

27th Annual Australian Association for Professional and Applied EthicsOnline Conference *via Zoom*

University of New England

“Who’s Watching? Surveillance, Big Data and Applied Ethics in the Digital Age”

Keynote Addresses

Dr. Angela Daly (University of Strathclyde), “Laundering AI: Ethics Washing, Regulation and Reality”

Abstract: ‘AI Ethics’ has emerged onto the world stage as a solution to the problems that artificial intelligence is perceived to pose to humanity. Governments, corporations, civil society and international organisations have all released their own AI ethics initiatives and sets of principles, and these can be found throughout the world, including from the two main AI superpowers, the US and China. However, on the whole these initiatives tend not to have legally binding force, leading to the critique that they are mere window-dressing, or ‘ethics-washing’. I will explore this critique by examining the ‘turn to law’ which is now happening in AI governance to determine whether legal enforceability is a desirable goal or indeed another form of ‘laundering’ AI.

Biography: Dr Angela Daly is a critical legal scholar of (digital) technology regulation. She is Senior Lecturer in Strathclyde University Law School (Scotland) and Co-Director of the Strathclyde Centre for Internet Law & Policy. From 2013-2016 she was based in Australian universities and was active in the Australian digital rights scene including as a founding member of Digital Rights Watch Australia. She is the author of *Private Power, Online Information Flows and EU Law: Mind the Gap* (Hart 2016) and With S Kate Devitt and Monique Mann, she is the co-editor of open access collection *Good Data* (INC 2019).

Prof. Tony Coady (University of Melbourne), “Religion, War and Terrorism”

Abstract: Since the early years of the 21st century, the causes of war and of acts of terrorism have been strongly identified in the public mind with religion, and especially with the Muslim faith. This identification is in some ways unsurprising, but it relies upon a number of different but mutually reinforcing and long-standing cultural presuppositions. One is that religion itself has an inherent, distinctive, possibly unique tendency to promote violent acts; another is that, whatever about that, many past and present wars and terrorist acts were in fact wholly caused by specific religious commitments; another is that whatever the full story about causes may be, religion inevitably promotes particularly bad features of war and terrorism, such as their ferocity and duration. This talk will offer a critical appraisal of these presuppositions and their influence, and, in respect of influence, will describe the distortions of our understanding of terrorist acts that the presupposition tends to promote.

Biography: C.A.J. (Tony) Coady is Emeritus Professor of Philosophy at the University of Melbourne, Honorary Fellow in the Dianoia Institute of Philosophy and the Institute for Religion and Critical Inquiry at the Australian Catholic University, and Honorary Fellow in the Uehiro Centre, Oxford. He has an international reputation for his work in epistemology, ethics and applied philosophy, his book on Testimony having been particularly influential. He has played a significant part in the development of applied philosophy in Australia, and has also made numerous contributions from a philosophical perspective to public debate on contentious issues. In 2005 he gave the Uehiro Lectures on Practical Ethics in Oxford on “Messy Morality” and in 2012 the Leverhulme Lectures in Oxford on “Religion and Politics”. His books include *Testimony: A Philosophical Study* (Oxford University Press, 1992) *Morality and Political Violence* (Cambridge University Press, 2008) and *Messy Morality: The Challenge of Politics* (Oxford University Press, 2008). He is a Fellow of the Australian Academy of Humanities and also of the Australian Academy of Social Sciences.

Prof. Moira Paterson (Monash University), “Big Personal Data and its potential risks”

Abstract: The world of Big Personal Data involves the use of analytical techniques based on Artificial Intelligence to seek out correlations that offer new insights about individuals and their behaviours, including insights and predictions that were unexpected prior to the analysis. These are increasingly used to inform decisions and communications that impact on many facets of people’s lives, raising important concerns about personal privacy, discrimination, manipulation and lack of due process.

This paper analyses these issues with reference to four specific contexts; medical research, targeted advertising to consumers, political micro-targeting and the use of automated decision-making in government decision-making.

Biography: Professor Moira Paterson teaches and researches in field of information law, with a key focus on freedom of information, privacy and data protection, health records and public records law. She is the author of *Freedom of Information and Privacy in Australia: Government and Information Access in the Modern State* (LexisNexis, 2005) and *Freedom of Information and Privacy in Australia: Information Access 2.0* (LexisNexis, 2015) and is a co-editor of *Emerging Challenges in Privacy Law: Comparative Perspectives* (CUP, 2014). She has also published numerous book chapters, journal article, principally on freedom of information and privacy-related topics.

1. Ethics and the Use of Big Data

i) Simon Burgess and Matthew Wysel (UNE), “China’s social credit system: How robust is the human rights critique?”

Abstract: China’s social credit system is often said to violate certain human rights. Yet there are also observers who have emphasised that the system is still being developed, and that how it will appear in several years’ time is far from clear. Moreover, it is commonly pointed out that in some respects the system performs the same role that is served in the West by various kinds of credit checks, tenant registers, and the kind of system through which Uber drivers and passengers, for example, rate each other. Our major concerns, however, are with the Chinese government’s reported use of the system in order to discourage dissent and compel ideological conformity. For reasons that are largely pragmatic, we have chosen here to articulate our concerns in terms of human rights. Our critique, however, is a genuinely philosophical one, and it draws upon certain contributions to jurisprudence made by W.N. Hohfeld, while also referring to some basic philosophical ideas about liberty, natural law, personal sovereignty, and epistemic humility. We accept that some of the articles presented in the United Nations’ Universal Declaration of Human Rights are easier to defend than others. Yet we also argue that certain rights concerned with dissent and ideology are amongst those that can be backed by a philosophical defence that is especially compelling. So when the Chinese government uses the social credit system to discourage dissent and to compel ideological conformity, we argue that a human rights critique of their conduct can be thoroughly robust.

ii) Ben Robinson (University of Sydney), “Firm surveillance of worker productivity: empirical and ethical questions”

Abstract: Firm surveillance of worker productivity is not new within the history of capitalism, but the rise of big data analytics has widened the options available to firms. This paper raises some empirical and ethical questions around firm surveillance of worker productivity using big data and tracking technologies. Firstly, I give an overview of the types and use cases of data collected by firms, showing that the tracking technologies available for firms are rapidly growing and firms are increasingly faced with the question of whether to utilise these technologies. This section also situates these tracking technologies within the history of capitalism, highlighting what is similar and different to past ways of firms monitoring workers. The second section reviews the current state of empirical literature on these tracking technologies – is there evidence that they are effective in increasing worker productivity? Are there other unintended consequences? The third section

focuses on the ethics of these technologies - even if it were proven that these technologies do increase worker productivity, is this ethical? What obligations do firms have and what rights can workers draw upon? The fourth and final section provides some recommendations for firms, based on the conclusions of this research. It argues that these technologies present an ethical risk and opportunity for firms. To maintain the trust of workers and the wider public, firms must start being more transparent about the data they are collecting from their workers, and how it is being used.

iii) Gordon Young (Ethiological Consulting), “Big Data and Unnatural Justice: *Scaling accountability to meet power concentrations*”

Abstract: Rapid digitisation is a hallmark of the modern era, with Big Data technology quickly becoming the norm rather than the exception. The already significant governance challenges of such technologies are compounded by the power dynamics at play between developing industries, affected governments, and the public at large. Existing ethical and legal systems which seek to hold individuals responsible for transgressions after they occur, allow significant harm to occur in this context, as it may be some time before the harm caused becomes apparent, and may even be unintentional. Worse, such an approach allows a Tragedy of the Commons dynamic to arise, with conscientious developers putting themselves at a competitive disadvantage to the brash and exploitative. The emergence of Big Data technology brings with it significant risk of political harm, such as the Cambridge Analytica scandal of mass surveillance techniques in professional settings. As such, measures must be taken to ensure that the exploitative use of such technology is not only discouraged, but offers no reward whatsoever. Through a consideration of this market through the recently developed Dual Maxim Theory of Power Dynamics, innovative governance frameworks will be proposed with a far higher chance of success than existing paradigms of natural justice and due process. While such approaches are controversial by their nature, it is the author’s assertion that an age of disruptive technology must be met with equally disruptive governance to ensure harm is minimised and benefit promoted.

2. Applied Ethics

i) Joseph Naimo (University of Notre Dame), “Abuse and Misuse of Substitute Decision-Making (SDM) Powers: Guardianship and Administration Law and Associated Governance Institutions in the Spotlight”

Abstract: Abuse and misuse of Substitute Decision-Making (SDM) authority impacts the lives of children and adults with decision making disabilities. The concerns raised in this paper amplify previous attention addressed by advocacy agencies and law reformists such as the Law Commission of Ontario. I analyse problems associated with plenary guardianship from both the lived experience of the non-guardian perspective and from the authority bestowed to the Guardian pursuant to the Guardianship and Administration Act 1990 of Western Australia legitimating the unintended capacity to abuse one’s substitute decision making authority. Substitute decision-making arrangements enable decisions to be made on behalf of a person with a decision-making disability; usually made when such arrangements are necessary and subject to safeguards. Detrimentially, the substitute decision-maker can assert broader powers beyond sensible measures that include thwarting investigations undertaken by family members; removing family members from the life of the person for whom an order is made; inappropriately applying a paternalistic or ‘best interest’ approach to decision-making where other approaches are required; failing to consider the individual’s wishes or making decisions contrary to those wishes; having insufficient contact with the individual; and, sharing insufficient or incorrect information. Moreover, they may subject the individual for whom an SDM order is made to experimental medical treatment in tandem with imposing or condoning severe and harmful restrictive practices. Consequently, the second issue addressed in this paper concerns normalising both chemical and physical restrictive practices that are both morally abhorrent and clinically highly questionable.

ii) Jessica Pace, (University of Sydney), “Confident, Cautious, Opposed – Using Legitimacy to Connect Disparate Stakeholder Views of Accelerated Access to Medicines”

Abstract: Numerous policy approaches aim to address concerns regarding timely access to medicines. These may provide patients with a wider range of treatment options and earlier access to cancer medicines but can also increase uncertainty surrounding safety, efficacy and cost-effectiveness. Stakeholder engagement is essential to determine the appropriate risk-benefit balance of such initiatives and therefore optimal policy approaches. Here, I report the results of an empirical study exploring physician and consumer attitudes towards accelerated access initiatives. This involved semi-structured interviews with 18 Australian physicians and 13 patients and patient advocates and two focus groups with patients. These were transcribed verbatim and analysed thematically.

There is significant diversity in stakeholder opinion. We identified three “types” of attitudes amongst physicians—Confident Accelerators, Cautious Accelerators and Opposed to Acceleration. Although all acknowledged potential risks and benefits, they disagreed on their magnitude and extent and how these should be balanced in both policy formation and clinical practice. Consumers both recognised the potential benefits of accelerated access and noted risks such as increased uncertainty surrounding the safety and effectiveness of and limited resources to pay for medicines made available via these schemes. All participants emphasised procedural factors—such as transparency, relevant expertise and thorough consideration of evidence—needed for appropriate decision-making processes. As not all substantive positions can be accommodated in policy processes simultaneously, I argue for an emphasis on implementing fair procedures to increase legitimacy in order to increase the acceptability of decisions about accelerated access to medicines.

3. Surveillance

i) Matt Allen (History and Criminology, UNE), “Bentham and Surveillance beyond the panopticon: Inspection, Information, Police”

Abstract: Foucault’s paradigmatic use of Bentham’s panopticon has definitively shaped the emerging field of surveillance studies. But Foucault’s claim that “we live in a society where panopticism reigns” has obscured the strictly institutional application of surveillance in Bentham’s panoptic writings as well as the democratic aims of panoptical transparency. More broadly, Bentham scholars continue to debate the suggestion (either implicit within, or read into, Foucault) that Bentham called for a surveillance society.

This paper seeks to clarify Bentham’s views on societal surveillance by analysing some of his lesser known writings, specifically the manuscripts relating to his proposed Police Bill (c.1798-9), recently published by the Bentham Project at University College, London. Bentham’s Police Bill proposed two new forms of national information collection and publication: “intelligence of individual acts of delinquency” to be collected in a regular “Police Gazette;” and an annual “Calendar of Delinquency” aggregating this and other criminal justice data. He thus envisaged a national network of information collection and dispersal as a means of applying the inspection principle to society at large. This proposal could be interpreted as a form of panopticism in Foucault’s sense, and as such these writings help to clarify the extent of Bentham’s ambitions for a surveillance society and to qualify Foucault’s reading of Bentham.

ii) Caitlin Rowe (RMIT), “Libraries, Democracy and Digital Citizens in a Contemporary Surveillance Culture”

Abstract: Surveillance studies predate digital technologies by hundreds of years and even today references the philosophical foundations of Bentham and Foucault. Today’s unprecedented environment combines transnational surveillance capitalism or the datafication of society, with a post 9/11 security environment and rising surveillance culture. The aftermath of the 9/11 attacks provided legitimacy and unprecedented momentum for existing state surveillance and state/corporate collusion. A contemporary combination of surveillance capitalism and state monitoring, the data economy, the emergence of a digital self and memory,

user generated content, unprecedented sharing and disclosure of our personal lives and a culture of watching, has created a complicity and increasing acceptance of surveillance in all facets of human life. The notions of surveillance as a necessity for national security and the proliferation of the argument that privacy is only desired by individuals with something to hide, has permitted unprecedented impacts into democratic freedoms and human rights. In 2020, escalating digitisation of communication and the framing of privacy against the emerging health crisis has promoted fears that temporary measures of control may become the new normal. Increasing surveillance instigated under 'emergency public health measures' which may not be effective, proportional or always lawful - let alone ethical. Complexities of power and the expeditious nature of technology mean digital literacy and democratic engagement requires new understanding. Failure to support this understanding impacts future democracies. This paper will examine whether libraries can build on historical foundations as purveyors of information, to provide a comprehensive and accessible digital education for future citizens.

iii) Alan Tapper and Andrew Hunter (Curtain), "Three viewpoints on the digital world"

Abstract: The aim of this paper is modest: to give an outline the contrasting viewpoints of three significant authors on the digital transformation we are all undergoing. The first is John Cheney-Lippold in *We Are Data: Algorithms and the Making of our Digital Selves* (2017). His view is that "the world is no longer expressed in terms we can understand. This world has become datafied, algorithmically interpreted, and cybernetically reconfigured so that I can never say, 'I am "John"' with full comprehension of what that means. ... However, 'John' can be controlled." His viewpoint is defined by fears about how government security agencies (especially American agencies) can take control of our lives. The second is Taina Bucher in *If... Then: Algorithmic Power and Politics* (2018). Her view is that "while we start with the question of how software and algorithms shape sociality by looking at materiality in the more conventional sense as 'properties of a technology', the answer cannot be found in these properties alone, but rather the ways in which programmed sociality is realized as a function of code, people, and context." The phrase "programmed sociality" defines her viewpoint; her context is "the contemporary media landscape".

iv) Andrew Tulloch (UNE), "Big Data: Republican Freedom and neoliberalism"

Abstract: In this paper I address the question: "Does Big Data represent an unacceptable form of surveillance that threatens our freedom in a significant way?". I do this by appealing to the concept of Republican freedom. I argue that the issues of surveillance are fundamentally an issue of Republican freedom as a result of a Neoliberal economic philosophy. The monopolisation of social media combined with a profit motive and minimal government interference I claim is the cause of the big data problem. I make the case for this by appealing to the need of data collection for advertising purposes. The connection with Republican freedom is that what is done with our data is at the whims of the companies that possess it. I use Phillip Pettit's thought experiment of Nora in "A Doll's house" to stress the importance of Republican freedom in this context. The response must involve a transition of big technology firms from private to public hands. With the profit motive removed, I argue that the need for such pervasive data collection is no longer required. And with such technologies in government hands, how the data is used or misused will be much more accountable to the public than it is now.

4. Professional Ethics

i) Hugh Breakey, Charles Sampford & Melea Lewis (Griffith University), "Integrity and Substantive Approaches to Institutional Reform: Turning Ethics Inside Out"

Abstract: There are two distinct ways of encouraging and promoting ethics in institutions. The *substantive approach* to ethics directs an institution to live up to a pre-determined list of values. This is often accompanied by appeal to, or inclusion in, multilateral instruments (such as internationally developed best practice codes of ethics). The *integrity approach* to ethics directs institutions to ask themselves hard questions about their values, give honest and public answers, and live by them. This paper explains the two approaches, and describes their advantages and disadvantages. To begin, we review the literature on personal integrity, and consider whether the benefits invoked for integrity for individuals also apply to organisations pursuing

institutional integrity. Next, adopting a multidimensional legitimacy framework, we argue that the substantive approach excels at foregrounding important ethical constraints, and draws legitimacy from a past deliberative process of instrument/code development. Conversely, the integrity approach excels at securing local ownership, ensuring feasibility and effectiveness, and demonstrating trustworthiness. While highlighting the promises of the integrity approach, we note contexts where each approach will be appropriate, and offer suggestions for synergistically combining the two.

ii) Bligh Grant and Uday Kulkarni (UTS), “Watching the watchers: Empirical and ethical dimensions of ICT management in NSW local government”

Abstract: *Prime facie*, thinking about big data is prefaced by concerns about both ‘big government’ and ‘big corporates’, and the uses and misuses of data in these environments. Yet these assumptions are tempered by the facts that (i) that many contemporary organisations that citizens are obliged to interact with are statutory corporations, and (ii) that these organisations are neither omniscient or omnipotent, yet are faced with an instrumental imperative to have access to information about populations, premised in the rhetoric of both ‘governance’ and, perhaps ironically, ‘customer service’. Following an exploration of these themes, this presentation examines the results of in-depth interviews with 31 senior management/executive ICT professionals in NSW local government, conducted as part of a broader PhD project. As a cohort, these individuals exhibited many of the features typical of local government, including the ‘accidental executive’ phenomenon. And while many of their concerns were stylistically instrumental, three normative themes emerged, namely servility to state government, despite the promise of relative autonomy; the exercising of monopoly power on the part of corporates, and a longing for a seat at the strategic table on the part of interviewees. In discussing these themes, the idea of managerial dignity is explored.

iii) Michael Vincent (UQ), “Professional Ethics and the Authority of Philosophy”

Abstract: To understand professional ethics, we need to understand the status of professions in a modern division of labour – the privileges professionals have and the expectations which need to be met to justify these. I argue that many philosophers who present themselves as professional ethicists can understand this but have failed to apply this lesson to their own work. The answers which philosopher-ethicists tend to deal in are, to far too great an extent, suited to the disciplinary peculiarities of philosophy, and not to the questions of non-philosophers. Earning the status of ethics professional will require a severe reorientation of, or a separation from, much of contemporary academic moral philosophy.

5. Big Data and the Professions

i) Rob Banks (UNE), “The ethical dimension(s) of big data in agriculture”

Abstract: Collecting data and converting it to information for use in decision-making is a fundamental description of life, and forms the basis of all agricultural research and development and subsequent implementation of technology. The algorithm is applied in a highly systematic and data-rich way in genetic improvement of plants and animals. In livestock genetic improvement this application became “Big Data” decades ago with the advent of relatively powerful computers. The results of data analysis are used to help in making genetic improvement, which has transformed the performance of many species through the last 50 years. Where there are multiple players (farmers, companies) contributing data, there is massive co-creation of potential value – the information obtained from the whole is very much greater than the sum of the parts. The co-created information is a public or at least club good.

Ethical dimensions to this application of Big Data include - what data is collected, how the costs of data collection are shared, how information is validated, and on what terms the information is made available. The rapidly decreasing cost of collecting DNA data and the massive leverage possible from it is bringing these questions into stark focus. These questions provide some metaphors for thinking about Big Data more generally, and potentially some general principles.

ii) Jessica Pace (University of Sydney) “Post-market Data Collection, Market Withdrawal and Disinvestment as Components of Accelerated Access: Stakeholder perspectives”

Abstract: Provisional marketing approval allows medicines to be approved on the basis of earlier data, with post-market data collection used to confirm their safety and effectiveness. Similarly, “managed entry agreements” allow medicines to be listed on the PBS while further data is collected to determine their cost-effectiveness and ongoing subsidy. Timely and robust post-market data collection and regulatory withdrawal/disinvestment procedures underpin both initiatives but also raise important ethical issues. Here, I report the results of an empirical study exploring the beliefs of patients and physicians regarding post-market data collection and regulatory withdrawal/disinvestment as components of accelerated access. This consisted of semi-structured interviews with 18 Australian physicians and 13 patients and patient advocates and two focus groups with patients. These were transcribed verbatim and analysed thematically.

Participants were optimistic about increased evidence generation in the post-market phase and emphasised its potential to improve the safety, effectiveness and cost-effectiveness of care provided. They also expressed a willingness to contribute data. Post-market data collection, coupled with swift and decisive action by regulators and funders, was seen to be sufficient to address the risks posed by accelerated access pathways. However, strong actions on the part of regulators and funders are needed to ensure the safety and efficacy of medicines made available via accelerated access pathways. These include allocating adequate resources and expertise for data collection and analysis, establishing clear thresholds for market withdrawal and disinvestment and ensuring that all stakeholders are alert to the difficulties of disinvesting from and removing medicines from the market

6. Ethics in the Digital Age

i) Debra Comer and Michael Schwartz (Hofstra University, New York and RMIT), “Michael Walzer, Diane Whiteley, Avishai Margalit & the Me-Too Movement”

Abstract: In this paper, we discuss pertinent moral aspects of the #MeToo Movement. We do so with regard to the work of Michael Walzer, Diane Whiteley and Avishai Margalit. Walzer argues that social criticism includes “moral indictment” (1988, p. 9). Furthermore, he asserts, such “criticism is always moral in character, whether it is focused on individuals or . . . social structures. Its crucial terms are corruption and virtue” (1988, p. 10): And the “motives of criticism . . . [include] . . . anger at injustice” (1988, p. 19). According to Whiteley (1998), the focus of justice ignores the concerns of the victim. Whiteley describes “the victim’s resentment . . . [as] . . . a paradigmatic moral sentiment” (1998, p. 43) that castigates the wrongdoer for not “respecting her dignity” (1998, p. 43). Whiteley believes that resentment “motivates the victim to get back at the wrongdoer by *expressing* her resentment” (1998, p. 43. italics in the original). For Margalit, “a civilized society is one whose members do not humiliate one another” (1998, p. 1). Invariably, however, somebody within a society humiliates someone else. Margalit recognises that reality as he is unable to present any plausible example of a civilised society. Instead, he describes “a decent society [a]s one in which the institutions do not humiliate people” (1998, p. 1).

ii) Alan Tapper (Curtain), “Jeffrey Reiman and the Golden Rule”

Abstract: Generally speaking, modern moral philosophers have taken a remarkably favourable view of the Golden Rule. One such philosopher is Jeffrey Reiman, who, in his *Justice and Modern Moral Philosophy* (1990), says that the Golden Rule “is a nearly universally accepted test of morality” and that this “strongly suggests that it corresponds to a natural tendency of reason, perhaps [to] the very structure of conscience itself”. In this paper I examine how he arrives at this very strong claim. The claim is especially interesting because it is grounded in an account of justice. Two standard objections to the Golden Rule are (1) that it lacks the objectivity of justice because it rests on the personal preferences of the person applying the rule and (2) that it offers no protection for the well-meaning against would-be exploiters. How far does Reiman recognise and

respond to these objections? His response rests on an interpretation of the Rule that rationalises the “as you would have them do to you” clause. This is a common response to the Rule amongst philosophers. But does it work as an argument? And does it work as an interpretation of the Rule?

iii) Leila Toiviainen, (University of Tasmania) “Is conversation a form of data transmission or something else, something more?”

Abstract: The history of philosophy is the history of conversations. Gadamer in *Truth and Method* characterises the Platonic dialogues as “the art of strengthening... not trying to discover the weaknesses of what is said, but in bringing out its real strength.” Niiniluoto and Saarinen (*Nykyajan Filosofia* [Contemporary Philosophy] 2002) argue that philosophy is the outstanding dialogical science, more so than any other field of our rational intellectual lives. Conversation has been considered as integral to civilisation. For instance, Benedetta Craveri’s (*The Age of Conversation* 2006) describes the conversations of the French salons between the reign of Louis XIII and the French revolution to highlight the erudite women who could hold their own in debates with philosophers such as Diderot. Dictionary definitions without exception refer to conversation as the exchange of information and ideas by spoken words; in this paper I explore the possibility, raised by Niiniluoto and Saarinen, Craveri and more recently Debra Adelaide (*The Innocent Reader* 2019), that as readers of philosophy and literature we have unlimited opportunities for conversations with authors past and present. In the words of Richard Flanagan (*The Living Sea of Waking Dreams* 2020) we don’t want to be “using words to avoid using words for what words were used for” but we must use them to engage in enriching, meaningful exchanges with other human beings in order to satisfy a fundamental human need.

7. Philosophers and Big Data:

i) Matt Allen (History and Criminology, UNE) “Surveillance, Knowledge, Power: Bentham, Zuboff and Foucault”

Abstract: Shoshana Zuboff’s influential account of “surveillance capitalism” relies on what she calls “instrumentarian power” which threatens our “right to the future tense” by influencing our behaviour without our consent or awareness. This interpretation takes at face value the grandiose claims of big tech about the power of their data to know, predict and control. In this at least Zuboff follows Bentham who is similarly naïve about the capacity of his panopticon – and of surveillance more broadly – to know its subjects and control them accordingly. The problem with both of these accounts and of theories that depend upon them is that by exaggerating the possibility of knowing the watched, we misunderstand the true danger of surveillance.

In contrast, Foucault’s notion of power/knowledge is a better means of understanding surveillance in general and the threat of surveillance capitalism in particular. As Foucault saw, what is at stake in a disciplinary society is the way that knowledge, *irrespective of how accurate it may be*, defines and limits – indeed objectifies – the subject. The danger of the new surveillance is less that we will become so well known that we can be predicted and accordingly controlled and more that authorities will take the claims of big tech at face value and act as if the data about us is accurate. The new digital surveillance is a form of power/knowledge that constructs us as objects. Our resistance to this threat should focus on rejecting the false claim that we can be known or predicted through surveillance.

ii) Daniel Brennan (Bond University), “How Might Hannah Arendt Approach Questions of Big Data?”

Abstract: The paper considers the phenomenon of Big Data through the critical lens found in the work of Hannah Arendt. By exploring the nuance to Arendt’s critique of technology, and its relation to the social and political spheres of human activity, the paper presents a case for considering the richness of Arendt’s thought for approaching moral questions of Big Data. The paper argues that the nuances of Arendt’s writing contribute a sceptical, yet also hopeful lens to the moral potential of Big Data. The scepticism is due to the potential of big

data to reduce humans to a calculable and thus manipulable entity. Such warnings are rife throughout Arendt's oeuvre. The hope is found in the unique way that Arendt conceives of thinking, as having a conversation with oneself, unencumbered by ideological or fixed accounts of how things are. If thinking can be aided by Big Data then there is hope for Big Data to contribute to the project of natality that characterises Arendt's understanding of social progress. Ultimately, the paper contends that Arendt's definition of what constitutes thinking is the mediator to make sense of the morally ambivalence surrounding Big Data. By focusing on Arendt's account of the moral value of thinking, the paper provides an evaluative framework for interrogating uses of Big Data.

iii) Howard Harris (UniSA) "Big Data, scapegoat or hero – Ethical insights from René Girard"

Abstract: Big data draws both praise and criticism. The release of megabytes of data by Wikileaks is worthy of praise as information transparency, according to some (Curran & Gibson, 2013:249), while others find the massive collection of information, often freely given, by Amazon or Google, immoral and to be feared (ACCC, 2020:46). How can big data be both loved and hated? The French philosopher René Girard, in his theories of mimesis and scapegoating, provides a framework which can be used to examine this question. Girard argues that mimetic rivalry and scapegoating have been present in society for centuries. The paper examines three cases involving big data – driverless cars, digital platforms, and the Banking Royal Commission – and uses Girard's theories to show that the identification of a scapegoat, or villain, is a common feature in them and that concerns over Big Data are linked to fear of 'the other'. The application of Girard to these widely different examples, embracing the velocity, volume and variety aspects of big data, may help both practitioners and theorists to comprehend public reaction to big data and its ethical dimensions.

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iv) Adrian Walsh (UNE), "Big Data and the role of the empirical in applied ethics – in defence of moderate immunity"

Abstract: In considering the social implications of Big Data, commentators have primarily focused on the potential for social manipulation. Less attention has been paid to the relevance of the data generated by these methods to the resolution of topics in applied ethics and to public policy-making. To what extent can the kinds of questions we explore in Applied Ethics be adequately resolved through the use of purely empirical considerations? In this paper I shall begin by providing a brief outline of the Immunity Thesis—according to which answers to the problems dealt within applied ethics contain necessarily non-empirical (or speculative) elements and which cannot be resolved entirely via the empirical methods typical of the sciences—and then I shall demonstrate its relevance to the use of Big Data in both applied ethics and public policy-making. I shall argue that there are limits to the significance of Big Data to those topics. It is important that these limitations are understood and acknowledged in the analysis of what are ultimately speculative domains of intellectual life.