

The Broken Promises of Democracy in the Information Era

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Abstract

Today's information revolution should be considered as a set of constraints and possibilities that transform or reshape the environment of people's interaction and their democratic institutions. Whereas, over the past centuries, human societies have been related to information and communication technologies (ICTs), but mainly dependent on technologies that revolve around energy and basic resources, current societies are increasingly dependent on ICTs and furthermore, on information and data as a vital resource. This dependency triggers some basic novelties in terms of complexity and legal enforcement, which impact pillars of the law and democratic processes by reshaping the balance between resolution and representation, as well as the right of the individuals to have a say in the decisions affecting them. Matters of accessibility and legal certainty, equality and fair power, protection and dispute resolution, procedures and compliance, are fruitful examples to stress what is new under the legal sun of the information era. As today's debate on internet governance illustrates, it is far from clear how we should grasp the model that may successfully orient our political strategy in terms of transparency, justice and tolerance, so as to strike the right balance between people's representation and political resolution.

However, by examining the new legal challenges of the information era, we should avoid a misunderstanding. Many current troubles with democratic processes are often discussed and presented as if they were new, although this is in fact not the case. Such a continuity between the dilemmas of the democratic tradition and today's issues of digital democracy can be illustrated with the work of the most distinguished Italian philosopher of the second mid twentieth century, Norberto Bobbio. In *The Future of Democracy* from 1984, Bobbio explored what he dubbed the "six broken promises of democracy," which cast light on many crucial aspects of current discussions on the respect for individual sovereignty, the primacy of political representation over the protection of particular interests, the defeat of oligarchies, the increase of spaces for self-government, the education of citizens, and the transparency of governments (Bobbio ed. 1987). From this point of view, it follows that many problems of current digital democratic trends are as old as democratic theory. How, then, can we distinguish between enduring and discontinuities? And moreover, from a normative perspective, how should we tackle them?

The presentation will be divided as follows: First, Bobbio's "six broken promises of democracy" are under scrutiny, in order to flesh out the contradictory legacies of traditional political and legal thought that still survive in the present era. Then, we will explore how the information revolution is affecting basic tenets of the democratic tradition, drawing on Tom Bingham's work on the rule of law and its eight "ingredients" (Bingham 2011). Finally, the aim is to complement the descriptive part of the analysis with a normative perspective (Floridi 2013). By examining that which scholars call the "legal hard cases" (Hart 1961, Dworkin 1985, etc.), this latter level of analysis appears particularly fruitful to pinpoint the different ways in which we may attempt to address cases of general disagreement that regard either the broken promises of democracy, or the new challenges of the information revolution. From this perspective, three normative perspectives follow as a result, and concern the principle of justice, toleration, and a mix of both. The conclusions discuss these alternatives, in order to match up with the specific intricacy of our times.

References

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