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Editorial

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One small step for a man…

If one were asked why 1969 is an unforgettable year in human history, one would not hesitate to recall that, in that year, the man landed for the first time on the Moon. Goddess in antiquity, coveted land during the Cold War, the Moon has always fascinated human beings. Those lucky families which had a television in 1969 watched Neil Amstrong climbing down the ladder of Apollo 11 and pronouncing the famous sentence: "That's one small step for a man, one giant leap for mankind"[1]. However, few would remember that in October of the same year, a computer of the University of California, Los Angeles (UCLA) sent the first packet-switched message to Stanford University[2]. ARPANET, the ancestor of today's Internet, was born exactly fifty years ago, the same year of human landing on the Moon, but certainly without a comparable mediatic attention.

Fifty years later, paradoxically, one may argue that Amstrong's sentence would make even more sense if referred to the Internet. In 1969, no one could imagine that today we would have literally 'lived' a substantial part of our existence in the digital world, communicating, working, loving on the Internet, just to mention some examples. Professor Pernice, in the interview that opens this volume, makes perfectly clear that even in the 1990's, when the Internet started to be used for commercial purposes, its social potential was not fully understood. This story shows that not all revolutions are immediately visible. Not every major change of paradigm is accompanied by

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[1] See NASA, "July 20, 1969: One Giant Leap For Mankind", 19 February 2015. Available at: http://www.nasa.gov/mission_pages/apollo/apollo11.html.
[2] FEATHERLY, Kevin, "ARPANET | Definition & History", Encyclopedia Britannica, 2016. Available at: https://www.britannica.com/topic/ARPANET.

clangorous cataclysms. Some big bangs emerge silently. The Internet was born without great fanfare. Yet, this does not mean that the first two letters exchanged between UCLA and Stanford did not represent "one giant leap for mankind". Today, we cannot continue underestimating the significance and the impact of the Internet on our societies. We have eventually realised that the Internet is not a separate world utopically self-governed by enlightened rules. Over the past few years, we have understood that the development of digital technology has profound consequences on the way we exercise our fundamental rights and, more broadly, on the democratic architecture of our societies.

Democracy and the Internet

In 2004, Jack Balkin referred to the Internet as a "democratizing force"[3]. This expression is emblematic of the original optimism with which many scholars welcomed the unprecedented developments of digital technologies. At that time, some of the literature embraced the belief that the new technological context could foster democracy by enhancing equality and participation through a capillary redistribution of communicative capacities. There was a democratic promise embedded in that idea of the Internet, and many works celebrated a series of new possibilities of achieving more transparency, accountability and participation at many levels of decision-making.

This optimistic approach characterised the academic literature known as *cyberlibertarianism*, which was popular during cyberspace's first years of expansion. The iconic and widely quoted "Declaration of Independence of Cyberspace" by John Perry Barlow expresses the understanding of the Internet as "a world that all may enter without privilege or prejudice accorded by race, economic power, military force, or station of birth"[4]. The ideas labeled as cyberlibertarian revolved around both this democratic promise and the impossibility (or inadequacy) of state intervention in the online environment. Even though this last assumption was progressively abandoned, the idea of the Internet's potential for promoting equal access to and distribution of information remained at the core of subsequent works.

For instance, Yochai Benkler highlighted the potential of the online environment to enable small groups of constituents and individuals to become users and producers in the information environment[5]. Similarly, Diane Rowland recognized the Internet's capacity to enable "many voices

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[3] BALKIN, Jack M. "Digital Speech and Democratic Culture: a Theory of Freedom of Expression for the Information Society", New York University Law Review, 79 (1), 2004, p. 1.
[4] BARLOW, Joe Perry Barlow. "The Declaration of Independence of Cyberspace", 1996. Available at: https://www.eff.org/cyberspace-independence.
[5] BENKLER, Yochai. "The wealth of networks". Available at: http://www.benkler.org/Benkler_Wealth_Of_Networks.pdf.

to be heard that would have been denied an audience in the traditional distinctions between creators and consumers of news and information"[6]. Besides its implications in the sphere of public debate, the Internet was also praised for facilitating citizenship engagement regarding policy developments, political events and public scrutiny. In these realms, we have witnessed the implementation of initiatives meant to improve the functioning of bureaucracies and policy making, such as e-government and public spending transparency tools.

However, two decades later, the scenario depicted by this scholarship has changed. Today, the same technologies once praised for their democratic potential are blamed for jeopardizing institutions and individual rights. Issues such as fake news, mass surveillance and data breaches are only some examples of the phenomena they facilitate, and are currently placed at the center of most academic debates on digital governance. Thus, a different picture emerges in which the originally praised "democratic force" of the Internet irremediably fades. In a recent work, the same Balkin blames the failure of regulatory instances in such a scenario, writing that the multiple threats to the contemporary digital society imperil "*the promise of a vibrant democratic culture of participation and exchange*".[7]

Future visions

After the definitive unveiling of the dark side of digital technology, we believe that it is now time to investigate the potential to rehabilitate the original idea of the Internet, and to discuss future visions for a democratic digital environment. This conviction led us to create the project "Future visions for a Democratic Internet", which aims to stimulate a reflection among young and senior scholars with different disciplinary background on the symptoms of this crisis and its potential solutions.

This was the challenge proposed when, in January 2019, we published the Call for Papers for the symposium "Future Visions for a Democratic Internet: Actors, Norms, Institutions". The event took place on 27th June 2019 at the Sutherland School of Law of University College Dublin, thanks to the generous support of the Sutherland School of Law and the UCD Seed Funding Scheme. In a fruitful day of discussions and academic exchange, scholars from different countries presented their thoughts on the challenges posed by the online environment, together with their vision for a democratic Internet. Professor Sofia Ranchordas from the University of Groningen kicked off the symposium with a keynote on citizens participation and digital censorship on Twitter.

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[6] ROWLAND, Diane. "Free Expression and Defamation" in KLANG, MATHIAS e MURRAY, Andrew (org). "Human Rights in the Digital Age", pp. 55-70. London: Glasshouse Press, 2005, p. 72.
[7] BALKIN, op. cit., p. 3.

Our second keynote speaker was Siobhán Cummiskey, EMEA Head of Content Policy at Facebook, who presented on the proposal to create an oversight board for content moderation. Professor Carlos Affonso Souza, from the Rio de Janeiro State University, focused his afternoon intervention on disinformation in the context of Brasilian elections. The event was then closed by a multistakeholder roundtable moderated by Dr Marguerite Barry (UCD School of Information and Communication Studies), which featured Dr TJ McIntyre (UCD and Digital Rights Ireland), Emma Redmond (Ancestry.com), Donna Creaven (Irish Data Protection Commission), and Craig Dwyer (Transparent Referendum Initiative).

The papers presented in June 2019 included multidisciplinary analyses focusing on a variety of topics, including online democratic participation, the incorporation of public values in private actors' internal rules, the promotion and protection of freedom of expression in the digital environment, and the democratic challenges generated by algorithmic decision-making. In this volume, thanks to the support of the law journal *Publicum*, the dedication of many anonymous reviewers and the efforts of our authors, we are happy to share with the academic community a first selection of "future visions for a democratic Internet".

In this volume...

We are honoured to open this volume with an interview with Professor Ingolf Pernice, Research Director at the Alexander von Humboldt Institute for Internet & Society of Berlin. Pernice positively affirms that the Internet, notwithstanding its risks, still preserves a high potential to improve the level of democracy in our societies. He provides the example of his recent research project 'DECiDE', aimed to enhance democratic participation via a random sample voting system based on digital identity, and concludes with a series of recommendations for junior academics, stressing in particular the role that legal scholarship can play in shaping the architecture of a democratic Internet environment.

In the first paper, entitled "Net Neutrality matters: Privacy antibodies for information monopolies and mass profiling", Gianluigi M. Riva and Dr. Marguerite Barry present net neutrality as a fundamental element to guarantee democracy online. In particular, Riva and Barry explore how privacy legal tools can be utilised to regulate online platforms' profiling capabilities and consequently limit their monopolistic power to influence online content.

The second paper examines the negative impact that technocracy exercises on democracy in the context of Internet governance. In "Technological Determinism and Democracy in the Governance of the Logical Layer of the Internet", Vasiliki Koniakou demonstrates how technological determinism undermines democratic participation in decision-making processes

behind the mask of technical expertise, and advances a series of proposals to reform governance procedures in this field.

Concerns related to democratic participation are also present in Teresa Völker's and Domenico Rosani's papers. In "Deliberative Democracy in the Age of Social Media", Völker analyses online political deliberation from a political science perspective. Combining an empirical and theoretical approach, the article examines which elements have an impact on the quality of political discourse and large-scale deliberation on social media, suggesting the creation of new publicly administered online platforms as a potential solution.

Rosani, in his article "Combating Discrimination: Internet Literacy to Strengthen Children's Rights in the Digital Environment" highlights how the Internet plays a crucial role to provide children with the necessary knowledge and voice to participate in contemporary democracies. At the same time, Rosani points out the multiple risks of discrimination arising from existing disparities in the level of Internet literacy. The paper concludes suggesting potential avenues for public and private actors to reduce persisting inequalities and foster children's rights.

The papers authored by Annemarie Balvert and Gijs van Maanen, and by Stefano Rossa explore the role of public interest data in fostering democracy in our societies. In "Open for whom? The role of intermediaries in data publication", Balvert and van Maanen analyse the Dutch open data policy, critically assessing the role of intermediaries, such as journalists, data analysts and activists, in enhancing the level of dissemination of data to the general public. Combining a legal and political-philosophical perspective, the authors challenge the rationale behind the distinction between intermediaries and general public in national open data strategies, and conclude advocating for a system that strikes a better balance between market efficiency and fundamental rights.

Rossa, in his article "Law, Technology, and Administration in Italy and Estonia. A Comparative Analysis of the Right to Information", compares the legal regime of citizens' access to public information in Italy and Estonia. The paper highlights the potential for digital technology to boost democracy by implementing effective systems to access public information. Rossa's final vision posits the right to information as a pivotal provision to forestall the danger of an arbitrary administration, at the same time obscure and impenetrable as in Kafka's *The Castle*.

The promotion and limitation of freedom of expression in the digital environment was one of the central topics debated in our symposium in June 2019, and in this volume represents the central issue examined in the last three articles, respectively written by Dr. Gavin Robinson, Ethan Shattock and Professor Bernardo Brasil Campinho. Robinson, in his paper entitled "A Democratic Dénouement? The EU vs Terrorist Content Online", critically analyses the European proposal for a regulation on preventing the dissemination of terrorist content online, released in September

2018. The author illustrates the extent to which the laudable objective of the European legislator is overshadowed by a serious risk of stifling free speech and undermining legal certainty. The paper punctually highlights the main democratic drawbacks of the proposal, advocating for their necessary resolution before the definitive adoption of the act.

In the eighth paper, "Fake News, Free Elections, and Free Expression: Balancing Fundamental Rights in Irish Policy Responses to Disinformation Online", Ethan Shattock examines legal and policy instruments to tackle online disinformation from an Irish perspective. The article analyses the European Court of Human Rights' case-law on the balancing between the right to free elections and freedom of expression, and critically discusses the Irish proposal to create an Electoral Commission. For Shattock, a democratic online environment will be preserved only if this new institution will carry out preliminary research on the issues related to disinformation, will oversight the application of domestic legislation in a transparent way, and will have appropriate enforcement powers.

The volume is closed by Campinho's article, entitled "Constitution, democracy, regulation of the Internet and electoral fake news in the Brazilian elections", which builds on Shattock's paper, analysing the phenomenon of online disinformation from a Brasilian perspective. Campinho highlights how Brazilian recent policy initiatives have sought to harness digital technology developments in order to enhance the effectiveness of electoral processes. At the same time, the author, by analysing domestic case-law on the topic, laments that the Brasilian legislative framework in the electoral context still struggles to be correctly applied in order to address the problem of online disinformation. For Campinho, in order to preserve democracy in Brazil, it is necessary to look at the Constitution, the only instrument that, in the complexity of our times, can guide the legal interpreter with its longer-term values and ideals.

We definitely share Campinho's final recommendation: foresight, perseverance and an unfaltering hope in the future will be the key to success. Although the route ahead can at times seem incertain, our visions for a future democratic Internet environment should always be kept alive. In this process, every small step counts. We sincerely hope that this volume will be the starting point for a long-lasting debate on how to improve democracy in the digital society.

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