Cambridge University Press & Assessment 978-1-108-81308-2 — Data-Driven Personalisation in Markets, Politics and Law Edited by Uta Kohl , Jacob Eisler Index More Information

Index

Abrams v. United States (US Supreme Court), 35 accuracy, 299-300 agency and, 19-20 GDPR and, 99-101 in machine learning, measuring, 267 of simple and complex algorithms, comparing, 263-4, 268-74 truth and, 17-20 actuarial justice, 26, 271 ARA, 143, 145-6, 148-9, 191, 195 CrimeStat, 270-1 in Ewert, 195 iudges and, 150 predictive sentencing and, 27-8, 143, 145-6, 148-50, 191 advertisement, Internet. See internet advertisement advertisement, political. See micro-targeting, political agency accuracy claims and, 19-20 in constitutionalism, 30-1, 281-6 criminal, 19-20 language and, 30-1, 282-6 moral agency, 6, 19-22, 142-3, 151, 285-6 personalisation and, 30-1, 285-6 personhood and, 30-1, 281-3, 285-6 predictive analytics, 19-20, 142-3, 151 technology and, 60 AI (artificial intelligence). See also machine learning in China, 44-5 in credit, indirect discrimination and, 128-30, 136, 243–4 data sets driving, 243 in digital modernity, 39-41 discrimination and, 128-30, 136, 138, 243-4

explicability for, 118 in gambling, 67-9 GDPR and, 95 AI4People initiative, 118, 123 AI ethics academic ethics compared with, 250 AI4People initiative, 118, 123 algorithmic assemblage in, 30-1, 244-5, 255-8, 299-300 as Americanised, 246-7 atomistic approach to, critiquing, 253-5 black boxes and, 253 corporate, critiquing, 30-1, 244-9, 256-8, 260, 200-200 diversity in, inclusivity and, 252-3 ethics boards in, 245, 247-9, 252, 257, 260 EU on, 244-9, 251-5, 257-8, 261 explicability in, 118 Google and, 245-7 groupthink in, 248-9 holistic analysis of, 30-1, 244-5, 253-8 limited problematisation in, 255-7 limited tool box of, 251-3 in UK, 245, 259 algorithmic assemblage, 30-1, 244-5, 255-8, 299-300 algorithms commercial influence on, 60-1 complex and simple, comparing, 30-1, 263-4, 268-74 Google flu trends, 270, 274 government through, 57 group, individual, and, 7-9 profiling with, terminology of, 26 transparency lacking in, 266-7 US presidential election prediction using, 265-6, 268-70

Cambridge University Press & Assessment 978-1-108-81308-2 — Data-Driven Personalisation in Markets, Politics and Law Edited by Uta Kohl , Jacob Eisler Index

More Information

308

Index

algorithms, simple. See simple rules Allo, Patrick, 34 Amazon, 65-6 algorithmic assemblage embedding, 256-7 micro-targeting by, 15-16 network effects of, 78, 81-2, 88-91 personalisation of, 74-5, 78, 80-2 price discrimination by, 175-6 walled garden data generation by, 44-5 analogue modernity, 37, 40 analogue profiling, 19 Anderson, Chris, 14, 264 Andrejevic, Mark, 59-60, 227-8 Angwin, Julia, 191-2, 198 anti-discrimination law. See discrimination ARA. See actuarial justice artificial intelligence. See AI Arvind, T. T., 162 association, 42 Australia, 231, 239 autonomy, 19-20, 302 contract and, 109, 111-16, 119 in data protection law, 109, 116-18 in GDPR, 116-17 P4 medicine and, 163-8, 171 patient, 161-6, 168, 171 autopoietic system, 30-1, 288-305 avatar, 41, 44-9, 60-1, 291-2 Bacon, Francis, 13-14 Bauman, Zygmunt, 39 Bayer, Ronald, 167-8 Becker, Howard, 197-8 behavioural targeting, 175 Benhabib, Seyla, 283-4 big data. See specific topics Big Data (Mayer-Schönberger and Cukier), 14 biopolitics datafication of, 64-6, 69 Foucault on, 57-9, 70 market and, 57-8 medicine and, 64-6 normalisation and, 57-9 self in, 58-60 biopower, 55, 57-8 The Birth of Biopolitics (Foucault), 58-9 black boxes, 60-3, 65, 128-9, 253 Black Mirror (television series), 205 Bornstein, Stephanie, 139 Brexit referendum, 223, 280-1 cab firms, 76-7, 81, 84, 88-9

cab firms, 70–7, 81, 84, 88–9 Cambridge Analytica scandal, 4, 29–30, 223–4, 226–7, 280 campaigns, political algorithms and predicting, 265-6, 268-70 Cambridge Analytica scandal, 4, 29-30, 223-4, 226-7, 280 data protection law and, 29-30, 223-6, 230-4, 238 financing, 223-5, 230 micro-targeting for, 4, 22-3, 26, 29-30, 121-2, 223-34, 238, 280-1 US presidential election of 2012, 269 US presidential election of 2016, 121-2, 223, 265-6, 268-70, 280-1 Campbell, David, 122 Canada, 205 Ewert, 195 micro-targeting in, regulation of, 231 Sidewalk smart city proposed in, 206, 208-11, 214-17 capitalism biopolitics and market in, 57-8 Fitbit subject and, 65-6 Foucault on, 58-9 governmentality under, 55-61, 64-6 neoliberal subject of, 56-7, 61, 64-7, 69-70 surveillance, 6-7, 60 Chan, Sarah, 160-1, 165 Chiao, Vincent, 265 China smart cities of, 29-30, 205-6, 213-14, 217 social credit system of, 29-30, 134-5, 205-6, 212-14, 217 WeChat, 44-5 choice, in digital modernity, 42-3, 50 choice architects, 4-5 CJA. See Criminal Justice Act, UK class, 39, 65-6, 104 climate change, 49-50 Clinton, Hillary, 265-6, 268-70 Cobbe, Jennifer, 207, 211 Coggon, John, 163-4 collaborative filtering system, 33 The Colour of Money (film), 66 commodification, data, 110-11 consent autopoietic personalisation system and, 288-9, 294-7, 300-1 contract and, 109, 112-13, 294-5 in data protection law, 27-9, 95-9, 103-4, 108-13, 116-17, 119-22, 129-30, 185-6, 231-2, 281, 294, 296

in GDPR, 27–9, 95–9, 103–4, 112–13, 116–17, 119–20, 122, 129–30, 185–6, 231–2, 281, 294, 296 privacy and, 108–12, 120, 294–5

More Information

Index

309

constitutionalism agency in, 30-1, 281-6 language in, 30-1, 281-6 mass surveillance threatening, 285-6 personalisation and, 30-1, 280-1, 284-6 personhood in, 30-1, 281-6 solidarities in, 30-1, 283-6 consumer, 4-5 autonomous, 19-20 contestability and, 23-4 in P4 medicine, 164, 171 price discrimination survey of, 178-83, 185-6 consumer protection law, 174 contestability in commercial sphere, 23-5 consumer and, 23-4 in law, 21-2 in political domain, 22-5, 35 in scientific community, 20-1 contract, 121 autonomy and, 109, 111-16, 119 consent and, 109, 112-13, 294-5 in data protection law, 96-8, 108-13, 118-22 market theory and, 115-16, 122 personalisation depending on, 110-13, 118-19 privacy and, 27-8, 108-9, 116, 120, 294-5 relationality and, 27-8, 113-15, 122 cookies, 96, 105, 120 Corporate Social Responsibility (CSR), 246-7, 250, 256-8 in Europe, 246 corporations AI ethics for, 30-1, 244-9, 252, 256-8, 260, 200-200 efficiency, control, and, 15-16 employee nudging by, 65 Fitbit subject and, 65-6 governmentality of, 55-6, 59-61 self-regulation of, critiquing, 247-9, 257 Correctional Offender Management Profiling for Alternative Sanctions (COMPAS), 191-2 in Loomis, 21-2, 200, 266-7 racial bias of, 197-8, 200, 266-7 correlation, 13-18, 264-5 courts bail and, 270-2 CJA on, 143-4 predictive risk assessment and, 144, 151 Supreme Court of Canada, 195 UK Supreme Court, 128-9, 135, 138, 162-5, 168, 170-1 US Supreme Court, 35, 138 Wisconsin Supreme Court, 21-2, 24, 200, 266-7 Coveney, Peter, 14-15

Cover, Robert, 283-4 COVID-19 pandemic, 166-7, 174, 207, 278-9 credit, 124, 140, 299 AI and indirect discrimination in, 128-30, 136, 243-4 anti-discrimination law and, 127-8, 136, 141 Chinese social credit system, 29-30, 134-5, 205-6, 212-14, 217 credit score, oppressive potential of, 136 credit score models, 27-8, 131-3, 135-6 credit scores, history of, 124 data protection law and, 129-30, 133-6, 294 indirect discrimination in, 128-33, 135-6, 243-4 microfinance, 126-7 minority, gender discrimination in, 127-8 mobile network data for, 126-7, 131-3 non-traditional data for, 124-5, 131-5 objective justification and, 131-3 price discrimination in, 125-6, 131 social media as input data for, 124-8, 131-4 US law on, 127-8, 131, 140 crime actuarial justice, 26-8, 143, 145-6, 148-50, 191, 195, 270-1 agency in, 19-20 bail, 142, 145-6, 190, 270-2 criminal law, 21-2, 27-8, 166, 200, 294, 302 prisons, 21-2, 147-8, 150-1, 155 CrimeStat, 270-1 criminal justice, data-driven. See also actuarial justice; sentencing, predictive autopoietic system of, 297-9 COMPAS, 21-2, 191-2, 197-8, 200, 266-7 critiques of, 192-3, 198 diversity and algorithms of, 195 epistemic power in, 190-1, 193-5, 198, 201 fairness and, 198-201 false positives in, 197 Foucault and, 190, 193-4, 201 in Loomis, 21-2, 24, 200, 266-7 machine learning in, 191-2 predictive policing, 4, 9, 16, 26, 29-30, 190, 243-4, 279 race and, 192-3, 195-8, 200, 266-7 recursion of, 297-9 as self-fulfilling prophecy, 196-8, 201 simple rules for, 270-2 social injustice and, 190-202, 297-9 structural impact of, 196-8 terminology in, 26 transparency lacking in, 199-201 trends in, 191-2 Criminal Justice Act, UK (CJA), 143-4, 148, 152, 154

310

Index

Cukier, Kenneth, 14 Cuomo, Andrew, 279 Czerlinski, Jean, 273 Data Protection Act, UK, 231-2 data protection law, 26-8, 121 accuracy and, 99-101 anti-discrimination law compared with, 129-30 appropriate use in, 133-5 autonomy in, 109, 116-18 with bioethics, analogy of, 123 consent in, 27-9, 95-9, 103-4, 112-13, 116-17, 119-22, 129-30, 185-6, 231-2, 281, 294, 296 consent in, privacy and, 108-12 contextual integrity and, 134 contract in, 96-8, 108-13, 118-22 Cookie Directive, EU, 120 credit and, 129-30, 133-6, 294 ePrivacy directive, European, 120, 231 legal analogies in, 108-12, 116-20 machine learning and, 100-1, 104 market individualism framework of, 117 for political micro-targeting, 29-30, 223-6, 230-4, 238 privacy in, 42, 108-12, 116-20, 133-5 purpose limitation principle of, 133-4 relationality in, 113-15 technological frameworks in, 116-18 data-driven computing. See specific topics data-self, 55, 59, 62, 65 De Cnudde, Sofie, 126-7 Dhami, Mandeep, 271-3 Dick, Philip K., 205 Digital, Culture, Media and Sport Committee, UK (DCMS), 223-4 digital modernity AI in, 39-41 analogue modernity compared with, 37, 40 avatar in, 41, 44-9 choice in, 42-3, 50 climate change in, 49-50 disruption in, 40 harm in, 45-50 individuality in, 26-7, 41-3, 46-7, 50 medicine in, 46-8, 50 narrative of, 40, 46 personalisation in, 26-7, 39-40, 42-50, 291 postmodernism and, 39, 41 privacy in, 26-7, 42-3 social grammar of, 43-4 space in, 41 subjunctive world of, 44-6, 49-50 temporality and, 40 digital persons, 290-1, 295-6, 299

discrimination, 86-7, 139, 297-8 AI and, 128-30, 136, 138, 243-4 anti-discrimination law, 11, 27-8, 49, 127-8, 136, 141 anti-discrimination law, data protection law compared with, 129-30 credit, 125-33, 135-6, 141, 243-4 EU on, 49, 127-8 gender, 49, 127-8 indirect profiling, stereotyping and, 11 machine learning and, 128-30, 136, 138 racial, 127-8, 135, 138-9, 192-3, 196-7, 298 UK on, 128-9, 138 US on, 127-8, 138-9 discrimination, indirect AI and, 128-30, 136, 243-4 black boxes and, 128-9 concept of, limits on, 130-3 credit, 128-33, 135-6, 243-4 EU on, 128 formal equality and, 130-1 GDPR on, 129-30 objective justification and, 131, 133 race in, 135, 138-9 UK on, 128-9 disinformation, 227 distributive profiles, 8-9 diversity. See also gender; race in AI ethics, inclusivity and, 252-3 criminal justice algorithms and, 195 machine learning and, 45 viewpoint, 228, 232-3 driving metrics, 61-3, 66, 69-70, 90 Dunn, John, 225-6 Dworkin, Ronald, 277-8 emotional targeting, 100-1, 121 empiricism, 7 of Bacon, 13-14 of big data, 15-17, 104 of Hume, 13-15 of Wittgenstein, on family resemblance, 8-9 employees. See also class nudging of, 65 personalisation and hiring, 75 surveillance of, 63, 65-6 Enlightenment, 26-7, 37-8, 41-4 environment climate change, 49-50 driving metrics for, 62-3 environmental shocks, 292-3, 304-5 in smart cities, sustainability for, 207, 216 epistemic power, 190-1, 193-5, 198, 201 ePrivacy directive, European, 120, 231

Cambridge University Press & Assessment 978-1-108-81308-2 - Data-Driven Personalisation in Markets, Politics and Law Edited by Uta Kohl, Jacob Eisler Index

More Information

Equal Credit Opportunity Act (US), 127-8, 131 equality, formal, 11-12, 130-1 Erikainen, Sonia, 160-1, 165 Essop and Naeem (UK Supreme Court), 128-9, 135 ethics, academic, 249-51 ethics, AI. See AI ethics ethics, medical, 123, 250, 261-2 Ethics Guidelines for Trustworthy AI (Ethics Guidelines), 247, 255, 258 Assessment List of, 253-5, 257, 261 atomistic approach of, 253-5 GDPR and, 252 non-technical measures in, 252-3 technical measures in, 251-2 Eubanks, Virginia, 254, 257 European Union (EU) on AI ethics, 244-9, 251-5, 257-8, 261 on Cambridge Analytica scandal, 223-4 Charter of Fundamental Rights, 127, 245 Cookie Directive, 120 on discrimination, 49, 127-8 ePrivacy directive, 120, 231 Ethics Guidelines, 247, 251-5, 257-8, 261 on FRTs, 215 Ewert v. Canada (Supreme Court of Canada), 195 exemplars, 108-9, 111-13 explicability, 118 Extinction Rebellion, 49-50 Facebook, 88, 121-2 Cambridge Analytica scandal, 4, 29-30, 223-4, 226-7, 280 credit data from, 124-8 emotional contagions study of, 23-4 emotional targeting by, 100-1, 121 network effects of, 82, 84 sensitive data used by, 101-2 facial recognition technologies (FRTs) automated, 243-4 in gambling, 68-9 sensitive data from, 101-2, 107 smart cities and, 29-30, 206, 210, 214-17 Fair Credit Reporting Act (US), 140 fake news, 227, 234 falsification, 20-3 Feeley, Malcolm M., 145-6 Feenberg, Andrew, 15 filter bubbles, 227-8, 233, 249, 254-5 Fitbit, 57, 63-6, 69 footprint, digital

all data is credit data, 24-5, 27-8, 124-5, 128-9, 132-5 big-data, 3, 7-10, 124-5, 128-9, 133-4

Ford, Henry, 43-4

Index

311

Foucault, Michel, 291 on biopolitics, 57-9, 70 on biopower, 57-8 criminal justice technologies and, 190, 193-4, 201 on governmentality, 26-7, 56-61, 70 on knowledge, power and, 55-9 on neoliberalism, 58-9 on normalisation, 19, 57-9, 201 on subjects, 61, 69 surveillance and, 58-61 Galea, Sandro, 167-8 gambling, 66-7 AI in, 67-9 geo-locational tracking of, 57, 68-9 metrics for, 57 personalisation of, 57, 67-70 surveillance in, 68-9 Gates, Bill, 159 gender, 266 credit and, 127-8 discrimination by, 49, 127-8 in modernity, 39 personalisation and, 4, 39, 101-2, 127-8 General Data Protection Regulation, EU (GDPR), 104 accuracy and, 99-101 AI and, 95 Article 22 of, 23-4, 36, 103, 116 autonomy in, 116-17 consent in, 27-9, 95-9, 103-4, 112-13, 116-17, 119-20, 122, 129-30, 185-6, 231-2, 281, 294, 296 credit and, 129-30, 133-4 Data Protection Impact Assessments under, 103-4 deletion and modification under, 95-6, 99-101, 103-4, 106 enforcement of, 95-6, 101, 103-4 Ethics Guidelines and, 252 indirect discrimination and, 129-30 internet advertisement and, 96-7, 99-100, 112 legal basis required by, 185-6 legitimate interest criterion in, 98, 106, 119, 185 limits of, 27-8, 95-6, 104 market individualism framework of, 117 political micro-targeting and, 231-3 price discrimination and, 29, 174, 183-6 profiling under, 101, 106, 121 purpose limitation principle of, 133-4 sensitive data under, 27-8, 95-6, 101-4, 107 transparency in, 118, 129-30, 184, 281 genetic profiles, 4 geographical profiling, 270-1 geo-locational tracking, 57, 68-9

312

Index

Gigerenzer, Gerd, 273 globalisation, 37-8 Goldstein, Daniel, 273 Goodman, Ellen, 208, 210 Google, 88 AI ethics and, 245-7 Google flu trends algorithm of, 270, 274 Google Maps, 63, 74-5, 81, 90 Google Search, 77-8, 80-2, 88-9 network effects of, 88-9 personalisation and, 74-5, 77-8, 80-2, 90 Sidewalk, 206, 208-11, 214-17 governance AI ethics, 30-1, 118, 123, 244-61, 299-300 by code, 60-1, 194 nudging/manipulation, 4-5, 47-8, 65, 69, 74-5, 208, 210, 216 regulation/law, 29, 84-6, 126, 186, 207-9 governmentality. See also biopolitics algorithmic, 26-7, 56-7, 59-61, 64-6, 69 capitalist, 55-61, 64-6 corporate, 55-6, 59-61 data and contemporary, 55-6, 59 neoliberal, 57-60, 64-6 normalisation and, 57-9 personalisation and, 55-7 subject in, 61, 69 Graef, Inge, 89 Griffin, James, 282 group profiling, 7-9 Hale, Brenda (Lady Hale), 128-9, 135 Harcourt, Bernard E., 156, 200 Harm Assessment Risk Tool (HART algorithm), 9 health datafication and, 63 neoliberal subject, 64-5 High-Level Expert Group on Artificial Intelligence, EU. See Ethics Guidelines for Trustworthy AI Hildebrandt, Mireille, 12, 14–15, 18–19 Hindley. See R v. Secretary of State for the Home Department ex parte Hindley Hoffmann, A. L., 253-4 Holmes, Oliver Wendell, Jr., 35 Hood, Leroy, 159-61, 168 human behaviour, theories of, 14-15, 263-6 Human Genome Project, 28-9, 159 Hume, David, 13-15, 43-4 inclusivity, 252-3 individual

biopolitical self, 58-60 in data protection law, market and, 117 in digital modernity, 26-7, 41-3, 46-7, 50 Fitbit subject, 64-6, 69 governmentality, subject and, 61, 64-6, 69 in modernity, 39, 41-4, 46 neoliberal subject, 56-7, 61, 64-7, 69-70 in smart cities, 205 Information Commissioner's Office, UK (ICO), 98, 223-4, 231-2 The Institutions of Private Law and their Social Functions (Renner), 122 internet advertisement, 88 behavioural targeting in, 175 gambling, 67 GDPR and, 96-7, 99-100, 112 micro-targeting in, 15-16 personalisation and, 4, 15-16, 77-81, 96-7, 99, 112-15 sensitive data and, 101-2 Internet of Things, 41

Japan, 238 Jimenez, Alisha Caldwell, 197 judges OASys impacting, 144, 150 social justice and, 151–2 The Jurisdiction of Medical Law (Veitch), 166

Kafka, Franz, 24–5 Kant, Immanuel, 41–4, 293–5 Klein, Naomi, 279 Koopman, Colin, 59–60

Lacey, Nicola, 19-20 language agency and, 30-1, 282-6 in constitutionalism, 30-1, 281-6 law and, 278, 302 Musk on, 277 personalisation and, 30-1, 278, 285 personhood and, 30-1, 282-6 Larson, Jeff, 191-2, 198 law analogies in, 108-9, 111-13, 119, 123 as autopoietic system, 30-1, 289, 301-3 contestability in, 21-2 language and, 278, 302 natural, 282 soft, 252, 281 Lazer, David, 270, 274 legal analogies, 119 with bioethics, 123 in data protection law, 108-12, 116-20

in AI ethics, focus on, 253-5

in algorithmic profiling, group and, 7-9

exemplars in, 108-9, 111-13

Cambridge University Press & Assessment 978-1-108-81308-2 - Data-Driven Personalisation in Markets, Politics and Law Edited by Uta Kohl, Jacob Eisler Index

More Information

Lessig, Lawrence, 18-19 Li, Tania Murray, 58, 66 Lichtman, Allan, 268-70, 273-4 Liebowitz, Stan J., 87 life-style profiles, 4 Lipton, Zachary C., 267 Loomis v. Wisconsin (Wisconsin Supreme Court), 21-2, 24, 200, 266-7 Lowenkamp, Christopher, 198 Luhmann, Niklas, 293, 303-5 Lyotard, Jean-François, 39, 41 machine learning, 16-18 accuracy in, measuring, 267 correlation and, 265 in credit, indirect discrimination and, 128-30, 126 in criminal justice algorithms, 191-2 data protection law and, 100-1, 104 data sets driving, 243 in digital modernity, 41 discrimination and, 128-30, 136, 138 explicability for, 118 operations performed by, 45 personalisation and, 45 sensitive data and, 102 theory and, 265, 274 Margolis, Stephen E., 87 market biopolitics and, 57-8 concentration, competition, and, 75-8, 82-7, 00-1 in data protection law, individualism and, 117 network effects in, 26-7, 75-8, 82-7, 90-1 network effects in two-sided, 76-7, 88-9 price signals and theory of, 115-16 relationality and theory of, 114-16, 122 Martignon, Laura, 273 Mayer-Schönberger, Viktor, 14 McMahon, A., 162 MDS. See Mobility Data Specification medicine, 4. See also P4 medicine algorithmic government through, 57 biopolitics and datafied, 64-6 clinician-patient relationship in, 167-8, 170-1 COVID-19 pandemic, 166-7, 174, 207, 278-9 datafication of, 46-8, 50, 63-4, 66, 69-70 ethics of, 123, 250, 261-2 Fitbit tool for, 57, 63-6, 69 medical law, 159, 161-8, 170-1 Montgomery on, 162-5, 168, 170-1 nudging in, 47-8 patient autonomy, 161-6, 168, 171

Index

313

Merton, Robert, 196-7 microfinance, 126-7 micro-segmentation, 132, 135-6 Microsoft, 76-7, 88 micro-targeting, political, 26 Cambridge Analytica scandal, 4, 29-30, 223-4, 226-7, 280 contestability and, 22-3 data protection law for, 29-30, 223-6, 230-4, 238 privacy and, 230-4 in US presidential election, 2016, 121-2, 223, 280-1 vices and virtues of, 224-30, 234 Mill, John Stuart, 22–3, 46–9 The Minority Report (Dick), 205, 211 Miola, José, 164 mobile network data, credit and, 126-7, 131-3 mobility data, 206, 209, 211-12, 216 Mobility Data Specification (MDS), 206, 209, 211-12 model inversion attack, 100 modernity, 26-7 analogue, 37, 40 choice in, 42 Enlightenment in, 37-8, 41-4 harm in, 46 individual in, 39, 41-4, 46 liquidity of, 39 narratives of, 37-9, 43-4, 46 present tense narrative of, 43-4 privacy in, 42, 46 space in, 38, 41 temporality of, 40 Montgomery, Jonathan, 166-7 Montgomery v. Lanarkshire Health Board (UK Supreme Court), 162-5, 168, 170-1 Morison, John, 207, 211 Morozov, Evgeny, 209, 211 mortgages. See credit Musk, Elon, 277 narratives of digital modernity, 40, 46 internal logic of, 37 of modernity, 37-9, 43-4, 46 social grammar of, 43-4 truth and falsehood of, 37 natural law theories, 282 neoliberalism Foucault on, 58-9 governmentality of, 57-60, 64-6 subject of, 56-7, 61, 64-7, 69-70 Netflix, 77-82 network effects, 88 of Amazon, 78, 81-2, 88-91 defining, 76

Cambridge University Press & Assessment 978-1-108-81308-2 — Data-Driven Personalisation in Markets, Politics and Law Edited by Uta Kohl , Jacob Eisler Index

More Information

314

Index

network effects (cont.) in digital economy, 76-7 first-order, 75-6, 80-2, 84, 90 interoperability for, 84 market concentration, competition and, 75-8, 82-7, 90-1 nationalisation for, 85 of personalisation, 26-7, 75, 77-87, 89-90 public policy for, 83-7 regulation of, 84-6 second-order, 75-6, 81-5, 90, 299 second-order, personalisation as, 79-81, 85-6 social media, 76-82, 84 taxation for, 85-6, 91 tech sector business models by, 81 in two-sided markets, 76-7, 88-9 Neuralink, 277 Neurath, Otto, 284 Newheiser, David, 59 NHS, UK, 163-6 Nissenbaum, Helen, 134 non-distributive profiles, 8-9 normalisation, 18-19, 57-9, 201 Norris, Pippa, 229 nudging, 4-5, 69, 74-5 corporate, of employees, 65 in medicine, 47-8 static nudges and hypernudges, 208, 210, 216 Nuffield Council on Bioethics, 166 Oakeshott, Michael, 48 Obama, Barack, 161, 167-8, 269 Offender Assessment System (OASys), 142, 144-5, 148-50 On Liberty (Mill), 22-3, 46 Open Mobility Foundation, 211-12 Óskarsdóttir, María, 126-7 P4 medicine, 26, 28-9, 159-68, 170-1 PCRA algorithm, 198 penal predictive algorithms. See criminal justice, data-driven personalisation. See specific topics personalised pricing. See price discrimination personhood agency and, 30-1, 281-3, 285-6 in constitutionalism, 30-1, 281-6 digital, 290-1, 295-6, 299 language and, 30-1, 282-6 personalisation and, 30-1, 285-6 pixelated human, 6 Plato, 8-9

policing, 4, 26, 29-30, 190, 243-4, 279 efficiency, control, and, 16 HART algorithm in, 9 politeia, 283-4 political parties, 229-30 Popper, Karl, 20-1 The Postmodern Condition (Lyotard), 39, 41 postmodernism, 39, 41 Powles, Julia, 210 precision medicine. See P4 medicine predictive analytics advertising, 4, 15-16, 18-19, 30-1, 100-2, 112, 114-16 pricing, 29, 126, 131, 174-87 pre-modernity, 39-40, 42-3, 45-6 price, fixed, 174 price discrimination, 175-6, 188 in credit, 125-6, 131 degrees of, 176-7 economic theory underlying, 174-8, 187 GDPR and, 29, 174, 183-6 popular perceptions of, 178-83, 185-6 regulating, banning, 29, 126, 186 welfare impact of, 29, 177-8 price signals, 115-16 pricing, dynamic, 177-8, 181-2 privacy. See also data protection law; General Data Protection Regulation commercial surveillance and, 110 consent and, 108-12, 120, 294-5 contract and, 27-8, 108-9, 116, 120, 294-5 in data protection law, 42, 108-12, 116-20, 133-5 in digital modernity, 26-7, 42-3 ePrivacy directive, European, 120, 231 as exemplar, 111-12 in modernity, 42, 46 political micro-targeting and, 230-4 privacy paradox, 97 private, public and, 205-12, 216-17 privileged influence, personalisation and, 297-300, 305 Profiles, Probabilities, and Stereotypes (Schauer), 11-12 profiling algorithmic, terminology of, 26 analogue, 19 blind knowledge of data-driven, 13-17 distributive profiles, 8-9 under GDPR, 101, 106, 121 genetic, 4 geographical, 270-1 group and individual in algorithmic, 7-9 indirect, stereotyping and, 9-11 life-style, 4

More Information

Index

non-distributive profiles, 8–9 in predictive policing, indirect, 9 social injustice of, 190–1 stereotyping and, 7, 9–13 pseudo-private spaces, 207–8 pseudo-public spaces, 207–8 purpose limitation principle, 133–4

Quartix, 62

R (on the application of Coll) v. Secretary of State for Justice (UK Supreme Court), 138 R v. Secretary of State for the Home Department ex parte Hindley (Hindley) (UK), 148, 155 race. 101-2 COMPAS and, 197-8, 200, 266-7 credit personalisation and, 127-8 criminal justice algorithms and, 192-3, 195-8, 200, 266-7 discrimination in, 127-8, 192-3, 196-7, 298 in indirect discrimination, 135, 138-9 rationality, 284 relationality, 27-8, 113-16, 122 Renner, Karl, 122 retributive justice, 155 in Hindley, 148, 155 predictive sentencing conflicting with, 27-8, 142-3, 145-8, 152-3, 255 Rieder, Bernhard, 18, 24-5 Saussure, Ferdinand de, 282-3 Schauer, Frederic, 11-12, 130-1 Scotland, 207 Sennett, Richard, 46 sensitive data, 27-8, 95-6, 101-4, 107 sentencing, predictive, 16, 155, 190 actuarial justice and, 27-8, 143, 145-6, 148-50, 101 arbitrariness of, 149-50 legal and technological context of, 143-5 liberal retributive justice conflicting with, 27-8, 142-3, 145-8, 152-3, 255 OASys, 142, 144-5, 148-50 social justice and, 148-52, 156 in UK, CJA and, 143-4, 148, 152, 154 sexual orientation, 3-4, 9, 101-2, 127, 134 Sherwin, E., 119 Sidewalk, 206, 208-11, 214-17 Silver, Nate, 265-6, 268 Simon, Jonathan, 18-19, 145-6 simple rules, 268 complex algorithms compared with, 30-1, 263-4, 268-74 in criminal justice, 270-2

315

Lichtman 13-key rule, 268-70 simulatability in, 267 transparency and, 267-8 US presidential election prediction and, 268-70 Şimşek, Özgür, 273 simulatability, 267 Skeem, Jennifer, 198 smart cities, 41 Chinese social credit system and, 29-30, 205-6, 213-14, 217 concepts, evolving, of, 206-9 environmental efficiency, sustainability in, 207, 216 FRTs and, 29-30, 206, 210, 214-17 individual in, 205 mobility data in, 206, 209, 211-12, 216 pseudo-public and pseudo-private in, 207-8 public and private in, 205-12, 216-17 Sidewalk, 206, 208-11, 214-17 in UK, proposed, 205, 207 smartphones, 63, 67-9 Snow, C. P., 263 social credit system, Chinese, 29-30, 134-5, 205-6, 212-14, 217 social grammar, 43-4 social justice, 148-52, 156 social media. See also Facebook for credit, as input data, 124-8, 131-4 network effects of, 76-82, 84 soft law, 252, 281 solidarities, social, 30-1, 283-6, 302 Solove, Daniel, 24-5 South Korea, 48 Staples, 175, 178 Starr, Sonja B., 156 stereotyping. See profiling Steyn, Johan (Lord Baron Steyn), 148, 155 Stigler, G. J., 187 subject-matter experts, 25-31 subjectivity, 56, 61, 69 subjectivation, 56, 69 subjunctive world, 44-6, 49-50 substance, process and, 5 Sunstein, Cass R., 4-5, 23 Supreme Court, UK, 138 Essop and Naeem, 128-9, 135 Montgomery, 162-5, 168, 170-1 Supreme Court, US, 35, 138 Supreme Court, Wisconsin. See Loomis v. Wisconsin Supreme Court of Canada, 195 surveillance, 69 by commercial actors, privacy and, 110 by corporations, 65-6

316

Index

surveillance (cont.) employee, 63, 65-6 Foucault and, 58-61 in gambling, 68-9 mass, constitutional life threatened by, 285-6 surveillance capitalism, 6-7, 60 systems medicine. See P4 medicine systems theory. See autopoietic system taxation, 85-6, 91 Taylor, Charles, 282-3 telematics, 61-3, 66 Teubner, Gunther, 301-2 Thaler, Richard H., 4-5 theory, 30-1 correlation and, 14-15, 264-5 of human behaviour, big data eschewing, 14-15, 264-6 of human behaviour, process-based, 263-5 machine learning and, 265, 274 Till, Christopher, 65 Toronto, Canada, 206, 208-11, 214-17 traditional profiling, 19 transparency criminal justice algorithms lacking, 199-201 deliberation and, 266-7 in GDPR, 118, 129-30, 184, 281 of simple rules, 267-8 The Trial (Kafka), 24-5 Trump, Donald, 265-6, 268-70 truth, 17-20 Uber, 76-7, 81, 84, 88-9 United Kingdom (UK) academic ethics in, 249-51

AI ethics of, 245, 259 bail in, 271–2 on Cambridge Analytica scandal, 223–4

CJA, 143-4, 148, 152, 154 Data Protection Act, 231-2 DCMS Committee, 223-4 on discrimination, 128-9, 138 Essop and Naeem, 128-9, 135 FRTs in, 215 Hindley, 148, 155 ICO, 98, 223-4, 231-2 Montgomery, 162-5, 168, 170-1 NHS, English, 163-6 OASys in, 142, 144-5, 148-50 political micro-targeting and, 223-4, 231-2 prisoner treatment in, 155 smart city proposals in, 205, 207 United States (US) Abrams, 35 AI ethics of, 246-7 credit law in, 127-8, 131, 140 on discrimination, 127-8, 138-9 micro-targeting in, permissive regime on, 230 Washington, 138 US presidential election of 2012, 269 US presidential election of 2016, 268 algorithms and predicting, 265-6, 268-70 political micro-targeting in, 121-2, 223, 280-1 Veitch, Kenneth, 166 Volcic, Zala, 227-8 Walzer, Michael, 134 Washington v. Davis (US Supreme Court), 138 Waterfront Toronto, 209-11

WeChat, 44–5 Wisconsin Supreme Court. See Loomis v. Wisconsin Wittgenstein, Ludwig, 8–9

Zuboff, Shoshana, 6-7