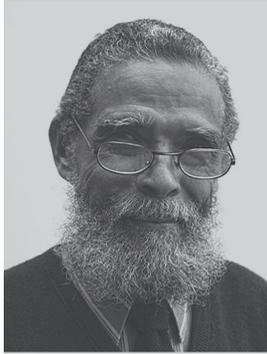


學術對談

## 個人數據保護、隱私和監控

對談人：奧斯卡·甘迪、徐洛文

翻譯：徐來、張曉、張天博



奧斯卡·甘迪教授  
(Prof. Oscar Gandy)

「我會建議我們接下來需要解決的是如何將我們的關注從資訊的收集和處理上轉移開來，將更多的關注轉向資訊的使用。這裡我要說的是，隱私和監控都不會繼續像之前一樣成為關注的焦點，取而代之的焦點將是資訊的不當使用，回歸到哈貝馬斯和傳播的目的——啟蒙，而非操控或策略性干預。」

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Dialogue

## On Personal Data Protection, Privacy and Surveillance

Discussants: Oscar GANDY, Lokman TSUI

Translators: Lai XU, Xiao ZHANG, Tianbo ZHANG

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### Abstract

Professor Emeritus Oscar Gandy, a scholar who has published leading research on an impressive and wide range of topics, including amongst others, race and identity, media and news framing, new and digital technologies, reflects in this article on his body of work that analyzed the political economy of privacy and warned us for the dangers of not only state but also corporate surveillance. More than two decades later, in the wake of the Snowden revelations, his research has turned out to be eerily visionary. Professor Gandy shares his critical yet constructive views on the current state of surveillance, privacy and personal data protection, what we can and cannot do to protect ourselves, and what role policy makers and scholars can and should play to safeguards our rights.

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## 奧斯卡·甘迪教授簡介

奧斯卡·甘迪教授為賓夕凡尼亞大學安尼伯格傳播學院榮休教授。甘迪教授於1976年取得斯坦福大學公共事務傳播博士學位。1977至1987年間，甘迪於霍華德大學先後任職傳播學助理教授及副教授。甘迪於1987年加入安尼伯格，並在此任教直至2006年4月末(春季學期)退休。甘迪教授是資訊政治經濟學領域的學者，其著作涵蓋包括隱私、種族、資訊科技、媒介框架與媒介發展在內的多項議題。

OG：奧斯卡·甘迪

LT：徐洛文

**LT:** 在您看來，自您的著作《全景敞視分類》(*The Panoptic Sort*)問世二十多年以來，在隱私與監控議題上最為貼切或重要的發展是甚麼？

**OG:** 最重要的發展，莫過於建立在「交易生成資訊」(transaction-generated-information，簡稱TGI)基礎上的資訊採集、處理、分享及行動相關技術的進步。這當然也涵蓋了我們可以加以利用的TGI數據的大量增長，這些數據包括我們在數字環境中與周遭人、事、物互動所留下的痕跡與紀錄，並在行為情報工作中被收集與處理出來。

儘管我們當下聚焦於企業、政府的大量(甚或說是海量)數據上，但對未來可能發生的情形卻幾乎一無所知——幾乎是每一次的人機互動、每一次傳感器環境中的相互行為，都會使得相關資訊成為一些行為主體(管他是人還是物)相關決策的重要輔助數據。到那時，這種網絡數據(internet of things)將異軍突起為一種新的、重要的數據來源，用以揭示社會管控或自治的涵義。這種通過輔助設備、或借助自動/自主設備/系統去捕捉、「理解」TGI數據的力量變革，在關乎隱私和監控的議題上為我們敲響了警鐘，而我們，卻仍未做好準備去正視它。

這裡之所以提及自主智慧(autonomous intelligence)，是因為我希望能夠將人類以外的行為主體角色列入我們探討的範疇。未

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來，無需我們知曉及認可的「決策」將在數量與種類上出現激增，最終導致法律體系過時。尤其在問題出現時，甚至無法判斷到底應由誰來負責。當然，這也涵蓋了相關考量，即在何種程度可將目標設定與問題確認轉移、或歸結到自主智慧系統上。

**LT:** 在《全景敞視分類》一書序文中，您提出隱私將是1990年代的決定性議題。時隔二十多年，為何您依然認為這是一個不朽的命題？您是否能夠想像、有朝一日該議題將不再具有決定性的意義？

**OG:** 當我最開始下筆探討隱私問題時，當時學術與政治議題關注的焦點聚焦在政府及其對民眾相關的監控上。儘管自此以後相當一部分關注移至企業監管和政企合作關係上，我們仍未能充分明瞭有關個人與群體的資訊能夠、且將會被用於影響人們的行為。

因此我建議，接下來我們需要解決的問題是，如何將我們的關注焦點從資訊的採集與處理上轉移，將它更多地投向資訊的使用上。這裡我要強調的是，隱私和監控不會一如既往地成為關注焦點，取而代之的將是對資訊的誤用，這無疑引發我們對哈貝馬斯學術論點及傳播目的本身的思緒回歸——即資訊傳播與使用的目的在於啟蒙，而非操控或其他的策略性干預。

這也引出了類似的各種問題，即我們應如何規範那些帶著常規性、目的性去使用監控與分析技術、獲取數據資訊、以致在資訊運用過程中造成社會危害的行為。這裡我所說的規範，包括過往我們發展出的、那種限制空氣或水污染的財政及其他形式的制裁，甚或包括刑事處罰。

而於此類危害的關注，與我長期以來對技術評估的興趣有關。這種技術評估，有助於我們確認一些因科技運行所相伴產生的「意外後果」，這也是為何我們呼喚著諸如美國技術評估辦公室 (US Office of Technology Assessment, OTA) 或其他類似機構的復興。當然，這也引發出對那些秉承有益社會的目的出發、運行中卻帶來不良社會後果的科技成果的擔憂——儘管這些後果屬意外發生，但危害卻是實實在在的，特別是在這些不良後果分佈不均、不平等的情況下，造成的社會危害尤甚。可以說，沒有甚麼事情是想當然般那樣簡單！

自然，誠如妳所明晰覺察到的，這也引發了關於「言論自由」及其在民主國家、或正處於緩慢民主進程中的民族國家中所扮演的重要角色的各種擔憂。我相信，訊息使用不當的首要行為主體/媒介是企業及其僱員，他們應當成為這一規範管理行動的首要目標。

因此，對於「聯合公民」(Citizens United) 決議的追求、以及一系列其他關乎企業應被視為自然人一樣獲取援助的決定的爭取，必須成為全國性、乃至全球性運動的焦點，以澄清「企業並非個人」的觀點，以及它們只應在以提升人類福祉為目的的前提下被予以特權。

**LT:** 您提到最初的(資訊)濫用是由企業造成。那麼在您看來，我們應當在何種程度上去應對國家主體的資訊濫用行為、以維護我們的個人隱私呢？

**OG:** 也許在對企業與國家主體資訊濫用的比較中，我有些過於強調了企業的作用。之所以作此強調，是想要說服大家，我們需要把較之以往的更多的注意力投注到企業行為主體身上。

我們通常傾向於根據行動實施者的權力大小去界定「濫用」的特徵。無庸置疑的是，國家行為主體遠比企業擁有更多的權力，這種權力攸關生死。如我們日復一日被提醒的那樣，在諸如「珍視黑人生命」(Black Lives Matter) 運動一類的問題上，國家機構甚至以我們許多人都認為是不合法的方式在行使權力。這種國家機構的官方不正當行為顯然比市場營銷者的次貸行為更值得關注，但對於致命性權力不當使用的關注，僅僅是我們需要關注的一個層面，另一個層面，則需聚焦在資訊的不當使用上。

儘管愛德華·斯諾登(Edward Snowden)在一定程度上促使我們更為瞭解美國聯邦政府在資訊收集方面所佈下的彌天大網，但我感覺谷歌(Google)和臉書(Facebook)在資訊收集的廣度和深度上亦不相上下。因此，我們面臨的挑戰應是一種理念上的更新，即明瞭在全球範圍內，企業行為主體通過資訊的使用所引致的社會政治性影響。

再三說明，我並非是對傳播領域下政府行為的重要性及其對TGI數據策略性使用中的影響力避重言輕——國家的審查與宣傳

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深切影響著我們的生活福祉——但我還是要不斷強調，企業行為主體及其代理人利用TGI數據，一方面建構著有利於它們追逐利潤的法律與規則，另一方面卻正破壞著它們運行其中的社會經濟政治環境。我們持續低估了企業部門的力量，並因此自食其果。

**LT:** 談到企業機構的力量，百度曾於2016年被發現將一些用戶活躍的健康論壇中的個人資訊販賣給冒牌醫療機構及從業者。我們應如何確保這些技術以一種負責於社會的方式被使用，尤其是在我們的相關法律法規還不夠完善的情境下？

**OG:** 這個問題實際又回到我在訪談最初所談到的憂慮，而你將它進一步延伸到了那些政策法規不夠完善的探討情境中。我探討問題的前提，皆出於我的相關經驗都建立在一個法規完善、只是因企業行為主體的能量和影響造成一定效用局限的社會情境下。如果國家本身就是一個「瀆職者」，那麼這個問題就應另當別論。

這裡，我們需要闡明以民主為導向的運動的焦點——既要明白社會責任的重要性，同時也要瞭解對於各種社會問題，存在個人自主的決定因素——由此出發去看待一系列問題。故而這是為教育民眾、使其明瞭通過TGI來限制自主自我發展、及集體民主行動的各種途徑而勢必發起的一場運動。妳可以想像它類似於一種「民權運動」，並非聚焦於單一的種族群體，例如美國的黑人、或世界上其他的少數族群，而是集中在那些業已意識到自身決策能力受限、已做好準備索求自身決策權和行動自由權利的人們。

正如我之前所提議的那樣，這場運動應當把注意力從資訊收集上移開，否則將註定是死路一條；而將視線更多轉移至我們的世界及個體運轉的模式上，則會使我們獲益無窮。換句話說，問題的扼要在於瞭解資訊或「知識」是如何被運用的。同時，我先前亦有提到，我們需要重新思考誰是我們社會中「權利持有者」的問題。顯然，權利屬於「人民」，但國家及司法系統對於法律及監管體系的發展完善亦相當重要，尤其當一方權利的行使限制或損害了另一方權利時、尤其當面對過往曾被限制權利行使能力的人們時，國家與司法的限制作用開始浮出水面。

這裡再次說明，我認為強調個人權利與那些理論上為提升人們生活品質而建立的機構的權利的差別非常重要。企業與國家機構在行使與民眾活動及利益攸關的權利上必須要有所限制。我們需要的運動，是能夠嚴格限制機構行為主體以損害或限制個體自由的方式來使用資訊或知識的運動。

然而，值得注意的是，TGI數據「分享」構成損害（尤其是對於那些弱勢群體）的方式種類正呈現戲劇化的增長，亟須參與科技評核、能夠告知我們損害及其分佈的「制度性行動主體」（institutional actor）的發展。正如我們在健康領域有疾病控制中心、金融領域有監管機構一樣，我們同樣需要專家機構來幫助我們對突發性TGI數據使用的後果進行評估，並對可能產生的危害提供規限或彌補措施建議。

**LT:** 您明確提倡引入法規，對監控或可造成的危害進行監管與干預。而就在去年，哈佛商學院教授祖巴夫（Zuboff）提出應把個人資訊累積的邏輯納入監控資本主義（surveillance capitalism）體系來理解。在您看來，監控體系在多大程度上能夠與資本主義系統「聯姻」？我們在隱私法規的改革進程上能夠走多遠？監控的改革是否只能在觸及資本主義深層制度的前提下才算可行？

**OG:** 就像之前我的大部分回應表明的那樣，我對祖巴夫教授將我們當下狀態評估、界定為「監控資本主義」由衷贊成。而對於監管者所面臨的困難，我的意見是應建立在企業對於公共政策形成與實施的影響的本質評估基礎上。相關系統的改革必不可缺——哪怕它不是資本主義本身需要解決的首要問題，但卻是一個資本主義社會關係、尤其是美國的資本主義社會關係應如何被指引發展的重要命題。資本主義社會內部矛盾所形成的短期未來引人擔憂，我也對此凝神關注，不僅僅包括工人階級要求獲取/消費資本主義企業產品的鬥爭境遇每況愈下，對降低商品生產、運輸及服務成本的大力促進，亦使得層出不窮的自動化手段被投入到社會生產運行中，過程伴隨著越來越多的高薪職位被「人間蒸發」。馬克思主義者討論中的消費危機下的產能過剩現象，現在看來我們將再次面臨。

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**LT:** 過去十年中的許多服務類別，現已轉移到互聯網上。人們如今通過他們的智能手機，不斷更新著自身的服務體驗。當下沒了智慧手機，我們的生活將會怎樣？似乎難以想像！但是，必然性的，互聯網與智慧手機增進對個體監控的程度亦超乎我們的想像。您如何看待這種監控與數位化參與之間的利弊權衡 (trade-off)? 選擇退出的解決方案可行嗎？

**OG:** 這個問題不僅重要，而且非常具有挑戰性。我想說的是，儘管我的生活成功擺脫了智慧手機的「魔掌」，但我必須得承認，我的太太就擁有一部智能手機，而且隨大眾地，她今年也將「老」的那部更新換代成了更新配置的型號。通過智能設備獲取資訊極易讓人沉迷。而且，就算我在平常生活中確實沒有使用智慧手機，但在家庭出遊時，我們還是會頻繁用到它，而手機提供的那些資訊，顯然影響到了我們關於何去何從和做甚麼的決定。

無論何時何地都能通過提問來獲取資訊的確讓我們受益，但顯然，這種受益業已存在於(妳先前所言的)利弊權衡的本質中。而關於監控的顧慮輕而易舉遭到忽略，因為人們眼前更有可能看到或感受到的，只會是立竿見影的利益。同樣地，我太太掌管著我們的購物大計——她非常善於收集各種優惠券和折扣券，同時也極為依賴社交網站上有關我們想要造訪的場所(包括營地、賓館、餐廳等)的大眾點評信息。就算我沒有「親身」參與到相關資訊交易或利弊權衡中，這樣的事實也並不能讓我置身事外。因為無庸置疑，我作為家庭的一分子也被歸入其中，作為我們依賴於智慧裝置及其服務的「回報」。

所以，顯而易見，我的退出真的只能算是一個最低限度的成功策略。這樣的評論同樣適用於我對其他社交網路所作出的迴避嘗試。儘管我不是臉書用戶，但我為了更便捷地分享自己的研究而註冊了 Research Gate。在研究上我亦非常依賴谷歌學術 (Google scholar)，並且在那裡，越來越多的文獻要通過 Research Gate 來獲取。然而，它逐漸變為一種負擔——儘管總體而言沒有我們所擔心的監控那樣嚴重，但如同一場不斷擴大的瘟疫，它正不停歇地嘗試讓我與任何一個在網路上搜尋我、或間接找到我的一篇文章

的人建立聯繫，成為他們的粉絲、好友或諸如此類。當我不斷被提醒，我沒有表現出對等的興趣就不是一個網路好鄰居的時候，我又該如何擺脫它們呢？

我曾提議我們的確需要做一些研究，來指明社交網路資源提供者們參與其中的主動社會化的特徵。社會變革並非「就這樣發生」，而是強大的行動主體通過持續的「助推」(nudges)來形成。儘管他們不能被精確等同於福柯(Foucault)話語下的監獄、學校及醫院病房中的監督者，但已足夠接近，值得引起我們的注意。

**LT:** 萊西格(Lessig, 哈佛大學法學院教授)曾經將法律代碼和軟件代碼區別為不同的規限模式。您認為軟件代碼在保護隱私或限制濫用個人資訊數據中扮演了何種角色？

**OG:** 當然，在保護隱私或限制未經授權的TGI使用上，代碼將會起到十分重要的作用。我說「當然」，是因為就像萊西格教授那樣，我們已經意識到，代碼使得對這些數據中提煉出的資訊進行抓取與評估成為可能。如果你的谷歌搜索獲得特許，能夠搜索除討論相關問題的會議論文之外的資訊，你會發現大量的天賦與能量被應用到了匿名問題、或相關人物、地點及事物的識別上。這個我們無法輕易解決的問題，涉及到那些追求控制的人們、與希望保護他們自身對重要議題做出知情決策的能力的人們之間所存在的極度不平等的博弈關係。

如同我們業已注意到的、對所謂「數字資本主義」(digital capitalism)的擔憂一樣，目前支持企業以最大限度去「瞭解」民眾/消費者、以獲取利益的行為已是相當嚴重的社會現象。對此，桑斯坦(Cass Sunstein, 哈佛大學法學院教授)的辯護是「行為市場失敗」(behavioral market failures)，因此政府需提供助推及其他「初始」規則(“default” rules)來幫助消費者作出適當的理性決策。同時我們需要給那些像賀維(Howe)與尼森鮑姆(Nissenbaum)一樣的程式員提供支援，發展出諸如「不要追蹤我」的制衡力量，儘管這一發展近期內都不太可能出現。除此之外，在數字資本主義環境中持續存在的問題，即一小部分民眾能夠承受在其設備上有效安裝、更新和運行防禦措施，而餘者則享受不到此類代碼的福

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利。從設計上著手保護隱私 (privacy by design) 的想法不錯，但有跡象表明，儘管政府有關注消費者的某些擔憂，他們的長期利益卻引導他們將更多的注意力放到了營銷者的關注點上。

**LT:** 相應地，您如何看待那些阻隔廣告及/或跟蹤的代碼的道德含義？您使用它們嗎？我們該使用它們嗎？或者您對此持保留意見嗎？

**OG:** 是的，我使用廣告阻擋器。分享一個關於我的故事。我曾是《紐約時報》早期的付費訂閱者。必須承認我的學術生活確實十分依賴這一資源，尤其感謝那些指向我根本無法自己發現的文章及報告的超鏈接。自然地，當《紐約時報》開始向我發送說明，要求我將這份報紙加入接收廣告的「白名單」(whitelist)時，我簡直出離憤怒，於是頻頻回信，說明我是付費訂戶！我不想要那些廣告！它們從未對我的反對做出特別回應，但發送要求最近有所停止。因此，就像我在給《紐約時報》的回應中提到的那樣，我理解數字報紙的生產和分送的付費之需。但正因為我的確付費了，我不會在拒絕繼續掏腰包時存有任何道德上的負罪感。我想我在對待其他我經常使用、但還不足以付費訂閱的數位資訊源 (digital information sources) 時也遵循同一邏輯。因此，我收到請求後毫不猶豫地將那些資訊源加入白名單的總數，可能不超過12個。對於資訊源對我一個月內有權訪問 (以及作為 .pdf 下載) 的項目數量進行限制設置的行為，我並無異議。資訊源為那些文件的傳輸建立付費門檻，我亦深表理解。

而我對反追蹤軟件的使用更沒有把握，因為「模糊處理」(obfuscation) 及其他策略並不僅僅作用於對TGI訪問的阻擋，實際上更對平臺性能產生影響。在一定程度上我認同個體通過選擇加入、授權個人數據追蹤作為獲取資訊性資源訪問權限的代價，但我會認為，使用代碼來阻斷或混淆那些追蹤數據是我方的道德失敗，因為協議應對雙方都具有約定意義。相反，對於那些僅僅是權力行為主體在缺乏協議的前提下所擬定的假定的共識、之後卻甩給我一個自願退出的選項，我認為理應阻擋，因為我在最初就未有簽訂協議。

**LT:** 桑斯坦教授提出了一個令人信服的觀點，即通過「助推」(nudge) 民眾有多種富有成效的方式可以影響和規範其行為。您認為大數據在多大程度上有潛力「造福」社會，例如與被劃分為「良好」或「不良」的特定信用分數系統結合？以及這種潛力發生的前提條件是甚麼？

**OG:** 這是一個大有可為的領域。我的第一個回答你或許也可以從社會科學家口中同樣得出：我們生而求知。但並非所有知識的應用都是最好。那些我們最近才瞭解的造成實際危害的應用，也並非都是以損害為目的而實施。那些損害或出於意外，或屬外部效益，或是非預期的後果。誠如你的問題中所言，這些後果及其分佈如何被評估也存在著問題。專家們總是莫衷一是，因此我們將或依靠「誠信代理」(trusted agents) 來幫助我們理解和評估這些後果。

在某種程度上，「誠信代理」一直都是我們在社會與公共空間中探討此類事務的重要概念。作為一名研究隱私的學者，我經常使用醫生/病人的關係作為例子，此處病人出於自身的最佳利益考慮，將他們的健康資訊完全向服務提供者公開，哪怕實際上在服務提供者提供服務、向僱主報告時經常會產生相關糾紛。

即便如此，觀察、追蹤、監控、評估、報告和「助推」都應該沒問題，只要它由誠信代理進行、並得到客戶同意；只要那份合約不是採用6號字體、長達100頁的洋洋灑灑的天書，而是的確是經客戶理解、併經另一誠信代理負責任確認下達成充分知情權的有效同意書。

因此，明確的說，我要強調基於充分知情基礎上的認同在接受助推中的角色。當然也會存在這樣的情況：註定無法予以認同的個體，可能會在法院判決或者其他誠信代理裁決的基礎上被認定為需要進行干預而最終受到助推，以實現個人及社會的利益最大化。

再者，就像之前提到的那樣，將助推限定在誠信代理上引發了對企業言論自由「權」相關問題的質疑與挑戰。企業並不具備這樣的權利，或者至少不應像現在這樣被賦予權利，因為權利應屬於人民。在我看來，廣告商習慣採取「助推」的形式。對大多數廣

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告而言，特別是越來越細分的受眾廣告，偏向操縱性多於資訊性，而基於針對個人演算法評估基礎上的企業行為主體參與操縱性傳播的權利，需要被嚴格限制。我個人更偏好「私人購物顧問」(personal shoppers)的發展——那種根據客戶的利益來審視市場，從而識別選項，告知客戶包括借助特定供應商購買所可能產生的風險與收益評估在內的、與購買及使用相關風險與收益的智能系統。此類系統將會「迫使」生產商加強品質，而非市場行銷策略的運行。與我太太和其他人從社交網路上收集到的那類建議相比，這樣的回應更具技術含量，而我自身就是一個十足的科技迷，足以相信誠信代理能夠在競爭市場中因其服務而獲得長足發展。

**LT:** 您曾經告誡我們，作為研究者我們可能存有偏見：並且一個很強烈的偏見就是研究的「趨光性」——「在有光之處」做研究。我提醒自己這是在機構監控與隱私研究中需要留意的一個非常重要的偏見。對於有誌於追求研究數據不在有光之處而需在黑暗中探索的學者，您會給出怎樣的建議或意見？作為機構的學術界可以採取何種措施以激勵此類研究不斷推陳出新？

**OG:** 回到民主傳播聯盟(Union for Democratic Communications)的發展時期，我們認為將「批判傳播研究」作為學科重點與工作的制度性保護傘來發展十分重要。我有一種感覺，這一學科重點已經得到相當可觀的發展。但在設想的制度建設層面，我們還遠遠不夠。

我不斷提及從前的美國技術評估辦公室(OTA)，是因為我相信我們需要它的回歸，當然，也因為這樣的存在也會再次成為對那些依靠生產及推廣損害性產品與服務的獲益者們的威脅、成為他們進行策略性反對的目標。

儘管許多滿懷智慧的學者在積極投身於演算法評估對不同群體產生影響的種種方式的解讀，但這些獨立學者們並沒有資源或必要管道來進行我們所需的對企業資訊的評估。當我談到看向光之最亮處時，我只強調了問題中的一部份，而忽視了對究竟是誰最初在那裏放置了第一束光的探尋與考慮。

忽視並非隨機分佈，而是反映了權力的施行。兼具資源與權威的OTA，可以決定我們在何處要有光、何處應發問、以及何處

應打強光，以幫助我們看清那些過去難以看清的、包括企業決策在內的區域。當我寫下這些，我想起了一個我目前正在進行的、與認知科學和神經行銷學相關的項目，我們正在發展新的技術來認知大腦的運行，以便更多地理解人們如何反應來應對刺激。再次申明，這個問題主要不在於資訊的收集，而是在於對資訊的使用進行管理、及對不當的使用進行界定。

**LT:** 您指出，提升關乎監控重要性的民眾意識事關重要——尤其是危害意識的提升——這種意識將有希望促成態度或行為上的轉變。與此同時，圖羅 (Turow) 教授的研究卻指出民眾們在意自身隱私，但也存在逆來順受 (resigned) 的無力感，因為他們感到自身能夠採取的保護隱私的做法少之又少。對於研究者與學者，或是提倡者與活動家而言，應在提升民眾可能的行動意識上扮演怎樣的角色呢？

**OG:** 這又是一個很重要的問題！我想我近期的一篇將不平等議題引入公共議程策略的論文 (見 <http://polecom.org/index.php/polecom/article/view/60>) 當中有試著去對此類問題做出回應。這是一篇關於旨在幫助民眾意識到不平等現象作為社會問題的本質、需要通過公共政策去解決的教育活動的論文。文章以我不常有的讚頌基調，對非營利性的、基金支持下的傳播學者組織——框架研究所 (FrameWorks Institute) 做出肯定。該研究所運用完善的策略來理解公眾解讀議題的本質，識別出導致人們選擇/支持倒退政策選項的觸發因素，以及可能會導致人們傾向於更激進政策選項的問題與解決方案。他們的工作相當有趣。但我的論文同時也指出了動員公眾時會遇到的一些問題。例如在動員民眾參與政治行動中遭遇的困境，在某種程度上與圖羅使用「逆來順受」所暗示的含義一致。民眾會懷疑：我們到底能做甚麼呢？這種政治上的無力感需要被更為全面地克服，而不僅僅是限於隱私與監控的考慮上。

同時我自身也遭遇到一些矛盾之處。長期以來，我都是市場細分與目標選擇的異議者。這種干涉主義策略雖意欲謀求理解，但其選擇哪些訊息傳送給哪些細分群體背後邏輯卻令人困擾。恰恰此時，我發現自己也受到了該策略議題的圍限。正如我們之

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前提到的「誠信代理」(trusted agents)一樣，我們將會期待基於代理對客戶最佳利益的最優評估基礎之上，客戶由此獲得不同的推薦。而政治領域中的客戶最佳利益，就是集體利益，故而誠信代理的性質將會難以界定，因為集體作為一個整體，無法輕易地、例行公事地被要求提供知情同意，同時個人偏好也可能會包括對集體事務、全球格局以及未來發展的整體考量。

學術活動家——我沒有按照您的提問思路將且一分為二——能夠參與到旨在幫助公眾理解監控與隱私相關問題的本質的研究中。就像框架研究所建議的那樣，多種研究策略也可以被用來找出支援的論點和資訊策略，以提升對存疑應用(problematic applications)為目的的監控進行限制的公共政策的支持。

**LT:** 您提到您在倫敦政治經濟學院(LSE)進行的演講，其中談到我們未能提出令人信服的損害實例。我們目前提出的實例，是否不足以引起大眾的關注，抑或吸引到管理者及決策者的注意力？抑或是二者兼有？更重要的是，我們未能提出有力實例的原因是甚麼？以及，我們能夠做些甚麼來填補這一空白？

**OG:** 這又是一個有趣並富有挑戰性的問題。像你提出的那樣，這裡存在著兩類不同的受眾——普羅大眾和政策的制定者。普羅大眾首要關注的是他們自身直面的風險或損失，對於別人面臨的風險或損失則往往缺乏興趣。政策的制定者們則有著更為複雜的資訊需求。他們必須根據公眾成員及其分類來評估危害，但他們也要進行不同的權衡考慮，例如以營銷為目的使用TGI所可能導致的經濟影響，包括就業、稅收等。

這兩類受眾，目前都持續遭遇著相關資訊的「糖衣炮彈」，這些資訊高度評價了TGI數據收集與分析下形成的目標群體劃分及選擇性行銷所帶來的社會經濟效益。儘管有相當多的記者與學者向公眾提供了數據使用造成損害的實例，但文章的數量與為這種行為搖旗吶喊的軟文比起來依然是微不足道。雖然人們意識到、或者極易被提醒市場歧視會對某些類別群體產生影響，但僅僅依靠動員公眾去反對顯然並不足夠，尤其是當下市場行銷者也聲稱他們正在實行自己的言論自由權。

這裡，我的答案與其他對此給出的相關回答無出其外——一方面，我們需要投身於宣傳運動，去集中宣揚無意識消費的推廣給全球帶來的種種損害；另一方面，則需對加劇全球社會經濟不平等之量變與質變的公共政策進行分類。

顯然，我在這裡要說的是，我們的焦點需要強調監控與市場行銷的聯繫，以及旨在形成公共政策的策略性傳播（是的，我聽到了反對者的聲音！）。我曾跟一個名為「數字民主中心」（Center for Digital Democracy）的組織合作，通過與環境組織機構建立合作夥伴同盟關係，來喚醒公眾對於監控輔助行銷導致全球氣候變暖的驚醒。畢竟，監控是一項收集資訊以生成可操作情報的技術，在這種情形下，所謂「策略性傳播」的「策略」，目的在於用以細分及尋找目標客戶群體。而市場行銷則是旨在動員目標群體更多的消費，包括以完美實用的技術替代「下一個更優產品」。這種能源及其他資源消耗持續增長所產生的浪費，成為環境可持續發展關注的部分。儘管目前進展不大，但我的確認為此處存在顯而易見的聯繫。

**LT:** 您能否進一步闡釋下如何開展草根運動，使普羅大眾更加關注隱私和監控問題，從而使自下而上的能量匯聚，重建一個OTA或類似的公共機構？或者說，您是否能夠對過去各種團體的努力成效進行比較或反思，譬如民主傳播聯盟（Democratic Communication, UDC）、框架研究所、甚或葛伯納（Gerbner）的文化環境運動（cultural environment movement）等，以此形成一些普適性的總結提供問題解決思路？

**OG:** 我不是歷史學家，因此無從比較過往的這些實體（例如民主傳播聯合會或葛伯納的文化環境運動等）的探索途徑，惟有指出妳所提及這些實體中，往往沒有一個可以被上升到社會運動層面去理解：預計包括活動家、專業人士及學者的民主傳播聯盟，業已被學術利益所主導；據我所知，葛伯納的努力也並未真的實現其願景；而框架研究所則是一個以學術為導向的、被認為是聚焦我們眼中的政策產出策略性傳播研究中最前沿的「智庫」。我絲毫不懷疑他們對傳播運動的發展所做出的重要的貢獻，不乏相當成功的

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部分，比如他們提供了大量針對既定政策領域的有益的指導手冊 ([www.frameworksinstitute.org/](http://www.frameworksinstitute.org/))。

我也在我的關於「框架的政治經濟學」的文章(參見*The Political Economy of Communication*, 3(2), 88–112)中，籠統地談到針對不平等現象的運動發展所採用的若干途徑。文章揭示了框架在禁錮、或者說「極端禁閉」中所扮演的角色(參見「選擇進入點」, <http://dx.doi.org/10.1080/15456870.2014.859977>)。但以上我提到的我的兩篇文章，都遠不夠提供相關草根運動的史學層面的說服力。

**LT:** 對於渴望成為變革代理的(年輕)學者，您有何建議？學術界已經改變，尤其是其學術產出已成為衡量學者表現的合理化方式。與此同時，我們的聲音被聆聽的管道或許比以往任何時候都要多。

**OG:** 因為我已經離開課堂，並且與學術管理機構沒有直接的聯繫，對於學術界內部的壓力如何傳遞沒甚麼概念。我不瞭解在職業生涯層面，傳統方式衡量下的學術產出與我們所理解的行為主義之間是怎樣的關係。顯而易見，已經有學者或活動家成為了「公共知識分子」，並且於他們自身建構、以及他們的政治項目，都獲得了不錯的成績。

我的感覺是，對青年學者而言，現在有大量的自由、自主的空間可供他們去建構、發展自身「公共知識分子」的身份，哪怕就算支持他們研究的政府機構或基金會資源無法等量齊觀。依靠他們的學術機構，以及機構本身的責任感，或許能支援老師吸引學生參與到以服務公眾為目標的研究計劃中——如果這些計劃也能被學術界和撥款機構認定為合理的話。

只是我懷疑，這些教授可能會面臨我在學院後期觀察到的、學生群體中更多的職業追求的轉變。我所擔憂的那些對充滿意義的工作的圍限，很可能會影響到這些學生對於如何花時間的抉擇。那些能夠將他們的課程/項目與社會/公共目的結合起來的教授們，亦能提供許多在別處無法輕易獲取的寶貴技巧，可能更能吸引到那些(先前我們所談到的)想要做出「利弊權衡」的學生們。

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Academic Dialogue with **Oscar Gandy**

## **On Personal Data Protection, Privacy and Surveillance**

OG: Oscar Gandy

LT: Lokman Tsui

**LT:** In your view, what have been some of the most pertinent or important developments in the past two decades, since *The Panoptic Sort (PS)* has come out, on the issue of privacy and surveillance?

**OG:** The most important developments after the publication of PS relate to advancements in the technologies available to gather, process, share, and take actions on the basis of transaction-generated-information (TGI). This of course also includes the tremendous increases in the amounts of TGI that we make available as we make our way through a digital environment that leaves traces and records of our interactions with people, places and things, and that are being collected and processed in the pursuit of actionable intelligence.

While we are currently focused on big, or even massive data in corporate and government files, we are just barely coming to understand what the future will look like when nearly every interaction with a device, or an environment with sensors will make this information available to some actor, human or not, as an aid to consequential decision-making. This “internet of things” then, is emerging as an important new source of data that will be used in ways that have implications for social control or autonomy. The changes in the capacity to capture and “make sense” of all this TGI with the aid or perhaps at the direction of automatic/autonomous devices/systems raises important questions about privacy and surveillance that we have not really begun to pay enough attention to.

By reference to autonomous intelligence, I intend to place the role of non-human actors on our agenda of concern. The number and variety of consequential “decisions” that will be made without

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our knowledge and consent will expand dramatically, and the laws governing liability and responsibility for the consequences are simply not up to the task of managing automated decision making. Of course, this includes concerns to what extent the setting of goals and the identification of problems are tasks that are diverted/allocated to relatively autonomous intelligent systems.

**LT:** In the preamble of PS, you argue that privacy will be the defining issue for the 1990s. Two decades later, why do you think this continues to be such an enduring issue and can you imagine a point where it will stop being defining?

**OG:** At the time, when I was beginning to write about privacy, the primary focus of scholarly and political attention was focused on the government and its surveillance of citizens and others. While considerable attention since then has become focused on corporate surveillance and government/corporate partnerships, we have still not come to terms with the many ways in which information about individuals and groups can and will be used to produce influence over their behavior.

So, let me suggest that we will next have to figure out is how to turn our attention away from the collection and processing of information, and instead, to pay more attention to how this information is being used. What I am saying here is that neither privacy or surveillance will continue to be the focus of attention that it has become; instead, the focus will be on the misuse of information, inviting a return to Habermas and the purposes of communication: enlightenment, not manipulation or strategic intervention.

This raises all sorts of questions about how we regulate those who routinely and purposively use surveillance and analytical technology to gain knowledge that generates social harms through its use. I am talking about the kinds of regulation we have developed to attempt to limit pollution of air or water, such as financial and other sorts of sanctions, but also criminal punishment.

This focus on harms is tied to my long-term interest in technology assessment that would help us to identify some of the “unintended consequences” that flow from the use of technology,

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such as the need for the revival of the US Office of Technology Assessment (OTA) or something like it. This, of course, also raises a concern about the undesirable consequences as the result of the use of technology for what we might consider to be good or socially useful purposes; consequences that occur unintentionally but still generate harmful effects, especially when those effects are unevenly or unequally distributed. Nothing is easy!

Naturally, as you are well aware, this raises all sorts of concerns about “free speech” and its important role within democracies and those nation states moving in that direction, however slowly. Since I believe that the primary actors/agents involved in the misuse of information are corporations and their employees, they should become the primary targets of this regulatory activity.

Thus, the struggle that is being pursued with regard to the Citizens United decision, and a host of other decisions that have provided support for treating corporations as though they were natural persons, has to be the focus of a national and then global movement to make it clear that “corporations are not the people,” and that they have been given special privileges only for the purpose of improving the wellbeing of “the people.”

**LT:** You mention that the primary abuse is being done by corporations. To what extent should we also guard ourselves against abuse of state actors?

**OG:** Perhaps, I misspoke when I suggested that corporate actors engage in more abuse of TGI than state actors do. My emphasis on corporate actors has been an attempt to convince my audiences that we need to pay more attention to the corporate actor than we have been in the past.

We generally tend to characterize abuse in terms of the power being exercised by the actor. There is no question that state actors have far more power than corporate actors do. The state has the power of life and death. And as we are almost daily being reminded, with regard to concerns of the Black Lives Matter movement, agents of the state exercise this power in ways that many of us consider to be illegitimate. This official misbehavior

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by agents of the state is clearly more deserving of attention than is the behavior of the marketers of subprime loans. But the misuse of concern is the misuse of deadly force in one case, while the misuse of concern in the other case, is the misuse of information.

While Edward Snowden has certainly helped us to understand a bit more about the extent of information gathering by the federal government in the US, my sense is that the information gathering by Google and Facebook is comparable in size and scope. The challenge we face is one of developing a sense of the sociopolitical impact of its use by corporate actors within society at a global level.

Again, I don't mean to minimize the importance of governmental activity within the sphere of communication and the production of influence through strategic use of TGI. State censorship and propaganda are powerful forces affecting our well-being. But again, I want to emphasize the role being played by corporate actors and their agents in using TGI to shape the laws and regulations that enable them to pursue profits, while damaging the social, economic and political environments in which they operate. We continue to underestimate the power of the corporate sector, and we do so at our own peril.

**LT: Speaking of the power of the corporate sector, Baidu was caught selling personal information from people frequenting health forums to fake medical institutions and practitioners in 2016. What can we do to make sure these technologies are used in a socially responsible manner, especially in environments where the legal or regulatory protections are not very strong?**

**OG:** So, this question is really about the concerns I introduced into my response to the first question, although you extend it a bit to include those places where legal and regulatory protections are not that strong. I say that because my career in this area has been in a nation in which regulation is substantial, but still limited in its effectiveness because of the power and influence of corporate actors. This problem is a bit different in places where it is the state that is the "bad actor."

This needs to be made a focal point for democracy oriented

movements that understand the importance of socially responsible but largely autonomous individual decision-making about a whole range of concerns. This is a movement that has to mobilize to educate the public about the myriad ways through which TGI is being used to limit the possibilities for autonomous self-development and collective democratic action. Imagine the equivalent of a “civil rights movement” not focused on a single population segment, like black people in the US, or other minorities around the world, but on the people themselves who are ready to claim their freedom to decide and act, once they understand the limitations on their ability to make informed choices.

As I suggested earlier, this movement needs to shift its attention away from the gathering of information: that is a lost cause. Besides, there are countless benefits to be derived from learning more about how the world including its people works. The problem is about how that information or “knowledge” is used. Also, as I suggested earlier, there is a need for us to revisit the question of who are the “rights holders” in our societies. Clearly rights are primarily for “the people.” But the state and the legal systems are also critically important to the development of laws and regulatory structures that establish limits on the exercise of those rights, especially where that exercise limits or harms the exercise by others, especially those others who may have been burdened in the past in ways that limit their capabilities.

Here again, I think it is important to emphasize the distinction between the people and the institutions that have been created, theoretically, to enhance the quality of life for the people. Corporations and the institutions of the state have to have limits on their exercise of “rights” with regard to the activities and interests of “the people.” The movements we need are those that will act to severely limit the ability of institutional actors, especially state and corporate actors, to use information/knowledge in ways that harm or limit individual autonomy.

It is important to note, however, that the variety of ways through which the “sharing” of TGI can result in harm, especially to the vulnerable, is increasing rather dramatically. There is a need for the development of an “institutional actor” whose entire

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reason for being is to engage in technology assessments that inform us about those harms and their distribution. In the same way that we have Centers for Disease Control in the health area, and new agencies in the financial area, we need centers of expertise to help us evaluate the emergent uses of TGI in terms of their consequences, and perhaps to recommend limitations on, or compensation for the harms that are generated.

**LT:** You make the case for regulatory intervention to address the harms of surveillance. Professor Zuboff last year argued for understanding the logic of accumulation as a system of surveillance capitalism. To what extent do you think that the surveillance system is married to the capitalist system? To what extent do we need to go beyond reform of privacy regulation, and is reform of surveillance only possible if we reform the underlying system of capitalism?

**OG:** As I think most of my responses so far suggest, I agree wholeheartedly with Zuboff's assessment and identification of our present status as "surveillance capitalism." My comments about the difficulties that regulators face is based on my assessment of the nature of corporate influence over public policy formation and implementation. Reform of this system is a fundamental necessity, even though this is not primarily a problem of capitalism, but a problem of how capitalist relations have been allowed to develop, especially in the US. I count myself among those who are concerned about the near term future that will be shaped by the contradictions within capitalism, not the least of which involve the worsening conditions of the laboring classes struggling to be able to acquire/consume the products of capitalism firms. The push to reduce the costs of producing and delivering goods and services that now are looking more and more to automation means that more and more good paying jobs will evaporate. Marxists talk about overproduction/under-consumption crises, and it looks like we are heading for yet another one.

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**LT:** The array of services in the past decade that are now available to people to explore via the internet—and now their smartphones—has continued to explode. Life without a smartphone seems almost unimaginable, but, of course, the degree to which the internet and the smartphone facilitate surveillance is also almost unimaginable. What do you think about this “trade-off” between surveillance and digital participation? Is opting-out a feasible solution?

**OG:** This is an important and very challenging question. While I would like to say that I have managed to survive without a smartphone, I have to admit that my wife has one, and like most users she replaced her “old” one with a newer model this year. The access to information that is provided with the aid of this device is something that one can become addicted to quite easily. And while I don’t actually use the device, when we are travelling together, it is used quite frequently, and the information clearly influences the decisions we make about where we will go and what we will do.

There is no denying the benefit of being able to ask questions of some resource anywhere, at any time. Clearly, this is in the nature of a trade-off, and concerns about surveillance are readily placed “out of sight / out of mind,” because only the immediate benefits are likely to be seen/felt. Similarly, my wife organizes our shopping—she is quite skilled at gathering coupons and discounts. She also relies heavily on the social utility of accumulated reviews of places we would like to visit, including campsites, hotels, restaurants, etc. The fact that I am not “personally” participating in this informational trade-off, or exchange does not take me out of the equation. There is no doubt that I am included as part of a family unit/household that is very well known as a result of our reliance on the device and its services.

So, clearly, my opting out is really only a minimally successful strategy. The same is true for other parts of the social web that I try to avoid. While I am not a Facebook user, I did sign up for Research Gate for what I thought of as sharing my research more easily. I rely heavily on Google Scholar for my research, and increasingly documents identified there are accessible via link to Research Gate. However, it has become something of a burden, not so much for what we might be

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concerned about with regard to surveillance in general, but it is becoming more and more of a pest in attempting to get me to become fans, or friends, or whatever... to anyone who has looked me up or found an article indirectly. How do I get out of this when I am constantly reminded about how I am not being a good neighbor by reciprocating interest?

I have suggested that we really need to do some research that would characterize the kinds of active socialization that the providers of these social network resources engage in. Social change doesn't "just happen," powerful actors shape it through their constant "nudges," not exactly like the overseers in Foucault's prisons, and schools, and hospital wards, but close enough to warrant our attention.

**LT:** **Lessig once made the distinction between legal code and software code as different modes of regulation. What kind of role do you see for software code in protecting privacy or limiting the abuse of personal data?**

**OG:** Of course, code will play a very important role in protecting privacy, or limiting the unauthorized use of TGI. I say "of course" because we recognize, as Lessig does, that code enables the capture and evaluative assessment of the information derived from this data. If you allow your Google searches to include patents, in addition to the conference papers that address these concerns, you will see that considerable talent and energy is being applied to problems related to anonymization, or the identification of people, places and things. The problems we will not easily solve relate to the vast inequality between those who seek this and those who want to protect their ability to make informed choices about things that matter, or should matter to them.

As we've already noted with regard to concerns being expressed about "digital capitalism," the deck is pretty seriously stacked in support of corporate interests in "knowing" the citizen/consumer to the fullest extent possible. And while Cass Sunstein carries on about "behavioral market failures" as justification for government supplied nudges and other "default" rules designed to help consumers make the appropriately rational decisions, the kinds of support we need to provide those coders like Howe and

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Nissenbaum to develop counterweights like “Track-Me-Not” doesn’t seem likely to emerge in the near term. In addition, there is the continuing problem in the context of digital capitalism, which suggests that a small segment of the population will be able to afford, and effectively install, update, and operate these defenses across their devices, while the rest of us will not be the beneficiaries of this code. Privacy by Design is a nice idea, and while there are signs that governments are taking note of some of the concerns of consumers, their long term interests lead them to pay more attention to the concerns of the marketers.

**LT:** Related, what are your thoughts on the ethical implications of code that block ads and/or tracking? Do you use them / should we use them? Or do you have reservations about this?

**OG:** Yes, I use ad blockers. Naturally, I have a story about that. I was an early paid subscriber to the *New York Times*. I would say my scholarly life truly depends upon that resource, especially the hyperlinks to articles and reports that I could never find on my own. Of course, I was outraged when the *Times* started sending me notes, asking me to “whitelist” the paper, and I consistently sent back letters indicating that I was a paid subscriber, and didn’t want those ads. They never responded specifically to my argument, and recently, they have stopped sending the appeals. So, as is implied in my response to the *Times*, I understand the need to pay for the production and distribution of my digital newspaper. Because I do pay, I don’t feel any ethical burden for refusing to pay more. I think I follow that logic with other digital information sources that I use more than routinely, but not enough to pay for a subscription. I go ahead, upon request, and whitelist those sources—probably not more than a dozen. I understand, and don’t object to sources that set a limit on the number of items I can access within a month (and download as .pdf). I would understand if sources established a paywall for the delivery of those files.

I am a bit more uncertain about the use of anti-tracking software to the extent that “obfuscation” or other strategies do more than block access to TGI, but actually affect the performance of platforms. To the extent I had agreed, by opting

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in, that I grant tracking my data as the cost of access to informational resources, then I would consider using code to effect blocking or obfuscating tracking data to be an ethical failure on my part, because agreements should mean something on both sides of the table. In contrast, those so-called agreements where the powerful actor assumes a consent, without an agreement, and then offers me the option to opt-out, I don't feel bound not to block, since I made no such agreement in the first place.

**LT:** Sunstein makes a compelling argument that through “nudging” people, there are productive ways to influence and regulate behavior. To what extent do you see potential for big data to “do good” for society, for example in combination with credit scores where certain activities are classified as “desirable” or “undesirable,” and what kind of conditions would have to be in place for this to happen?

**OG:** This is an area where there is much work to do. My first response is what I would hope you would expect from a social scientist. We are made to seek knowledge. Not all of those applications of this knowledge have been for the best. Not all of those applications that we have only recently come to understand how harmful they actually were had been implemented with the intention of doing harm. Those harms were accidents, or externalities, or unintended consequences. As your question suggests, there is also a problem in how these outcomes and their distributions come to be evaluated. Experts will always disagree, so the classification of these outcomes will depend upon “trusted agents” to help us understand and evaluate those outcomes.

This notion of “trusted agent” is, and to some degree has always been, important within society and the public sphere where we talk about such things. As a privacy scholar, I always used the example of doctor/patient relationships, where it is in the patient's best interest to be fully disclosing to their health care provider, although there are always complications, as when the provider actually works for, or reports to one's employer.

That said, “nudging” should certainly be allowed by a trusted agent to observe, track, monitor, evaluate, report and nudge their

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“client” consistent with a treatment plan that both agent and client have agreed upon; not with a 6 point type, 100 page contract, but a validated consent form, demonstrably understood by the client as assessed by another trusted agent with the responsibility for determining that such a level of informed consent has actually been achieved.

So, to be clear, I am emphasizing the role of informed consent for exposure to nudging. There will certainly be cases in which persons who have been determined to be incapable of providing that consent, may come to be nudged on the basis of a decision by a court, or other trusted agency that would determine that an intervention is required in the best interest of the individual, and society at large.

Again, as suggested earlier, limiting nudging to trusted agents raises all sorts of questions and challenges with regard to the free speech “rights” of corporations. They don’t have such rights, or at least should not be treated as though they do, as these are the rights of persons or citizens. I see “nudging” as being what advertisers do routinely. For the most part advertising, especially more and more narrowly targeted advertising, is more manipulative than informative, and the right of corporate actors to engage in manipulative communication, based on algorithmic assessments of individuals, needs to be strictly limited. I would much prefer the development of “personal shoppers”—intelligent systems that scan the market(s) in the interest of their clients to identify options, and inform their clients about the risks and benefits associated with purchase and use, including assessments of the risks and benefits of acquisition from particular vendors. This kind of system would “force” producers to emphasize quality, rather than marketing. This is more of a technological response than the kinds of advice that my wife and others gather from social networks, but I am enough of a techie to believe that trusted agents can be developed within competitive markets for their services.

**LT:** You once warned that we as researchers tend to have biases: and a strong bias is to do research “where the light is.” I remind myself this is a particular important bias to be aware of in

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**studies of institutional surveillance and privacy. What suggestions or advice would you give to scholars interested in pursuing research where the data is perhaps not so clearly in the light but where instead we might have to grope in the dark? And is there anything academia as an institution can do to encourage this type of research more?**

**OG:** Way back when we were developing the Union for Democratic Communications, we thought that it would be important to develop “critical communications research” as a disciplinary focus, as well as an institutional umbrella for our work. I have a sense that the disciplinary focus has developed to a remarkable extent. We haven’t moved quite so far in developing the kinds of institutions we had in mind.

I continually refer to the former US Office of Technology Assessment (OTA) because I believe that we need to bring it back. Of course, because such an entity would once again become the target of strategic opposition by those whose interests are dependent upon their ability to produce and market goods and services that harm us.

While there are smart people working actively to understand the myriad ways through which algorithmic assessment affects different segments of the population, these independent scholars don’t have the resources or the necessary access to corporate information in order to engage in the kinds of evaluative assessments we need. When I talked about looking where the light is brightest, I only emphasized part of the problem. I ignored consideration of who it is that places the lights there in the first place.

Ignorance is not randomly distributed, it reflects the exercise of power. An OTA with resources and authority can determine where we need lights and which questions we ought to be asking, as well as helping to develop better lights to help us see in those places, including corporate decision-making, that have been difficult to access in the past. As I write this, I am reminded of a related project I am working on having to do with cognitive science and neuromarketing. We are developing new technologies to see within the working brain to understand more about how we respond to stimuli. Again, the problem is not primarily one of

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gathering information, but in managing its uses, and identifying inappropriate uses.

**LT:** You suggest it is important to raise awareness of the importance of surveillance. You also suggest it is particularly important to be aware of the harms, that awareness would (hopefully) lead to change in attitude or behavior. At the same time, Professor Turow's research suggests that people care about privacy but also feel resigned, that they feel there is not much they can do to protect their privacy. What role is there for researchers and scholars on the one hand, and advocates and activists on the other hand, to make people more aware of possible actions they can take?

**OG:** This is also an important question. I think that I have tried to respond to it in a recent paper about strategies for putting inequality on the public agenda (see <http://polecom.org/index.php/polecom/article/view/60>). This is a piece about an educational campaign designed to help people to recognize the nature of inequality as a social problem that needs to be addressed through public policy. It includes unusual (for me) praise of a non-profit, foundation supported organization of communications researchers, The FrameWorks Institute, that has a well-developed strategy for understanding the nature of public understanding of issues, identifying the kinds of triggers that lead people to select/support regressive policy options, as well as the kinds of problem and solution frames that seem to lead people to move forward more progressive policy options. Theirs is very interesting work, but my paper also identifies some of the problems involved in mobilizing the public. This difficulty in mobilizing the public to act politically is part of the sense that Turow implies in his use of being "resigned": we think that there is nothing we can do. This sense of powerlessness has to be overcome more generally, not just with regard to privacy and surveillance.

It also takes note of something of a contradiction that I face. I have long been a critic of segmentation and targeting, and this kind of interventionist strategy pursues the understandable, if troubling logic of choosing which messages to deliver to which population segments. At the moment, I find myself in something

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of a box around this issue of strategy. As suggested earlier with regard to “trusted agents,” we would expect that different people would get different recommendations on the basis of the agent’s best assessment of what was in the client’s best interests. In the policy realm, where the best interests are of the collective, the nature of trusted agents will be difficult to define. The collective can’t readily and routinely be asked to provide informed consent. In addition, individual preferences also might include considerations of the collective, the global, and the future.

Scholar activists—I don’t separate them in the way your question suggests—can engage in research designed to help them understand the nature of public understanding of the problems linked to surveillance and privacy. As FrameWorks suggests, a variety of research strategies can also be used to identify the arguments and information strategies that are more likely to lead to increased support for public policies limiting the use of surveillance for problematic applications.

**LT:** You mention in your talk at the LSE that we have failed to come up with compelling examples of harm. Are examples we have come up with so far not compelling to the larger public, to the regulators and decision-makers, or both? More importantly, why have we failed to come up with compelling examples and what can we do to address this lacuna?

**OG:** Again, another interesting, and challenging question. As you suggest, there are two different audiences, the general public and the policy makers. The general public will be primarily interested in the risks/harms they face, while they may be generally disinterested in the risks/harms that are faced by others. The regulators have more complicated information needs. They have to assess these harms in terms of members and segments of the public, but they also have very different sets of tradeoffs to consider, such as the economic impact, including employment, tax revenues, etc. that would result from limitations on the use of TGI for marketing.

Both of these audiences are being continually bombarded with messages praising the social and economic benefits of segmentation and targeted marketing informed by the collection

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and analysis of TGI. While there are a good number of journalists and academics who provide the public with examples of the harms that flow from some uses, the number and prominence of these articles is a fraction of that devoted to cheerleading. Although people recognize, or can easily be challenged to think about the ways in which market discrimination affects some segments of the population, it is not enough apparently to mobilize public opposition, especially with the foundation of a craftily captured right of free speech that the marketers now exercise.

My answer is pretty much the same here, as for other questions about what can be done. We need to engage in an information campaign focused on the myriad harms to global society associated with the promotion of mindless consumption on the one hand, and the assortment of public policies that have worsened the nature and extent of social and economic inequality around the globe.

Clearly, I am suggesting that our focus needs to underscore the link between surveillance and marketing, and strategic communications designed to shape public policy (yes, I hear the contradictions!). I have been working with an organization, the Center for Digital Democracy to develop a partnership/coalition with environmental organizations to generate greater public awareness of the ways that surveillance-aided marketing is contributing to global warming. After all, surveillance is a technology that gathers information in order to generate actionable intelligence, in this case, strategies for segmenting and targeting consumers. And marketing is about mobilizing targets toward increased consumption, including the replacement of perfectly useful technology by “the next better thing.” The consequences of this waste, including increased consumption of energy and other resources, is part of an environmental concern about sustainability. Not making much progress, but I really think that this is an obvious connection.

**LT:** Can you elaborate a bit more on how to get the grassroots movement started so that the general public will care more about privacy and surveillance, so that bottom up energies can come together for a renewed OTA or similar public authority. Can you

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**maybe shed some light on the general principles by comparing or reflecting on past attempts—both successes and failures—at broad-based movements (not identity politics) by various groups such as the UDC, FramesWork, and maybe Gerbner’s Cultural Environment movement?**

**OG:** I am not much of a historian, so I have nothing in the way of comparisons of past attempts by such entities like the Union for Democratic Communication (UDC), or Gerbner’s Cultural Environment Movement, other than to suggest that none of those mentioned could be considered to have risen to the level of a social movement as they are generally understood. UDC, which was supposed to include activists, professionals, as well as academics became dominated by academic interests. As far as I know, Gerbner’s effort did not really reach a take-off point and the FrameWorks Institute is a research-oriented “think tank” that has been recognized as being at the leading edge of a kind of strategic communications research focused on what we might recognize as progressive policy outcomes. There is little doubt in my mind that they are making important contributions to the development of communications campaigns, some of which they have identified as being quite successful. They provide a number of guidebooks in specific policy areas ([www.frameworksinstitute.org](http://www.frameworksinstitute.org)) that might be of interest.

While I have written more generally about the kinds of approaches that have been taken toward movement development with regard to inequality in my article on “The political economy of framing” (*The Political Economy of Communication*, 3(2), 88–112), I have also explored the role of framing with regard to imprisonment, or “Hyperincarceration” (“Choosing the points of entry,” <http://dx.doi.org/10.1080/15456870.2014.859977>). But neither of these have a history that I could supply as evidence of what works.

**LT:** **What advice would you give (young) scholars aspiring to be agents of change? Academia has changed, in particular in its rationalization of scholarly output as a way of measuring performance. At the same time, there are perhaps also more avenues than ever before to have your voice heard.**

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**OG:** As I have been outside the classroom, as well as direct interaction with academic administrations, I don't have much sense of how the pressures are being delivered within the academy. I don't know what the relationship in career terms is between traditionally measured scholarly output and activism as we understand it. Clearly there are scholar/activists who have become "public intellectuals," and have as a result done well for themselves and for their political projects.

My sense is that there is still a tremendous amount of freedom and autonomy for young scholars to develop their identities as public intellectuals, although there may not be the same amount of resources from government agencies or foundations to support their research efforts. Depending upon their institution, and its sense of itself, there may be support for professors who involve students in research initiatives that also serve public purposes if they can be framed in ways that are seen as legitimate within the academy and the legislatures that might be relied upon for funding of the institution.

I suspect that these professors will face even more of a careerist shift in the student population that I observed in my later years in the academy. The concerns I raised about the coming constraints on meaningful employment are likely to influence the kinds of choices that these students are willing to make about how they spend their time. Those professors who can demonstrate that their courses/projects with social/public purposes also can provide much valued skills not easily available elsewhere might attract students who are willing to make that kind of "tradeoff."