

CONSTITUTIONAL CHALLENGES IN THE ALGORITHMIC SOCIETY

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*A book review that prepares the reader to fight the striking changes in
perspective faced by the constitutional values today*

Constitutional Challenges in the Algorithmic Society is a book edited by Hans-W. Micklitz, Oreste Pollicino, Amnon Reichman, Andrea Simoncini, Giovanni Sartor and Giovanni De Gregorio and was firstly published in 2022, under the care of Cambridge University Press.

When taking a glance at the contents, we can figure out from the beginning that the book chooses a different approach from the usual wave regarding the use of artificial intelligence in the law field in recent years. What does this distinct viewpoint consist of? We consider that the aim is to extend the usual analyses taken by just to address recent developments and provide answers to evolving dynamics. The declared goal of the authors is, actually, to provide a taxonomy of the constitutional challenges of the algorithmic society, with some focuses on specific challenges, an effort which wasn't made comprehensively until today.

The book addresses all the right questions in order to make the reader become aware of the deep changes the society is facing, such as: *How has the relationship among powers changed in the algorithmic society? What are the new substantive and procedural rights protecting individuals and democratic values? How can we balance innovation (and the legal incentives for businesses to pursue innovation) with the need to ensure transparency and accountability? To what extent should new forms of public or private law tools be developed to address the challenges posed by the shift to the algorithmic society?*

Likewise, the book keeps its partitioning flowing into logical chapters and delivers three phases of analysis in this regard. The first part aims to underline the challenges for fundamental rights and democratic values in the algorithmic society and how the fast-growing use of algorithms in various fields including justice could end in biased and erroneous decisions. In particular, this part also offers an overview of human rights threat over the challenges of the power sharing of the public sector and the

private one as an atypical fact to happen, with a specific focus on the right to freedom of expression, privacy, and data protection. The second part addresses the hardships of regulation and policy of the algorithmic society, due to opacity and biases of algorithmic systems, as well as the actors involved in the regulation of these technologies. The third part details over the vital role and growing responsibilities of private actors in the constitutional matters. In this case, the book aims to demonstrate a transfer of powers from the public sector to the private one, which is pursuing now functions that reflect public characteristics.

Diving deep into the subject, the central theme of the book resides in the fact that the constitutional law acts like a crucible today, playing a critical role in addressing the challenges of the algorithmic society. The social disruption provided by embodying of the automatic processes in the justice making systems becomes more tangible every day. Such transformations impact constitutional values, as the state formulates its legal response to new technologies based on constitutional principles which meet market dynamics, and as it considers its own use of technologies in light of the limitation imposed by constitutional safeguards.

Despite the above-mentioned reasoning, we argue that the book becomes a little too technical when talking about algorithms, despite skillfully emphasizing the danger of overusing the algorithms in the process of decision-making in the law field. The study would have had an even better impact in educating the reader, if the authors would have stuck longer to the ethical and philosophical pleading against the consciously agreed interference of the algorithms in the law area.

Furthermore, as personal insights, we suggest that two major points make the book an essential reading for the practitioners nowadays. Firstly, talking about the innovation of the cryptocurrencies and its evolution during the COVID-19 pandemic from a constitutional point of view is truly striking. The subject is rapidly evolving and impacting an increasing part of the population, gradually changing our realities and values. The book brings an irreproachable debate over the constitutional rights that need protection in the eventuality of a mass adoption of the cryptocurrencies, proposing different researched solutions and initiatives such as administrative judges specializing in crypto-finance, the creation of specialized agencies for the protection of financial consumers, changing the competition rules over the market. The approach is even more welcomed as it is ahead the globally legislative stage in this matter.

Secondly, the touch over to what extent the EU would have the competence to set up a by-design regulatory approach is meaningful. Although the EU has not been conferred explicit competences in the realm of algorithmic by-design regulation, this subject is worth being explored. Dedicating a chapter over this matter and its eventual aftermath creates a multifaceted output meant to mark a stepping stone when addressing constitutional challenges in the algorithmic society.

Throughout this book, in defiance of this troubling framework for the protection of fundamental rights and democracies, two paths will be revealed for the constitutional law and values to take. We encourage our knowledgeable reader to discover them by himself, also challenging every professional that needs to keep himself updated in this matter to lay hands over this impressive reality-check anthology of the constitutional values today.