1. Foreword

authors: TILTing 2024 editorial team

The 8th edition of the TILTing Perspectives Conference took place over three days in July 2024, with the theme "Looking back, moving forward: Re-assessing technology regulation in digitalized worlds". The conference was organized by a team of academics (TILTies) at the Tilburg Institute for Law, Technology, and Society (TILT) comprising Sunimal Mendis as academic lead, Friso Bostoen as co-academic lead and six Track Leaders. Aviva de Groot led Track A (*AI as a Knowledge-making Power in the Majority Worlds*) and the Deep-Dive Panel on Teaching about AI and Society. Gijs van Maanen led Track B (*Problematizing 'Data Governance'*) and Brenda Espinosa Apráez led Track C (*Regulation and Innovation in Digital Markets*). Track D (*Regulating Sectors in Transition: Energy, Finance & Health*) was led by Max Baumgart and Track E (*AI and Data Protection*) by Marco Bassini. Shweta Degalahal was the leader of Track F (*The Evolving Cybersecurity Landscape and Regulatory Approaches in Cybersecurity*).

As the conference coincided with the 30th anniversary of TILT, we considered this a fitting moment to take stock of decades of technology regulation and how it impacts our lives and the digitalized worlds around us. We specifically aimed to explore the following questions as part of our mission to "look back, move forward":

> *What has been accomplished? By whom? And where? What is missing? Who is missing? What can we say about the relations between technology-focused regulation and other regulatory foci and modes of standard-setting?*We approached these questions from a multi-disciplinary perspective, which led us along diverse paths of inquiry that shaped the conference. The three research clusters at TILT, i.e., governance & regulation, human rights & technology, and competition & innovation, helped structure this inquiry:

In the realm of governance & regulation, we invited contributions investigating the ways in which different forms of technology regulation are being designed, critiqued, promoted, exported and rejected, as well as the implications for standing and agency with regard to technology as a regulatory power. What kinds of *knowledges* are important to consider when regulating technology? And for what kinds of problems is it really helpful to take data as the 'regulatory target'?

At the intersection of human rights & technology, we explored how perceived challenges to a wide range of fundamental rights raise questions about the adequacy of both existing and emerging legal frameworks such as treaty law and national constitutions, the EU AI Act [2024], the EU General Data Protection Regulation [2016], cybersecurity laws, and other data-related regulations.

With regard to competition & innovation, we focused on the regulatory challenges posed by ongoing social and technological transformations in key sectors such as energy, finance and healthcare, as well as the challenges of regulating competition and intellectual property rights in an increasingly digitalized world.

During the conference, we hosted 45 academic sessions, including paper presentations, panel discussions, workshops and deep-dive sessions. The conference contributions were selected following a peer review process. In addition, three expert keynotes were delivered by Dr. Filomena Chirico (European Commission – DG Connect), Prof. Ian Walden (Queen Mary University of London) and Dr. Maya Indira Ganesh (University of Cambridge).

We are confident that the 8th edition of TILTing Perspectives will live on in the minds of the 200+ attendees of the conference. The engaging presentations, eminent keynotes, critical discussions, and idea-sparking conversations will surely find their way into law & technology scholarship over the years. As a more tangible artefact, we have compiled this special issue, which brings together papers presented during the conference. Each article has its proper scientific value, which we will introduce below. The articles give an insight into the variety, rigor and originality of the debate at TILTing. We hope you enjoy reading them as much as we did.

In the first article, **De Jonge** and **Zuiderveen Borgesius** analyze an advisory decision from the Netherlands Institute for Human Rights concerning a Dutch dating app called *'Breeze'*. The Institute found that the matching algorithm of this app was indirectly discriminating against users with darker skin tones. As a result, the app's creators were urged to adapt the algorithm to prevent discrimination. A key strength of this contribution lies in its interdisciplinary approach, which combines legal research with insights from computer science. In addition to analyzing the *'Breeze'* case through the lens of anti-discrimination law, the authors also examine the legal and technical feasibility of various approaches proposed to measure and mitigate discrimination in algorithmically driven recommender systems. They conclude that measuring and correcting discrimination in such systems remains challenging, due to a lack of statistical information, differing fairness metrics, and legal restrictions that limit the use of sensitive data.

Moving on to the next article, **Pham** and **Joubert** offer a timely and thorough exploration of how generative AI (GenAI) poses new threats to Indigenous Knowledge, particularly that of Vietnam's ethnic minorities. The authors commendably bridge international legal frameworks and local Vietnamese contexts to propose regulatory solutions grounded in cultural and legal realism. The paper's strengths lie in its detailed explanation of how GenAI models amplify existing biases and misinformation, and its comparison of global approaches (e.g., UNESCO, EU AI Act, Australia's IP proposals) to safeguarding Indigenous Knowledge. The discussion is well-supported, especially in articulating why Vietnam needs to tailor these international principles to suit its cultural and socio-economic fabric. The proposals made by the authors are pragmatic and forward-looking. Especially the call for AI-specific legislation that respects Vietnam's cultural pluralism while supporting technological innovation.

This is followed by an insightful contribution by **Breemen** and **Breemen** who apply a law & humanities perspective to develop a conceptual framework for values-by-design regulation — based on the 'Slow Archives' — approach for culturally sensitive, organization and management. This paper presents timely and insightful proposals aimed at enabling GLAM institutions to optimize AI's potential to unlock the value of cultural heritage content in a manner that safeguards their core-values of access, stewardship, self-determination, representation, participation, fairness and trust. In doing so the paper attempts to reconcile the existing conflict between dominant values inherent in technologies and dominant values in the preservation and management of cultural heritage.

The next contribution by **Benton** investigates whether algorithms designed to maximize user engagement can undermine the moral foundations of a just society. Benton argues that they can—and do. She starts from Rawlsian theory, which requires that citizens form bonds with others who do not share the same moral and political views. In digital environments, however, citizens are constantly exposed to extremist, hateful, violent, discriminatory and false content. Such content is harmful because it causes distrust and resentment between groups that are not like-minded, thus destabilizing liberal democracies from within. Benton acknowledges that resentment and distrust, along with epistemic bubbles, echo chambers, fake news and conspiracism, have existed for a long time, but argues that AI-based business models amplify these dynamics. As a result, Rawlsian justice becomes an (even more) distant prospect.

In a timely and relevant contribution, **Fiorinelli** and **Zucca** examine the measures taken to combat cybercrime and cyberattacks and advocate for enhanced cybersecurity through the comprehensive integration of ICT technology frameworks. The authors focus on preventing the malicious use of generative AI in cybercrime and cyberattacks. They assert that democratization of generative AI has contributed to the democratization of crime and argue that currently cybercrime legislations and the AI act fail to adequately cover this emerging

threat. Drawing on regulatory models commonly used in cybercrime legislation, the authors explore how the criminal misuse of AI can be addressed.

Benhammou's paper focuses on understanding how users' interactions with generative AI influence the shaping of societal knowledge and trust. This perceptive contribution is grounded in the impact of model hallucinations, performance variability and model collapse of large language models on the spread of misinformation and disinformation. With the aim of exploring AI misalignment, the paper extends the existing literature, which typically focuses on the divergence between system designers' intentions and AI outcomes, by exploring user - induced misalignment. In doing so, it highlights a critical but under explored dimension of AI alignment i.e., the role of the end user in directing and potentially distorting the information produced by these technologies.

In the next paper, **Tracol** delves into a thorough comparative analysis of the use of facial recognition technologies by law enforcement authorities in the US and the EU. Despite their widespread adoption, these technologies raise significant concerns regarding accuracy, bias, privacy, and other fundamental rights. Tracol distinguishes between retrospective (post-remote) and live (real-time) FRTs, emphasizing the particularly intrusive nature of the latter. The article also stresses the divergent responses of the relevant jurisdictions: while numerous U.S. cities and states have adopted bans in response to civil liberties concerns, the EU has implemented a partial ban under the AI Act, mitigated by significant exceptions. Tracol underscores the threats of mass surveillance and the limits of judicial oversight, illustrated by cases such as *Glukhin v. Russia*, as well as a common lack of transparency and legal certainty in the relevant jurisdictions. He advocates for stronger international cooperation and regulatory convergence, urging lawmakers to place fundamental rights at the forefront as facial recognition technologies continue to evolve.

Last but by no means least, **Kutscher**'s article contextualizes the EU Artificial Intelligence Act within an already densely populated "regulatory space" shaped by a range of actors, instruments, and power structures. She critically examines how the AI Act interacts with existing EU law, soft law, and private governance mechanisms. The article identifies not only formal legal powers (e.g., enforcement and investigatory powers) but also extra-legal capacities (e.g., expertise, legitimacy, financial resources) that may influence the effectiveness of AI regulation. The author highlights the inherent fragmentation of authority and captures the emergent dynamics between traditional actors (such as EU institutions and Member States) and new actors introduced by the AI Act (such as national supervisory bodies and standardization organizations), warning of possible unintended consequences (such as regulatory overlaps, forum shopping, and legitimacy gaps).

The contributions incorporated in this special issue offer thought-provoking ideas and insights that can shape the design and implementation of future legal and policy strategies in technological regulation in the digital age. In doing so, they invite us to "look back" to reflect upon and learn from our past successes and failures and to "move forward" towards a more just and equitable age of technology regulation.

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