

REVIEW OF

VALENTINA FAGGIANI AND FRANCISCO JAVIER GARRIDO CARRILLO (EDS), *AVANCES EN EL DESARROLLO DE LA INTELIGENCIA ARTIFICIAL. PRINCIPIOS ÉTICOS Y DEMOCRÁTICOS, CONCRECIONES NORMATIVAS EN LA UNIÓN EUROPEA, Y LÍMITES PARA LAS ADMINISTRACIONES PÚBLICAS*, ARANZADI, MADRID, 2025, ISBN: 978-84-10308-29-9

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The relationship between Law and Artificial Intelligence (AI) is now a subject of significant attention within contemporary scientific research, given the need to revisit classical paradigms that it imposes.

However, only an interdisciplinary approach can fully grasp the all-encompassing reach of the so-called “Fourth Industrial Revolution,” which impacts every aspect of human life and, consequently, the entire legal domain, across all its traditional branches.

Moreover, interdisciplinarity must be complemented by an inter-jurisdictional perspective: given the absence of physical borders as a defining feature of the digital realm, understanding the solutions adopted in different legal systems becomes essential. Indeed, despite recent fractures in economic and geopolitical balances, the world remains globalized and interconnected, so only a discipline that is as uniform as possible and based on best practices can ensure effective regulation of AI, avoiding regulatory havens that might otherwise undermine any such effort.

Thus, the interdisciplinary and inter-jurisdictional spirit underpins the work here reviewed, a tangible product of the Erasmus+ Blended Intensive Programme (BIP) “*Sociedad Digital. Retos del Derecho ante la Inteligencia Artificial*,” coordinated by the University of Granada with the participation of the Universities of Padua and Lisbon. The Program promotes a transversal meeting among academic communities and knowledge, combining online and in-person courses across the three universities aimed at students, alongside the exchange of ideas among involved scholars, of which this volume is the outcome, as reflected in its essential characteristics: collective, international, expressive of diverse expertise, and written in multiple languages (Spanish, English, and Italian).

Regarding its structure, the work consists of nine chapters divided into three parts. It begins with an ethical and value-based framing of the use of Artificial Intelligence, inviting reflection on this tool as both a catalyst and a source of risk for the “justice” of democratic systems, where “justice” is understood both broadly—as the fair conduct of representative processes typical of the rule of law—and narrowly—as the proper functioning of judicial bodies. In a spirit of continuity, the second section focuses on the regulatory needs of Artificial Intelligence, identifying the European normative and institutional network as a first effective effort toward a legal consideration of the phenomenon that seeks to preserve its margins of exploitation and growth, without compromising the protection of potentially at-risk fundamental rights. The third section grounds these considerations within the specific use of Artificial Intelligence by public administrations, thereby assessing the limits within which administrative bodies may employ algorithmic tools, so that indispensable principles of public action (e.g., reasonableness, transparency, accountability) are not unduly sacrificed on the altar of efficiency.

More specifically, the first chapter—by Professor Paolo Sommaggio (Padua)—reflects on how to build a shared ethical horizon for both the machine and its human designer and user, suggesting the possibility of moving beyond the current “*top-down*” approach whereby the assessability of conduct (human or artificial) is evaluated solely based on externally imposed rules that exclude *a priori* the admissibility of any alternative action. Given Artificial Intelligence’s capacity not only to be programmed by rules but also to learn (“to be trained”), the opportunity arises to combine general normative constraints with an “educational” (“*bottom-up*”, from specific cases to rules) approach, which, through further evolution, could generate a “maieutic” Artificial Intelligence. The latter is intended as an AI that operates based on normative principles while simultaneously learning from practical experience, integrating these two factors into its outputs through the fecundity of opposition. In other words, in the presence of machines capable of choice, the ethically valid outcome of their activity should result from weighing the reasons favouring the application of externally imposed rules against those supporting the contrary result. Only this constant “testing” of its choices would compel the machine to externalize the actual reasons behind its decisions, thereby ensuring AI mimics not only intelligence but also human conscience.

Self-awareness (of the machine, as well as its programmer and user) becomes indeed fundamental, considering the risks that distorted use of Artificial Intelligence can generate at both individual and systemic levels. Focusing on the latter, the second chapter—by Professor Jorge Castellanos Claramunt (Valencia)—analyses the negative impacts on the democratic quality of societies that social networks can generate, especially in light of the algorithms governing their content dissemination. These algorithms are designed to maximize user engagement and iteration on platforms, privileging highly emotional content—including, notably, fake news, hate speech, and highly polarized messages—that attract public attention and reaction, yet cause mass misinformation and distrust toward democratic institutions. In a reality where social networks are a

primary source of news access, controlling the algorithms that regulate them equates to manipulating public opinion, either to increase social conflict or to exert subtler forms of censorship where dissenting voices are not silenced outright but deprived of digital visibility. Hence the importance of rules ensuring the development of “ethical” algorithms (in the sense outlined in the first chapter), transparency in social networks’ actions, and digital literacy among citizens, thereby enabling them to informed engagement with daily content.

The first section then concludes with Professor Francisco Javier Garrido Carrillo’s chapter (Granada), which tests the resilience of the rule of law in the face of implementing new technologies in judicial bodies, particularly through so-called “predictive justice.” After defining this concept, the chapter highlights its unquestionable advantages in terms of efficiency, speed of decisions, and capacity to base rulings on multiple data that would be difficult for human decision-makers to manage. Yet, it stresses the importance of “ethical” use that does not conflict with fundamental rights of the parties involved. The human judge’s intervention remains central and non-negotiable, with AI serving as a supportive tool, where algorithmic outputs do not bind the judge nor formulate criteria or solutions for cases, considering the risk of human decision-makers anchoring to software-generated results. These conditions, as shown by practical examples, are only partially attainable given that fully exploiting AI’s potential involves producing results upon which case resolutions will at least partly rely (e.g., software assessing individual risk to inform precautionary measures or conduct determinations on recidivism).

Having outlined the risks and benefits of Artificial Intelligence, the second section opens with a reflection—by Moisés Barrio Andrés, *Letrado del Consejo de Estado*—on the key European legal text in this area, namely EU Regulation 2024/1698 (the so-called “AI Act”). It analyses the legislative process, the horizontal reach of its provisions, its complementarity with other core digital law sources (notably the GDPR), and its regulatory paradigm centred on classifying AI tools according to risk levels: prohibited, high, medium, and low risk. The study concludes that while this normative framework is not without criticism, it aims to strike a balance between technological development and fundamental rights protection, potentially generating a so-called “Brussels effect” and so establishing a benchmark for AI regulations even beyond Europe.

The following two chapters further focus on European digital law. The first, by Professor Valentina Faggiani (Granada), examines transformations within the EU institutional apparatus, focusing on eu-LISA (the European Union Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security, and Justice) and its relationship with other supranational bodies operating in criminal justice and policing (Eurojust and Europol). Eu-LISA plays a central role in maintaining operational various IT systems (such as SIS II, EURODAC, ETIAS, Dublinet, Prüm II, etc.). However, memoranda of understanding with other European institutions have ensured concrete development, improvement, and, where permitted, interoperability of such systems, creating a network capable of combating terrorism and crime, especially in their international dimensions. Nevertheless, the prominence of soft law and administrative acts—often replacing legislative decisions—raises questions about democratic legitimacy in this area of EU action, especially considering that the delegation of functions to technical-administrative bodies (“*agencification*”) involves digital tools significantly affecting European citizens’ freedoms and fundamental rights.

The sixth chapter, instead, shifts focus temporarily away from public law, with Professor Rosa M.^a García Pérez (Granada) addressing copyright protection. On one hand, it questions the admissibility of AI trained using intellectual property-protected material or capable of generating outputs that are derivative of such material. On the other, it examines whether AI-generated results can themselves qualify as protected works of authorship. This inquiry, although rooted in EU law, conducts a comparative analysis involving English, Ukrainian, Italian, and French judicial systems, highlighting how divergent national regimes risk creating gaps in protection for authors—whether human or algorithmic—due to the borderless nature of digital goods’ circulation.

Finally, the third section revisits the relationship between institutional bodies and Artificial Intelligence, continuing from the fifth chapter but focusing not on organizational aspects, but rather on the algorithmic action of public administrations. Professor Elena Buoso (Padua) discusses the lack of general legislation in Italy regarding public administrations’ use of Artificial Intelligence, with consequent risks for the citizens’ rights arising from unregulated or “unethical” AI use. Nevertheless, signs of innovation emerge in the recent specialist legislation on public procurement, with Article 30 of Legislative Decree No. 36/2023 legitimizing contracting authorities’ usage of AI resulting in automated administrative decisions, but at the same time requiring compliance with principles of transparency, comprehensibility, non-exclusivity of algorithmic decision-making, and non-discrimination. This provision, even if it appears unclear and too broad under several aspects, clearly signals that efficiency must not be the sole guiding criterion in algorithmic administration.

In any case, the normative vacuum at the Member States’ level regarding public use of AI is partially filled by the contents of the aforementioned AI Act. As noted by Professor Rui T. Lanceiro (Lisbon) in chapter VIII, and by Professor Francisco Javier Durán Ruiz (Granada) in chapter IX, although the EU Regulation is not explicitly addressed to public administrations, it contains applicable provisions to public bodies both as developers and users of AI software, especially in the field of welfare services. Consequently, certain administrative uses of AI are prohibited, such as real-time remote biometric identification systems in publicly accessible spaces for law enforcement purposes, tools for predictive policing or software inferring a natural person’s emotional state.

Instead, other uses are permissible, notwithstanding their high-risk nature, such as the AI software affecting the access to and maintenance of essential public assistance benefits and services, including health services, as well as the evaluation and classification of emergency calls. Their high-risk nature yet imposes strict compliance with principles of transparency, explainability, accuracy, human oversight, and accountability, with the need for public bodies to be involved in the design of the algorithms, or at least to be capable of understanding their functioning, as a guarantee for the values of administrative action to be always embedded in any kind of exercise of public powers.

In conclusion, the book carries out both innovative reflections and addresses issues that are already the subject of extensive doctrinal analysis, yet whose discussion remains essentials to gaining a comprehensive understanding of the impact of Artificial Intelligence on our society.

The main merit of this work lies precisely in its holistic view of the full range of issues raised by AI —issues that can only be adequately addressed through interdisciplinarity and comparative approach. In this way, the classical theme of the dialectic between freedom and authority acquires new meaning, as algorithmic action—whether private, and even more so when public—exhibits traits typical of authoritarian conduct (such as unilateral formation, unchallengeability, unintelligibility, etc.) whose overcoming is certainly a non-negligible challenge for the contemporary legal scholar, making this volume a valuable and reliable point of reference.