# Aileen Nielsen

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# **CURRENT POSITION**

Visiting Assistant Professor of Law, Harvard Law School

Law and Human Attention

• Torts (4 credits, 80 students)	Spring 2024, Spring 2025, Fall 2025
<ul> <li>Privacy Law (4 credits, 50 students)</li> </ul>	Fall 2024, Fall 2025, Spring 2026
• Law and AI writing group (1 credit, 6 students)	Spring 2025, Spring 2026
• Reading groups (1 credit, 12 students)	
<ul> <li>Information Economics with Legal Applications</li> </ul>	Spring 2025

# Spring 2026

# **EDUCATION**

ETH Zurich, Center for Law and Economics, Ph.D.	2025
Columbia University, M.S. Applied Physics (A.B.D.)	2014
Yale Law School, J.D.	2011
University of Chicago, M.A. Comparative Human Development	2008
Princeton University, A.B. Anthropology	2005

## **TEACHING AND RESEARCH INTERESTS**

Torts, Contracts, Privacy Law, Artificial Intelligence, Empirical Legal Studies, Law and Economics Primary Property, Consumer Protection, Advertising Law, Commercial Law, Bankruptcy, Insurance Law Secondary

# **LAW REVIEW PUBLICATIONS**

Can AI, As Such, Invade Your Privacy? An Experimental Study of the Social Element of Surveillance, 100 IND. L. J. 1671 (2025).

*Too Accurate A.I.*, 2024 MICHIGAN STATE L. REV. 425 (2025).

Privacy Notice and the Blame Game, 28 VIRGINIA J. L. & TECH. 1 (2025) (with Yafit Lev-Aretz).

Privacy as a Matter of Public Health, 26 COLUMBIA SCI. & TECH. L. REV. 107 (2025) (with Yafit Lev-Aretz).

Whose Data, Whose Value? Simple Exercises in Data and Modeling Valuation with Implications for Tech Law and Policy, 99 N.Y.U. L. REV. ONLINE (2024).

Taboo and Technology: Experimental Studies of Data Protection Reform, 26 N.Y.U. J. LEGIS. & PUB. POL'Y 349 (2024).

The Rights and Wrongs of Folk Beliefs About Speech: Implications for Content Moderation, 27 UCLA J.L. & Tech. 118 (2022).

# REFEREED PUBLICATIONS

AI's Categorical Fairness, Am. J. L. & EQUALITY (forthcoming 2025).

Algorithms in the Privacy Torts, J. TORT L. (forthcoming 2025).

Building a Better Lawyer: Experimental Evidence that AI Can Increase Legal Work Efficiency, J. EMPIRICAL LEGAL STUDIES (2024) (with Stavroula Skylaki, Milda Norkute & Alexander Stremitzer).

Can cities shape future tech regulation?, 1 NATURE CITIES 10 (2024).

When Does Physician Use of AI Increase Liability?, 62 J. NUCLEAR MED. 17-21 (2021) (with Kevin Tobia and Alexander Stremitzer).

# **BOOKS**

PRACTICAL FAIRNESS: BUILDING FAIR AND SECURE DATA MODELS (O'Reilly Media, 2020).

PRACTICAL TIME SERIES ANALYSIS: PREDICTION WITH STATISTICS AND MACHINE LEARNING (O'Reilly Media, 2019).

# **COMPUTER SCIENCE CONFERENCE PUBLICATIONS**

Invisible Inequities: Confronting Age-Based Discrimination in Machine Learning Research and Applications, International Conference on Machine Learning, Workshop on Generative AI and Law (2024) (with Arna Woemmel).

Effects of XAI on Legal Process (ICAIL '23: Proceedings of the Nineteenth International Conference on Artificial Intelligence and Law, 2023) (with Stavroula Skylaki, Milda Norkute & Alexander Stremitzer).

Measuring Lay Reactions to Personal Data Markets (AIES '21: Proceedings of the AAAI/ACM Conference on AI, Ethics, and Society, 2021).

Do Markets Make Sense for Personal Data?, International Conference on Machine Learning, Workshop on Economics of Privacy and Data Labor (2020).

# REPORTS AND BOOK CHAPTERS

Fairness and Privacy, in Reliable Machine Learning, (O'Reilly Media, 2022).

TECH HAS AN ATTENTION PROBLEM, (UC Berkeley Center for Long-Term Cybersecurity white paper series, 2021).

#### **CURRENT PROJECTS**

(drafts available upon request)

# 1. AI-Law Interfaces (job market paper)

(lead author, with Chelse Swoopes and Elena Glassman)

- 2. Limits and Possibilities of Legal LLM Evaluation
- 3. *Privacy Agents* (lead author, with Yafit Lev-Aretz)
- 4. AI-Protected Groups
- 5. Private, Reproducible Social Science Toolkit (PRESTO) (co-lead author, with Sarah Scheffler and Doron Cohen)
- 6. Compliance Effort

(lead author, with Karel Kubiček and Elias Datler)

7. How Following Medical AI Advice Can Mitigate Malpractice Liability (with Alessandro Tacconelli, Jakob Merane, Kevin Tobia, Björn Hackanson, and Alexander Stremitzer)

# **ACADEMIC APPOINTMENTS**

Harvard Law School Visiting Assistant Professor of Law	2023 - 2026
Stanford Law School Visiting Scholar in Law and Economics	May 2022
New York University School of Law, Information Law Institute Affiliate	2022 - 2023
ETH Zurich Fellow, Research Affiliate	2019 - present

#### **LEGAL EXPERIENCE**

Volunteer Attorney, New York Clemency Project	2019 - 2021
Volunteer Attorney, Federal Clemency Project	2015 - 2016
Summer Associate and Associate, Cleary, Gottlieb, Steen, and Hamilton	2010, 2011
Summer Law Clerk, Federal Reserve Bank of New York	Summer 2009

#### **INVITED PRESENTATIONS**

2025 (past and prospective): Harvard Private Law Workshop, Boston University Law and Economics Workshop, Law and Technology Workshop (online), Consumer Law Scholars Conference (CLSC, BU), CS + Law Roundtable (University of Pennsylvania), Tech Policy Hub Speaker Series (University of Maryland), BKC Faculty Reading Group (Harvard Berkman Klein Center), Privacy Law Scholars Conference (UCLA), The Fletcher School Cybersecurity Workshop (Tufts), Northwestern Pritzker School of Law (virtual class lecture), Suffolk Law School (class lecture)

2024: Harvard Law and Economics Workshop, ACM Symposium on Law and Computer Science (BU), CS + Law Roundtable (University of Pennsylvania), Workshop on Security and Human Behavior (Harvard), Program on Economics of Privacy Research Roundtable (GMU), Conference on Empirical Legal Studies (Emory), Berkman Klein Center Q&A on Privacy and AI (Harvard), UNC School of Law (virtual class lecture)

2023: Michigan Law and Economics Workshop, Conference on Empirical Legal Studies (CELS) (UChicago), Max Planck Institute for Research on Collective Goods (Bonn), American Law and Economics Association (ALEA) Annual Meeting (BU), Conference on Law and Data Science (Fordham), Cornell Digital Life Initiative (DLI), Consumer Law Scholars' Conference (Berkeley), Workshop on Empirical Methods in Intellectual Property (WEMIP) (Duke), Workshop on Large Language Models (NYU), Harvard FinTech-JOLT Seminar on Regulatory Challenges for Privacy and AI, Privacy Law Scholars Conference (PLSC)

2022: American Law and Economics Association (ALEA) Annual Meeting, Experimental Methods in Legal Scholarship Conference (EMLS), UCLA School of Law ITLP-JOLT Symposium, Commission nationale de l'informatique et des libertés (CNIL, France) Privacy Day, Seton Hall University Conference on Antitrust and Big Tech, Mapping Law, Business & Behavior Online (MLBBO): An Empirical Perspective (NYU), Max Planck Institute for Research on Collective Goods (Bonn), Privacy Law Scholars Conference (PLSC)

2021: American Law and Economics Association (ALEA) Annual Meeting, UC Berkeley Center for Long-Term Cybersecurity Workshop on Approaches to Data Protection Law, Georgetown University Law Center Workshop on Law and Economics, George Mason Law School Seminar on Law and Economics, AAAI/ACM Conference on AI, Ethics, and Society (poster), Law and Society Annual Meeting, Privacy Law Scholars Conference (PLSC), KDD Workshop on Understanding Public Perception for Applied Data Science, European Association for Law and Economics (EALE) Annual Meeting

2020: European Association for Law and Economics (EALE) Annual Meeting, Privacy Law Scholars Conference (PLSC), Thirty-seventh International Conference on Machine Learning Workshop on Economics of Privacy and Data Labor (ICML), Internet Law Works in Progress, DIMACS Workshop on Co-Development of Computing and Law (ACM), Berkeley Center for Long-Term Cybersecurity (CLTC)

#### ADDITIONAL LEGAL TEACHING EXPERIENCE

1. Fairness and Algorithms, ETH Zurich

2 credits

Co-instructor with Prof. Alexander Stremitzer (Fall 2021, Spring 2023, Spring 2025)

2. Law and Technology, ETH Zurich

3 credits

Co-instructor with Prof. Alexander Stremitzer and Jakob Merane (Fall 2019, Fall 2020, Fall 2021, Fall 2022)

3. Supervised Research in Law and Technology, ETH Zurich

2 credits

Co-instructor with Prof. Alexander Stremitzer (Spring 2021, Spring 2022, Spring 2023)

4. Multi-disciplinary Approaches to Authentication and Security, ETH Zurich

2 credits

Co-instructor with Prof. Alexander Stremitzer (Fall 2020)

5. Contracts, Yale Law School

Coker Teaching Fellow for Prof. Richard Brooks (Fall 2010)

#### **ADDITIONAL EXPERIENCE**

Skillman Analytics LLC, 2017 - 2023 Hillary Clinton Presidential Campaign, Fall 2016 One Drop Mobile Health, 2015 - 2017

#### PROFESSIONAL MEMBERSHIP AND ASSOCIATIONS

New York Bar, 2012 - Present NYC Bar Association, 2014 - 2021 American Law & Economics Association, 2019 - present

#### **SERVICE**

#### Legal

- Workshop co-organizer: The Battle for Our Attention: Empirical, Philosophical and Legal Questions (Northeastern University School of Law)
- Ad hoc referee: Columbia Law Review, Yale Law Journal, Journal of Law and the Biosciences
- Chair, NYC Bar Association Science and Law Committee, 2017 2020
   Member, Science and Law Committee, 2014 2020
- Volunteer Attorney, Federal Clemency Project, 2015 2016
   Reviewed four cases; secured a grant of clemency for one client

#### **Technical**

- Ad hoc referee: Nature Communications, PLOS One, Journal of the Association for Information Science and Technology, Nature Cities
- Conference Committees: ACM Conference on Fairness, Accountability, and Transparency (2025), NeurIPS SoLaR workshop (2023, 2024), ETH/Reg Horizon AI Policy Conference (2021), MLLD 2021: Second International Workshop on Mining and Learning in the Legal Domain, SciPy program committee (2016 - 2021),
- Technical reviewer: Hands on Differential Privacy (2023), Machine Learning for High Risk Applications (2023)

# **ANNOTATED RESEARCH PROJECTS**

#### Job Market Paper

[1] AI-Law Interfaces (with Chelse Swoopes and Elena Glassman)

Legal AI systems can harm the procedural and substantive integrity of law if we do not design legal AI tools carefully. This work demonstrates the perils and power of interfaces as a key dimension for preventing uncritical uses of AI and for empowering human users of AI to ensure high quality work.

#### **Published Work**

[2] Aileen Nielsen, Can AI, As Such, Invade Your Privacy? An Experimental Study of the Social Element of Surveillance, 100 Indiana L. J. 1671 (2025).

This Article uses a vignette-based survey of a nationally representative sample (N = 1000) to examine how people perceive AI versus human surveillance. While AI is seen as more privacy preserving, accuracy often matters more to respondents, suggesting that legal standards of privacy might also consider reasonable expectations of accuracy.

[3] Aileen Nielsen, Too Accurate A.I., 2024 MICHIGAN STATE L. REV. 425 (2025).

This Article lays out the case that even highly accurate AI systems can cause serious individual and societal harms. It shows how current U.S. policy overlooks these "accuracy harms" and proposes a causal taxonomy to inform future legislative and enforcement activities.

[4] Aileen Nielsen, AI's Categorical Fairness, AM. J. L. & EQUALITY (forthcoming 2025).

This Article examines the AI fairness movement's unexamined reliance on U.S. antidiscrimination law as a normative and technical foundation. The work identifies three related gaps in the fairness literature and proposes a research agenda to broaden the movement's scope.

[5] Aileen Nielsen, Algorithms in the Privacy Torts, J. TORT L. (forthcoming 2025).

This Article examines how courts apply traditional privacy tort doctrines in consumer privacy litigation. A review of case law suggests that courts treat algorithms as capable of acting but are hesitant to treat algorithms as seeing.

[6] Yafit Lev-Aretz & Aileen Nielsen, *Privacy Notice and the Blame Game*, 28 VIRGINIA J. L. & TECH. 1 (2025).

This Article builds on existing critiques of the U.S. notice-and-choice privacy framework with an empirical demonstration that consumers under the notice-and-choice framework are blamed for poor privacy outcomes even though they are acknowledged not to be able to avoid those outcomes. Notice-

and-choice isn't merely ineffective for consumers but can create a harmful dynamic of moral blame that may leave consumer advocates less likely to pursue privacy reform.

[7] Yafit Lev-Aretz & Aileen Nielsen, *Privacy as a Matter of Public Health*, 26 COLUMBIA SCI. & TECH. L. REV. 107 (2025).

This Article argues that privacy harms resemble past public health crises like tobacco and opioids, where structural forces and personal responsibility narratives undermined public welfare. Reframing privacy as a public health issue reveals how preventative regulation and norm change could better address systemic risks than a focus on individual choice.

[8] Aileen Nielsen, Whose Data, Whose Value? Simple Exercises in Data and Modeling Valuation with Implications for Tech Law and Policy, 99 N.Y.U. L. Rev. Online (2024).

With a review of industry literature and some simple computational exercises, this Article provides demonstrations of heterogeneity in both data subject value and data processor value in the production of data-driven algorithms. Some data subjects and some data processors add far more value than others; some can even add negative value. Law and policy for privacy, competition, and innovation should reflect this substantial data and modeling skill heterogeneity.

[9] Aileen Nielsen, *Taboo and Technology: Experimental Studies of Data Protection Reform, 26* N.Y.U. J. LEGIS. & PUB. POL'Y 349 (2024).

Data commodification has proven a highly contentious practice, even decades after it became an important economic activity for funding digital infrastructure. This work addresses that contentiousness, with a series of data pricing exercises. These data pricing exercises show that research participants often prefer not to price data, which raises a novel interpretive dimension for economic studies of consumer privacy preferences.

[10] Aileen Nielsen, Stavroula Skylaki, Milda Norkute & Alexander Stremitzer, *Building a Better Lawyer: Experimental Evidence that AI Can Increase Legal Work Efficiency*, J. EMPIRICAL LEGAL STUDIES (2024).

This Article reports results from an experiment with law students (N = 206) showing that AI-generated highlighting significantly improved the speed of legal task completion—by 30%—without reducing quality. Some but not all forms of AI assistance can meaningfully enhance legal work, underscoring the importance of tailoring AI tools and carefully considering the presentation of AI outputs.

[11] Aileen Nielsen, Can cities shape future tech regulation? 1 NATURE CITIES 10 (2024).

This Article examines how U.S. cities are stepping into the regulatory void on emerging consumer technologies by developing pragmatic, incremental policies in their historical domains of expertise.

[12] Aileen Nielsen & Arna Woemmel, Invisible Inequities: Confronting Age-Based Discrimination in Machine Learning Research and Applications, International Conference on Machine Learning, Workshop on Generative AI and Law (2024).

This Article highlights the overlooked issue of age-based discrimination in machine learning practice and scholarship. The work documents the marginalization of age as a protected category in ML research and calls on researchers, legal scholars, and industry to proactively address this gap.

[13] Aileen Nielsen, Stavroula Skylaki, Milda Norkute & Alexander Stremitzer, Effects of XAI on Legal Process (ICAIL '23: Proceedings of the Nineteenth International Conference on Artificial Intelligence and Law, 2023).

Despite growing interest in explainable AI (XAI), little experimental work has examined its impact on human-AI cooperation in legal tasks. This study finds that while XAI highlighting does not change how much time participants spend on different document sections, it may subtly alter reading patterns. These results show the importance of measuring process as well as outcomes when studying use of legal AI tools.

[14] Aileen Nielsen, The Rights and Wrongs of Folk Beliefs About Speech: Implications for Content Moderation, 27 UCLA J.L. & TECH. 118 (2022).

This Article presents experimental evidence as to how lay people's mistaken beliefs about the scope of First Amendment protections could affect political support for content moderation. An online experiment showed a high prevalence of beliefs that First Amendment protections could be exercised against private actors and a backfire effect, in which correcting these mistakes reduced support for content moderation. The politics of content moderation policy may be driven in part by the electorate's misunderstanding of the scope of their constitutional rights.

[15] Kevin Tobia, Aileen Nielsen & Alexander Stremitzer, *When Does Physician Use of AI Increase Liability?*, 62 J. NUCLEAR MED. 17-21 (2021).

This Article reports results from an experiment with 2,000 U.S. adults examining how laypeople assess physician liability when doctors follow or reject AI-generated medical advice. The findings suggest that tort law is unlikely to discourage the use of AI in precision medicine and may even create incentives for its adoption.

#### **Working Papers**

[16] Aileen Nielsen & Yafit Lev-Aretz, Privacy Agents

This work studies ongoing state legal reform that has brought about the unheralded legal recognition of privacy agents, software tools that transmit user privacy preferences. With a one-week field study, we find high levels of uptake and retention of these tools, in contrast to prior consumer trends identified in the privacy paradox literature. The results raise questions about the relationship between autonomy and automation but also suggest the need for additional state regulation.

# [17] Aileen Nielsen, Limits and Possibilities of Legal LLM Evaluation

This work reviews recent empirical studies of LLM performance on legal tasks, identifying and testing methodological assumptions implicit in current legal LLM benchmarking practices. The work concludes in suggesting refinements to current procedural and statistical practices to enhance the reliability of legal LLM benchmarking studies.

# [18] AI-Protected Groups

New state-based regulations of AI and of AI-related domains reflects a significant trend: the expansion of antidiscrimination-like protections to new domains and to newly designated protected groups. This work documents the scope of this phenomenon and looks to account for the political economy of newly emerging AI-specific protections.

## [19] Private, Reproducible Social Science Toolkit (PRESTO) (with Sarah Scheffler and Doron Cohen)

Social science research in sensitive domains is often constrained by the difficulty of ensuring participant privacy and data security. We propose to design and evaluate a research tool that preserves privacy even from the researchers themselves, enabling more accurate and ethically sound empirical studies of sensitive phenomena. This tool can be deployed widely, including for empirical legal studies, as in the study of proprietary assets or of unlawful conduct.

#### [20] Compliance Effort (with Karel Kubicek and Elias Datler)

Despite the growing urgency to regulate digital technologies, lawmakers face major challenges translating legal mandates into computer code—particularly in the domain of information privacy. This study analyzes how the open-source software (OSS) community responded to the EU's GDPR by combining qualitative review of 2,000 hand-coded samples with quantitative analysis of 165 million GitHub communications. The findings reveal that compliance often began late, addressed vague or generalized concerns, and rarely tackled complex legal requirements—offering policymakers a more independent and transparent view of how law shapes software.

# **REFERENCES**

# John Goldberg

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# **Matthew Kugler**

Professor of Law Northwestern School of Law matthew.kugler@law.northwestern.edu

# Florencia Marotta-Wurgler

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#### **Cass Sunstein**

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#### Jonathan Zittrain

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