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EDITORIAL

POWER(S) AND SOVEREIGNTY IN (AND/OR VIA) DIGITAL INFORMATION

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The last decade of the new millennium has provided us with the confirmation that the Internet is no longer a simple mass medium but a connective tissue that permeates all aspects of our lives. This epochal passage of entry into the era of *hyperhistory* (Florida, 2014) is characterized by the definitive osmosis between real and virtual: the human person, understood as a complex informational entity (Rodotà, 2006; Solove, 2004), carries out most of its activities within a space governed by a constant flow of data.

In this context, social sciences find themselves at a crossroads: to stick with tradition, describing the disruptive effect of technologies and information in negative and positive terms (Ellul, 1954), or to move beyond the dichotomy between *apocalyptic* and *integrated* (Eco, 1977), in the attempt to understand the essence of these phenomena without limiting themselves to a mere reclassification exercise or the adaptation of an analogical interpretation (Frosini, 1968).

Data today represents the most innovative form of social subject ever created by humans (Ferraris, 2009; Morton, 2018). From an eminently technical point of view, the so-called Web 2.0 places the human being at the center of this flow of information in their new role as prosumers of data, for the purpose of further circulation and use. This

means that when contextualized into the taxonomy of human rights, the Internet not only represents the modern incarnation of the freedom of expression, “a unique and wholly new medium of worldwide human communication,” as stated in 1997 by the American Supreme Court in *Reno v. ACLU* (Balkin, 2004; Posner, 2008; Sunstein, 1995).

By the mid-1980s, scholars had already understood the unique nature of the phenomenon and the impossibility of assimilating the regulation of electronic communication solely under the traditional framework of the positive freedoms safeguarded by the late 17th-century Charter of Rights. Hence, the concept of “digital rights” was born; an extension of the right to inform and be informed, and thus the “right to have access to information, to preserve one’s own digital identity, meaning to allow, check and correct digital information relating to one’s own person” (Frosini, 1984). This “embryonic” notion, closely related to the *Recht auf informationelle Selbstbestimmung* found in German Constitutional case law, has received a more extensive description with the advent of the Internet, in the sense of the freedom to use information tools to provide and obtain information of any kind.

When exercising their positive digital rights, today’s internet users are called upon to guarantee a constant, lateral, and collaborative data contribution by adapting, sharing, and exploiting the quality and quantity of the common IT heritage, giving rise to a general principle of digital solidarity. Following this reasoning, we could also add a different definition of the cooperative approach to this inclusive sense of digital solidarity, stemming from the right to access and communicate online. In other words, to the concept of “computer freedom” identified first by Vittorio Frosini, we can add the notion of “online” or “digital” solidarity, by which the transit of legal information from one area of the Internet to another leads to an increase in the overall value of the system and therefore of it is functioning and the beneficial effects that it can have on society (Rodotà, 2014).

One of the emerging phenomena in contemporary societies is the blurring of boundaries between the ‘public’ and ‘private’ dimensions (D’Antonio & Giannone Codiglione, 2019; Sica & Stanzione, 2002). The digital transformation is among the drivers of this process, alongside the evolution of economic and social relationships, in a context characterized by growing exchanges and cultural contaminations, as well as environmental and social emergencies (Cascione et al., 2025).

For example, it is now a fact that European Union law, together with the Member States, has finally opened up to a more realistic and effective approach to the enforcement of the right to personal data protection (Zeno-Zencovich, 2018). The affirmation

of the principle of the free movement of personal data as the main scope of the General Data Protection Regulation (GDPR) profoundly changes the perspective from a solely personalistic logic of protection. Moreover, GDPR's neutral approach read in conjunction with the adoption of a normative model based on accountability principle and risk-based approach (we could say, in terms of liability: from a dangerous to a risky activity), in no way clash with the nature of data protection as a higher level fundamental right, hierarchically superordinate to the exercise of other fundamental rights and freedoms, such as the freedom to conduct business—as for instance affirmed by the European Court of Justice in the Google Spain case (D'Antonio & Pollicino, 2020).

The enforcement of fundamental right to data protection, moreover, must not focus exclusively on the protection of the data subject as an human person whose data are processed, but must remain open to checking the impact that these legitimate economic activities have on the consumers well-being in the ICT's society and, as a consequence, on the competitive structure of the related markets (Stanzione, 2021; Zeno-Zencovich & Giannone Codiglione, 2016).

The privatization of aspects traditionally attributed to the government, along with the increasingly public characterization of relationships previously regarded as pertaining to the private sphere, raises questions in many fields of knowledge, including the law (Sica & Giannone Codiglione, 2014). The once reassuring traditional legal categories are deeply affected. In particular, the long-contested divide between public law and private law is increasingly under stress and reveals its limited adequacy in interpreting the legal implications of new social phenomena: data as law or law as data? Data as an essential facility? The contractual relationship in the digital dimension and the protection of fundamental rights? Antitrust enforcement as a public regulatory tool for “data markets”? The public dimension of digital platforms: towards a new feudalism? What role is it for the traditional States? Net *vs.* Nets: towards the overcoming of the Internet monopoly?

This special issue of *Soft Power* takes us on a fascinating journey, thanks to the contributions of authoritative scholars from diverse academic backgrounds and perspectives, in search of answers and interpretive solutions that can guide us in an increasingly *infocentric* future.

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