

**Report:**

**Distributed Selves: Technology and Rights in the Digital Age**

Professor Sheila Jasanoff

25 April 2018

On 25 April 2018, the LunchTimeSeries on Law, Technology, and Society (LTS) began its fifth consecutive semester. The auditorium was filled to capacity and extra chairs were brought in to accommodate the large turnout. Professor Iris Eisenberger, Institute of Law, University of Natural Resources and Life Sciences, Vienna, introduced the first LTS guest lecturer of summer term 2018: Professor Sheila Jasanoff, Pforzheimer Professor of Science and Technology Studies at the John F. Kennedy School of Government at Harvard University.

In her lecture “Distributed Selves: Technology and Rights in the Digital Age”, Jasanoff advocated for a legal approach to protecting human values in a pervasively digitalised world:

One can address the question of how to protect human values in the digital age from different perspectives: either by focusing on the emerging technologies and their disruptive potential, or by focusing on what human values we would like to preserve.

If we take the latter perspective, as Jasanoff did in her lecture, we put human beings rather than machines at the centre of our attention. This allows us to take a closer look at our different selves: the self of observable individual characteristics (“phenotypic self”), the self of genetic and genomic information (“biological self”), and the self that consists of the digital traces we leave behind (“digital self”).

In contrast to our phenotypic selves, our biological and digital selves are distributed, thus raising complex questions for the fate of human values in a digitalised world. Jasanoff illustrated the dynamic nature of these questions with judgments of the United States Supreme Court concerning the Fourth Amendment to the US-Constitution: The Fourth Amendment was originally intended to protect citizens from warrantless searches in their homes. However, in the past fifty years the United States Supreme Court has faced the questions whether wiretapping a public phonebooth (*Katz v. United States*, 389 U.S. 347, 1967), searching through rubbish bags left on the street (*California v. Greenwood*, 486 U.S. 35, 1988), or accessing cell phones (*Riley v. California*, 573 U.S. \_\_\_ 2014) falls within the scope of the Fourth Amendment. The technological change over time has required the US Supreme Court to re-think the definitions of private space and public space. Although its interpretation has changed in the face of technological development, the Fourth Amendment has been continuously protecting the embedded human value.

To re-integrate the human values into our distributed selves, different artefacts of society such as markets, regulations, ethics, and the law come to mind. Jasanoff argued that the market could not grasp the complex issues of distributed selves due to the limited number of values it considers. Product-focused and reactive regulation, in turn, is embedded in existing social values. Therefore, it is an inadequate tool to protect such values. Ethics tend to privatise questions of value by turning public values into expertise, thus pulling them away from societal discourse prematurely.

The law, on the contrary, offers a basis to declare what human values we consider worth preserving. While these commitments might be reinterpreted over time, the core values, which are collectively enshrined in them, remain. The right to be forgotten is, albeit controversial, an example for legal re-integration of such foundational values into our distributed selves in a digitalised world; a world that has the technological means to record our digital traces unforgivingly and permanently. In this light, the right to be forgotten is an attempt to prioritise what is societally desirable over what is technologically possible. It shows that it is the law that offers an appropriate place for such activism and construction of imaginaries.

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The audience discussion addressed, among other aspects, the democratization of surveillance, the perception of General Data Protection Regulation in the US, and the developments of the different selves. Jasanoff wove these statements and questions together into her plea for the law as suitable means of re-integration: The law allows us to discuss and democratically decide on emergent values of society, it allows us to take account of temporal and socio-cultural dependencies and, most importantly, it offers a place to raise questions that are not being asked.

*Thomas Buocz, April 2018*

