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for Law, Technology,
and Society

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Regulating in Times of Crisis

Call for Papers

We are living through turbulent times that strain individuals and communities. At the same time, the current crisis related to the coronavirus pandemic has also proved thought-provoking for policymakers and regulatory scholars. The responses to COVID-19 have sparked lively discussions on the relationship between public health and private and/or government interventions. Yet, concerns on how societies approach regulation and how our rights and freedoms are affected by crises are not new. Consider, for example, the climate and humanitarian crises together with other major global challenges: all of them call for new ways of thinking about regulation and, potentially, about new ways of acting as academics or citizens. The COVID-19 pandemic is thus also an impetus to reflect upon how we regulate crises and how crisis situations impact regulation.

These challenging times have led us to adopt ‘Regulating in Times of Crisis’ as the overarching theme for the **seventh bi-annual TILTING Perspectives** conference on the intersection of law, technology, and society.

While TILTING conferences have historically focused on a specific sector or technology such as ‘robotics and neurotechnologies’ in 2011 and ‘health and surveillance’ in 2015, since 2017 the approach is to cover an entire spectrum of topics under the broad umbrella of law, technology, and society. This approach is maintained for the 2021 edition of TILTING Perspectives, taking place **entirely online on 19-21 May 2021**.

What is shared by the above-mentioned crises – COVID-19, climate change and other global issues – is that technological innovation plays a key role: think about contact tracing apps, methods for mapping movements of refugees, or plans to monitor environmental risks and mitigate climate change through new technologies. The societal transformations illuminated or exacerbated by crises pose pressing moral and legal questions regarding the regulation of (and by) technologies and innovation, and about acceptable intended and unintended effects that technological development has on communities. To what extent can technological innovation contribute to tackle the climate and energy crises? What is the role of energy justice vis-à-vis climate change? How can non-market interests be protected through economic regulation? What can we expect from competition law to protect environment and health? How does the use of artificial intelligence by state and private surveillance challenge human rights? What are the boundaries in the interaction between states and private actors regarding citizen surveillance? What is the role of data protection in facial recognition technologies?

Striving to bring together scholars and practitioners of various disciplines, we look forward to receiving your research contributions on legal, governance, and regulatory challenges presented by crises. To explore this topic, we welcome submissions on concrete types of innovation and technologies, as well as general observations on the regulation of and by innovation and technology in a world in crisis, through the intersection of law, technology and society.

Encompassing keynote addresses, plenary sessions, and panel presentations and discussions in a vibrant online atmosphere, the TILTING Perspectives 2021 conference features six tracks explained below: Energy and Climate Crisis, Competition and Market Regulation, Human Rights and Artificial Intelligence, Data Protection, IP Law, and an Open Track.

Technology for the Energy and Climate Crisis: Where the Twain Shall Meet

Climate change has been termed the “defining crisis of our time” by the United Nations (UN). Fourteen years ago, the International Energy Agency (IEA) warned of an ongoing energy crisis, which has been defined as a “significant bottleneck in the supply of energy resources to an economy” (Tvaronaciene and Slusarczyk, 2019). The interlinkages between the climate crisis and the energy crisis can hardly be denied, even if there may be debate about the precise meaning and scope of both terms. This track of *TILTING Perspectives 2021* focuses on how technology may contribute to the resolution of both crises, and how regulatory frameworks can facilitate the deployment of such technologies. Examples of technologies that are relevant are carbon-capture and storage, renewable energy generation technologies, and technologies that can be deemed ‘environmentally friendly’ technologies due to their reduced CO₂ impact. Simultaneously, the organizers invite participants’ contributions on energy supply security issues that are currently dealt with in the regulation of electricity, gas, as well as other vital sources of energy. With the decentralization of energy generation, through emergence of prosumers, it is becoming ever more important to ensure that technological breakdowns do not lead to micro-scale energy supply crisis. Further, it has been argued that the underlying digitalisation and introduction of smart grids come with significant vulnerability to cyber-attacks. So, the prosumer becomes basically one of the driving forces of the energy transition but also the Achilles heel with regard to energy supply security.

Whereas the organizers welcome all proposals that broadly fit within this theme, the following topics/questions may serve as inspiration:

- Is there a lack of coherence between energy (security) regulation and policies and regulation aimed at addressing climate change?
- Are certain regulatory approaches more conducive to facilitating such coherence between climate objectives and energy supply security?
- (How) can regulation stimulate technological innovation that contributes to the resolution of the climate and energy crises?
- Global targets and local opposition: how to ensure acceptance of environmentally friendly technologies by local communities?
- Citizen sensing: a method to uncover or illuminate other crises?
- What is the role of energy justice in managing /regulating the climate crisis?
- What is the role of state aid in managing the climate crisis?

For questions about possible presentations for this track, please contact Dr Saskia Lavrijssen and Dr Leonie Reins: s.a.c.m.lavrijssen@tilburguniversity.edu and l.s.reins@tilburguniversity.edu

Competition and Market Regulation in Times of Transformation

Transformations in our economy and society are challenging the way competition and markets are being regulated. The increasing digitisation of various industries raises questions about the adequacy of our current competition tools. How to define relevant markets when competition takes place in digital conglomerates and ecosystems beyond narrow markets for products or services? How to assess anticompetitive effects of practices in multi-sided markets where data, artificial intelligence and machine learning challenge our existing knowledge of how markets work? And how to deal with the power of platforms that act as regulators by determining the conditions under which business can reach consumers? The COVID-19 crisis has made these challenges even more visible. While smaller brick-and-mortar businesses are struggling to survive, the big techs have been thriving amid the pandemic, strengthening calls for regulation beyond the existing competition law framework. Due to the ongoing transformations, the current health and economic crisis also makes the need to reflect on the role of competition law to protect non-economic concerns more pressing. For instance, can any lessons be drawn from the measures taken during the COVID-19 crisis to relax competition rules to enable cooperation between businesses for other 'crises' involving the promotion of sustainability and tackling climate change? Will the increased focus on national interests during the COVID-19 crisis lead to a renewed debate on industrial policy and the growth of national champions? And is there a need for more proactive competition interventions to protect against exploitative behaviour, such as excessive pricing, which has been on the rise during the crisis?

The track invites participants to rethink the role of competition and market regulation against the background of the various transformations in our economy and society, also beyond the COVID-19 crisis. We welcome contributions and proposals reflecting from a legal or economic perspective on themes such as:

- Market definition for digital conglomerates and ecosystems
- Notions of market power beyond dominance: economic dependence, paramount significance across markets, significant market status, etc.
- Development of novel theories of harm, including discrimination of businesses and exploitation of consumers
- Desirability of additional regulation for significant or gatekeeping platforms
- Competition, industrial policy, and national champions
- Sustainability, climate change, and competition law
- Health and competition law: excessive pricing, price gouging, pay-for-delay, etc.
- Role of considerations of privacy, democracy, diversity, and innovation in merger review
- Need for changes in procedure and enforcement policy such as the introduction of an ex ante competition tool and the adoption of interim measures

*For questions about possible presentations for this track,
please contact Dr Inge Graef and Alex Ruiz Feases:
i.graef@tilburguniversity.edu and
a.v.ruizfeases@tilburguniversity.edu*

Human Rights and the Use of AI in Citizen Surveillance

Artificial Intelligence (AI) enhances the surveillance capabilities of law enforcement authorities (LEAs) and security and intelligence agencies (SIAs) on the one hand, and of private entities on the other. Live Facial Recognition technology used on drone cameras to detect and recognise individuals in real time is a recent example of the increasing use of AI for surveillance.

State surveillance has always been accepted as part of the exercise of state sovereignty. Law enforcement authorities and security and intelligence agencies have been systematically using analytics for predictive policing, risk profiling, and pre-emptive surveillance. However, advanced AI and machine- and deep learning algorithms enhance their surveillance capabilities and are used to capitalise on new technological possibilities for modelling, processing and exploiting large data sets in unique and unexplored ways, making determinations and predictions about (innocent) people, often without evidence of criminality. Besides, AI-based technologies are far from infallible. At the same time, private online companies have become crucial for the exercise of citizen surveillance. These 'surveillance capitalists' employ AI-based technologies in a similar way as the state in order to surveil citizens. In essence, state and private companies are two sides of the same coin that lead to phenomenal asymmetries of power. In addition, the boundaries between public and private entities are often blurry.

In this track, we want to explore how the use of AI for state and private surveillance purposes challenges human rights, including non-discrimination, privacy, freedom of speech, freedom of association. We intend to look into the current safeguards in human rights protection against such surveillance and explore the circumstances under which these safeguards fall short in addressing the challenges raised by AI. We welcome paper and panel proposals from scholars from various disciplines, including, but not limited to, law, STS, information and surveillance studies, etc.

*For questions about possible presentations for this track,
please contact Prof Dr Eleni Kosta and Irene Kamara:
e.kosta@tilburguniversity.edu and
i.kamara@tilburguniversity.edu*

Regulating Emerging Technologies: Governance Beyond Data Protection

The governance and regulation of emerging technologies faces new challenges with the increasing blurring of public with commercial interests. Technologies for digital identification and facial recognition pose regulatory problems by operating across the public-private boundary: commercially developed, they aim for application in both the public sector and commercial spheres. Other emerging players such as financial technology (fintech) and gig economy platforms create public problems of market instability, undermining rights and economic disruption, while remaining largely inscrutable to regulators and states. Furthermore, all these technologies evolve on a transnational scale, posing these problems of regulation and governance in multiple countries simultaneously and challenging regulators to respond with foresight and creativity. The transnational and opaque data infrastructures and architectures involved create the opportunity for forum-shopping and for platforms and large firms to make the case for self-regulation. Private regulation is proposed to answer many of these challenges: the transfer of regulatory tasks such as certification, inspection and monitoring to private actors, setting up the possibility of competition with regulators in setting and enforcing standards.

This track seeks to explore the implications of this evolving trans-sectoral and transnational regulatory landscape, how data protection and other forms of governance are developing to meet these challenges, and what new actors or approaches are needed. We welcome contributions that explore the gaps in traditional national regulatory practice being exposed by the new commercial regimes, which may be geographic, social or legal; new actors and roles in regulation; the emerging shape of transnational regulation, and its interactions with other forms of technology governance. We especially encourage authors to engage with viewpoints on governance beyond a data protection perspective, for instance by looking at the implications of a social justice approach, the inclusion of Global South perspectives, new roles for existing legal and regulatory tools, the relationship of ethics to regulation and governance, how to address the regulation of new technologies in relation to the (largely extra-legal) humanitarian domain, and geopolitical analyses of technology governance.

We particularly welcome papers and panel proposals relating to the three classes of application mentioned above: identification, facial recognition and fintech, though proposals will also be accepted on other relevant issues. Suggested topics include:

- Gaps in governance (missing red lines, under-scrutinised grey areas) in relation to (biometric) identification, facial recognition or financial technologies
- Unregulated, or under-regulated, intervention on marginalised, low-income or vulnerable populations and responses to this problem
- Resistance and contestation in relation to innovations in identification and fintech in different global contexts, and its effects on governance; additional framings for contestation beyond human rights
- The potential role and effectiveness of private regulation in governing digital identity systems, biometrics, fintech, and related technologies
- The construction of biometric imaginaries in different contexts, and theorising the socio-economic and cultural consequences of biometric use, particularly on vulnerable groups, in relation to governance and regulation
- Rights issues raised by use of digital identity systems in the delivery of governments services through public-private partnerships

For questions about possible presentations for this track, please contact Dr Linnet Taylor and Dr. Aaron Martin: L.E.M.Taylor@tilburguniversity.edu and A.K.Martin@tilburguniversity.edu

From IP law in crisis to IP law and crises, and back again

Intellectual property (IP) law has never been a stranger to tumult and turmoil, but lately we have been spoilt for choice in picking our battles. At present, IP law is beset with a spate of fresh upheavals that originate both from within the system as well as from without.

Regulatory and policy shifts that seek to respond to contemporary political, social and economic exigencies are leading to radical changes in the way IP rights are negotiated, litigated and enforced. For instance, within the EU, the introduction of the Copyright in the Digital Single Market Directive (2019) compels online service providers (OSPs) to assume a more proactive role in monitoring content shared on online platforms (Article 17) and introduces a new right for press publishers (Article 15). Meanwhile in patent law, the decades-long progress made in the pursuit of a unified patent has been put on shaky ground by the departure of the United Kingdom and the collective action case in Germany. Moreover, the emergence of disruptive technologies such as artificial intelligence (AI) challenges core concepts and rules (e.g. 'authorship', 'inventorship', 'originality') on which the IP law system is founded. The persistent tension between IP law and (other) fundamental rights is ever-increasing, especially as regards the right to privacy, freedom of expression and access to culture and education. The interface between IP law and competition law is also coming under greater scrutiny with growing calls for more fairness, openness and transparency. On top of all that, the COVID-19 pandemic has urged us to re-examine the role of IP law as an instrument for promoting public welfare and sustainable human development. It has also provided fresh impetus to arguments for a more 'inclusive' approach to IP protection; particularly in the context of pharmaceutical patents, the sharing of copyright protected content over remote-learning networks, and the sharing of data in the context of research and monitoring public health.

These are but a few examples of crises that highlight shortcomings and limitations of the current IP law framework and provide us a golden opportunity for re-modelling it in creative ways.

For this track, we welcome papers that explore the ways in which crises - both within and outside the legal framework - are both challenging and shaping IP law and discuss innovative solutions for resolving existing crises.

*For questions about possible presentations for this track,
please contact Dr Sunimal Mendis and Lisa van Dongen:
l.g.s.mendis@tilburguniversity.edu and l.vandongen@tilburguniversity.edu*

Open Track on Regulating in Times of Crisis

TILTING Perspectives 2021 is also open to receive proposals for symposia, panels, and workshops (activities should last 90 minutes) or paper suggestions on specific topics to be organized in the framework or on the margins of the conference with reflections outside the specific tracks on regulating in crisis under a broad umbrella of law, technology, markets, and society. For example, the proposals could include the following topics: explorations into techno-regulation, governing humanitarian crises, constitutional aspects of crises, healthcare regulation in (times of) crisis, academia in crisis and academia for crisis, etc.

*For questions about possible presentations for this track,
please contact Dr. Tineke Broer & Tjaša Petročnik:*

T.Broer_1@tilburguniversity.edu &

T.Petrocnik@tilburguniversity.edu



Call for papers

We welcome research papers, position papers, work-in-progress presentations and other academic contributions fitting the topic of the conference. We value multi- and inter-disciplinary approach highly, yet are also open to specialized papers on a relevant topic from a particular scientific discipline.

Abstracts are to be submitted into the conference system::
<https://easychair.org/conferences/?conf=tilting2021>

The deadline to submit paper abstracts for all tracks is extended until **1 February 2021**. The authors can expect the notification of acceptance of their abstract by **16 March 2021**. Although it is not mandatory to submit final papers, the deadline if applicable is **15 April 2021**.

General Further information

TILTING Perspectives 2021 is organized by Tilburg Institute for Law, Technology and Society (TILT). It is supported by the [Digital Legal Studies](#) research group. This collaboration between four Dutch universities – Tilburg University (lead), the University of Amsterdam, Radboud University Nijmegen and Maastricht University – explores how algorithms, data, automation and artificial intelligence affect our legal system and society. By joining forces and combining perspectives, the Digital Legal Studies initiative aims to be at the forefront of law and technology issues.

TILTING Perspectives 2021 will be held **entirely online**. For more information about the conference, please visit the conference website: www.tilburguniversity.edu/tilting-perspectives

Further questions can be addressed to the organizing committee at TILTING@tilburguniversity.edu.

Important dates

01 February 2021	Submission of paper abstracts
16 March 2021	Notification of acceptance
15 April 2021	Submission of papers (if applicable)

Conference fees

More information about the conference fee will follow.