

Introduction

What challenges does the exercise of fundamental rights and freedoms on the Internet raise for constitutional law scholars? What balance should be struck between freedom of expression, as a necessary freedom and value of any democratic society, and other constitutional rights when they meet at a technological crossroads? How are Europe and legislators around the world reacting to the rise of online disinformation, “fake news” and hate speech, in the wake of mounting evidence of adverse effects on democratic processes? What is the most effective approach to address and tackle harmful practices over the Internet, if any?

These are some of the pivotal questions that this book seeks to explore. Far from disinformation, “fake news,” and hate speech being novel problems of the 21st century, the potentially global scale of their reach, and the unprecedented speed of their dissemination, raise concerns that are specific to our digital age. As parliaments and courts around the world experiment with the implementation of various measures and remedies to tackle disinformation practices, a tendency to involve a variety of actors emerges clearly as part of any possible solution.

It is the authors’ belief that the answers to these questions have their roots in contemporary constitutionalism, within the paradigm of the constitutional traditions of Europe and the United States. Specifically, the right to freedom of expression, its development and subsequent application to the digital dimension, constitute the starting ground for the analysis.

Against this backdrop, this book is divided into three main chapters, in addition to the fourth chapter, presenting the authors’ conclusions.

In the first chapter, we explore how technological innovation has changed the way information is produced, distributed, and consumed.

This change does not merely touch upon the public dimension of pluralistic democracies, but rather, encompasses a structural shift in the combined evolution of liberal democracies and market economies over time.

We also discuss the role of the state in protecting “truth” as a value belonging to their constitutional foundations.

In the second chapter, we address the crucial questions of contemporary constitutionalism regarding freedom of expression. More specifically, we examine how European courts, on the one hand, and the United States Supreme Court, on the other, protect free speech and the dual right to inform and be informed, and their transition from the world of atoms to the world of bits.

In the third chapter, we examine the current race to regulate disinformation practices across the world. Starting from the EU-level framework, the author subsequently explores a select number of national interventions, exemplary for their approaches in the European and international frameworks, including Germany, Italy, France, the United Kingdom, the Russian Federation, and finally, Singapore and Malaysia.

The book is the result of a joint effort. The concluding remarks were written together, while Giovanni Pitruzzella wrote the first chapter and Oreste Pollicino the second and third chapters.

The authors would like to express their gratitude to Bocconi University Press for supporting this project and to *Dott.ssa* Laura Somaini, for contributing to the project’s success.

Giovanni Pitruzzella, Oreste Pollicino
Luxembourg/Milan