ESIL Interest Group on International Law and Technology
Call for Papers - ESIL Annual Conference 2023

Is Fairness in Digital Governance a Trap?

Wednesday, 30 August 2023 or Thursday, 31 August 2023 (hybrid format)

Contemporary legal and policy discussions around the social and political implications of algorithmic decision-making and digital governance have increasingly revolved around an aspiration for 'fairness'. While this aspiration may seem at first sight to be a relevant ideal for both law and technology in digital governance, there are political and distributive implications at stake in taking fairness as a given, especially when left undertheorized. The language of fairness is used by a multiplicity of actors in global digital governance, and thus serves a wide variety of purposes, from the normalization and stabilization of problematic practices, to attempts at constraining them. This workshop will try to unpack the various facets and functions of the language of fairness - and adjacent ideals such as 'ethical,' 'transparent' or 'human-centric' digital technologies - in digital governance.

The language of fairness has taken on very different meanings with different stakes at hand in both *governance of technology* and *governance by technology*. If fairness is, in itself, a pluridimensional concept within the international law discipline, the epistemic disconnect between the different communities involved in digital governance may further translate in different characterizations and meanings attributed to the concept of 'fairness' which may or may not be reconcilable. In taking a critical view towards 'fairness' in discussions of international law and digital governance, we are interested in exploring those stakes in this workshop.

Centered on the question, *Is Fairness in Digital Governance a Trap?*, this workshop seeks papers that engage with the following themes and questions:

- What are the stakes in defining problems of digital governance in terms of fairness? Who gets to define what fairness is? And whose interests are overlooked in that process? Are there competing definitions of fairness in digital governance? If so, can they be reconciled?
- To what extent is the language of fairness overlooking issues of power, racism, gender, inequality, and violence in relation to global digital governance? Does algorithmic fairness perpetuate historical forms of discrimination and exclusion?
- How does the language of 'fairness' - or the aspiration for 'ethical' and 'human-centric' technology - intersect with or differ from how these concepts emerged in international legal theory and practice? Which jurisprudential debates or critical moves resurface in its invocation or contestation?
- What are the possibilities and limits for contestation of algorithmic fairness, by legal means or otherwise? To what extent can the language of fairness be seen to displace or erode regulatory approaches based on (fundamental) rights and entitlements?
- Can fairness be used as an emancipatory vocabulary for decolonizing digital technologies and their use in practices of global governance? Could the language of 'fairness' be appropriated for redistributive ends that destabilize practices of digital surveillance and value extraction, rather than institutionalizing and reinforcing them?
- What distributive effects are at stake when considering questions of fairness in global digital governance?
- Does fairness challenge or leave unquestioned the current legal configurations of informational capitalism?
- Can historical aspirations towards fairness in international law be translated into contemporary and future aspirations of fairness achievable through technology? What are the continuities and discontinuities in this process of translation? What does this reveal about the relationship between the future of international law and increased digitalization?
- Has fairness become a justificatory force or rationality for the further development of digital technologies? Should fairness be thought of as a negative right, or a right to be free from, or invisible to, technological developments such as artificial intelligence, facial recognition, and algorithmic decision-making processes?
- What methodological and/or interdisciplinary tools can help analyze the dynamics and problems of power, exclusion, and violence in relation to algorithmic fairness in the international legal context?

Time and Location

Date: Wednesday 30 August 2023 **or** Thursday 31 August 2023
Time: TBC
Place: Aix-en-Provence
Format: Hybrid
We aim to organise the presentation and discussion of the selected papers via a format to be collectively agreed by the selected participants. At the end of the workshop, we will have a networking meeting with IG members.

Call for Papers

The aim of the Workshop is to foster an interdisciplinary exchange with leading experts from diverse academic disciplines and communities of practice. The IG co-convenors will take the decision of acceptance and the applicants will be informed at the end of April 2023. There might be a possibility for participants in the Workshop to publish their papers as part of a symposium for an online journal.

Guidelines

ESIL selection criteria:
- · Originality
- · Relevance to the theme; and
- · Diversity criteria

How to submit:
- · Abstract (max. 300 words) in PDF format
- · Submission deadline: **15 March 2023**
- · Decision announced: **end of April 2023**
- · Abstracts and/or any queries about this call should be sent to ESILIG.Technology@gmail.com

Your convenors:

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Rebecca Mignot-Mahdavi,
Barrie Sander,
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Important Information

The Interest Group is unable to provide funding for travel and accommodation. Selected speakers will be expected to bear the costs of their own travel and accommodation. Some ESIL travel grants and ESIL carers' grants will be available to offer partial financial support to speakers who have exhausted other potential sources of funding.

Please see the ESIL website for all relevant information about the conference.

All participants at ESIL Interest Group workshops are required to register for the Annual Conference. There will be an option to register just to attend the IG workshops; however, all participants are warmly invited to attend the entire event.
Selected speakers should indicate their interest in being considered for the ESIL Young Scholar Prize, if they meet the eligibility conditions as stated on the ESIL website. The ESIL Secretariat must be informed of all selected speakers who wish to be considered for the Prize before 30 April.