was a Greenwall Fellow in Bioethics and Health Policy at Johns Hopkins and Georgetown universities and a law clerk to Justice Ann Walsh Bradley of the Wisconsin Supreme Court. His current research relate to the nature and value of privacy, moral issues surrounding public health surveillance, rights to intellectual freedom, and theoretical foundations of the criminal law.

Sophie Stalla-Bourdillon
http://www.southampton.ac.uk/law/about/staff/sophie_stalla.page

Sophie Stalla-Bourdillon is an Associate Professor in Information Technology/Intellectual Property Law at the University of Southampton Law School, U.K., specializing in Information Technology related issues. She is the Director of Ilaws, the Institute for law and the Web and its new core iCLIC. She is a member of the Southampton Cybersecurity Centre of Excellence as well as a member of the Web Science Institute. She has contributed to the FP7 research project on operational trustworthiness enabling technologies (FP7 OPTET), the Ordnance Survey Data Enrichment Project, and has acted as an expert for the Organisation for the Cooperation and Security in Europe (in the field of intermediary liability), the Organisation for Economic Development and Cooperation (in the field of data protection, research data and anonymization), and Council of Europe (in the field of intermediary liability). She has also been researching and writing on the liability of Internet intermediaries, on the legal implications of deep packet inspection practices, on the role of hosting providers in relation to malicious webpages, on the standardization of privacy policies, and on anonymization practices concerning student data. She is also the creator of Peep Beep!, a blog dedicated to privacy and information law. Her posts regularly appear on Inforrm's (The International Forum for Responsible Media) blog.

Gerard Stegmaier

Gerard Stegmaier is a partner and a member of Goodwin Proctor's Privacy and Cybersecurity and Technology Company Practices. He focuses his practice on public and private corporate governance, intellectual property and Internet issues, especially as they relate to privacy, information security and consumer protection. An experienced and pragmatic litigator, Attorney Stegmaier focuses a significant part of his practice on pre-litigation and advisory services relating to business strategy for privacy by design, data protection, intellectual property, and emerging technologies and markets, often acting as outside product counsel to leading innovators and disruptive technology companies. Additionally, he is designated as a Certified Information Privacy Professional by The International Association of Privacy Professionals.
Omer Tene (joint paper presented by Gabriel Maldoff)
https://iapp.org/westin-research-center/p/team

Omer Tene is vice president of research and education at the IAPP Westin Research Center where he administers the IAPP Westin Fellowship Program and fosters ties between industry and academia. Before joining the IAPP, Dr. Tene was vice dean of the College of Management School of Law, Rishon Le Zion, Israel. He is an affiliate scholar at the Stanford Center for Internet and Society; and a senior fellow at the Future of Privacy Forum. He has published extensively in U.S. and European law reviews about big data, online tracking and international privacy law.

He consults for the Israeli government, data protection authority and private sector businesses, including Fortune 100 companies, on privacy, data protection and law and technology. He was appointed by the Israeli Minister of Justice to the National Privacy Protection Council and is a member of the advisory board of the Future of Privacy Forum; European advisory board of IAPP; and Editorial Board of the International Data Privacy Law (Oxford University Press). He headed the Steering Committee for the 32nd annual conference of privacy and data protection commissioners. He is received LL.M. and JSD degrees from NYU School of Law, an MBA from INSEAD and LL.M. and LL.B. degrees from Tel Aviv University. Dr. Tene was an associate at the New York office of Debevoise & Plimpton and at the Paris office of Fried Frank and a Senior Research Fellow at the British Institute of International and Comparative Law in London, where he directed the Data Protection Group. He has published articles in English, Hebrew and French on privacy and data protection and comparative financial regulation.

Simone van der Hof
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Simone van der Hof is a professor at the department eLaw - Center for Law and Digital Technologies at Leiden University, The Netherlands. She is head of eLaw and program director of the Advanced Master Law and Digital Technologies. She is also a lecturer at the executive master Cyber Security Academy and course coordinator and lecturer in Youth Law Master and the Advanced Master International Children's Rights. Her research and education has focused on the influence of technology on the rights of individuals in various capacities, and the interaction between legal, technical and social regulation in safeguarding and strengthening their position. In recent research she has focused on online safety for children, the rights of children in the digital world and the relevance of ‘privacy policies’ for ensuring transparency and accountability in online interactions between consumers and businesses. In 1995, she graduated in Dutch Law from the University of Utrecht. She received her doctorate in 2002 with a thesis entitled “International agreements online - private international law aspects of online business-to-business and business-to-consumer contracts in Europe and the United States.” In 2012 Professor van der Hof was a visiting professor at the School of Information Management at Victoria University of Wellington, New Zealand. She is a member of the Complaints Committee of the NICAM (Kijkwijzer; age classification of audiovisual media) and serves on the Advisory Board of the SIDN fund. She is also editor-in-chief of the Law & IT Series of Asser Press/Springer Press.
**Peter Swire** (joint paper presented by Suzanne Vergnolle and Justin Hemmings)

http://peterswire.net/

Peter Swire is the Huang Professor of Law and Ethics at the Georgia Institute of Technology Scheller College of Business. He has courtesy appointments with the College of Computing and School of Public Policy. He is also Senior Counsel with Alston & Bird, LLP. In 2015, the International Association of Privacy Professionals, among its over 20,000 members, awarded him its Privacy Leadership Award. In 2013, he served as one of five members of President Obama’s Review Group on Intelligence and Communications Technology. Prior to that, he was co-chair of the global Do Not Track process for the World Wide Web Consortium. He is Senior Fellow with the Future of Privacy Forum, and a Policy Fellow with the Center for Democracy and Technology. Under President Clinton, Professor Swire was the Chief Counselor for Privacy in the U.S. Office of Management and Budget. He is the only person to date to have U.S. government-wide responsibility for privacy policy. In that role, his activities included being the White House coordinator for the HIPAA medical privacy rule, chairing a White House task force on how to update wiretap laws for the Internet age, and helping negotiate the U.S.-E.U. Safe Harbor agreement for trans-border data flows. Under President Obama, he served as Special Assistant to the President for Economic Policy. Professor Swire graduated from Princeton University summa cum laude, and the Yale Law School, where he was an editor of the Yale Law Journal.

**Suzanne Vergnolle**

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Suzanne Vergnolle is a Fulbright and Georges Lurcy Visiting Researcher at Georgia Institute of Technology where she works on her Ph.D. thesis that explores the differences and similarities between legal systems on privacy and data protection in different countries (mainly EU and US legal systems). She holds a Master's degree in Comparative Law from Nanterre University, an LL.M. from Golden Gate University and a J.D. from the University of Bologna. She has been teaching various classes in France and in the United States including Contract law, Tort law, Freedom and Data, Comparative law, Privacy law and Ethics. She worked for two years for the French Prime Minister’s taskforce for Open Data and Open Government where she was the Head of Public and Legal Affairs and served as a legal advisor for the Chief Data Officer for France.