



Hybrid IACL Round Table

Copenhagen, Denmark

THE IMPACT OF DIGITALIZATION ON CONSTITUTIONAL LAW

31 JANUARY – 1 FEBRUARY 2022



PROGRAMME





Organized by the International Association of Constitutional Law (IACL), the
Centre for European and Comparative Legal Studies (CECS), University of
Copenhagen, and the Nordic network CONNOR 2030



Contemporary challenges to constitutionalism in the Nordics

In collaboration with the University of Helsinki and the University of Lund

***Venue:** University of Copenhagen, Nørregade 10, Committee Room 3, 3rd floor, 1165
Copenhagen K, Denmark (and online).*

Background

We live in the era of digitalization and this has an immense impact on Constitutional Law. Fundamental principles such as rule of law, legal certainty, and democracy are challenged. New rights such as the 'right to be forgotten' and data protection appear. The institutions, their competences and separation of powers are affected by these developments. The preconditions of Constitutional Law and the context in which it functions are changing. Furthermore, digitalization prompts new research methods.

While a critical approach to many of these developments might seem adequate, things are more complicated and not necessarily 'black and white'. Positive and negative affects go hand in hand in the world of digitalization. For instance, the internet might be said to strengthen participatory democracy and transparency. However, if misused for instance through fake news, the internet can also undermine democracy and transparency. Legal decisions made by computers might provide a high degree of predictability and legal certainty. However, in order to facilitate coding of administrative systems that can perform semi- or fully automated legal decision-making, legislation needs to have few exceptions and little discretion and this might in the eyes of a lawyer seem like a challenge to a just legal system which recognizes diversity and aims at delivering the best possible legal decisions for each individual.

Background

Algorithms may ideally prompt equality in administrative decision-making, however such systems have in reality proven to be biased. Furthermore, they often suffer from the 'black box' problem, which means that such systems cannot provide sufficient explanations for legal decisions. Yet another example is the fact that while algorithms might secure predictability and legal foreseeability in legal decision-making, human judges might enjoy a higher legitimacy in the eyes of the citizens because they lend a human face to the law. Philosophers such as Hannah Arendt and Emmanuel Levinas would claim the importance of the judge and the individual meeting each other face to face.

More generally, digitalization also affects the way we research Constitutional Law on the one hand because it opens up new possibilities and research tools such as quantitative big data studies and social network analysis, and on the other hand because research on digitalization calls for new interdisciplinary research methods.

This Round Table will shed light on how digitalization impact different parts of the constitutional system and research methods in Constitutional Law. The Round Table is comparative in nature. It is co-organised by the International Association of Constitutional Law (IACL), the Centre for European and Comparative Legal Studies (CECS), University of Copenhagen, and the Nordic network CONNOR 2030 on contemporary challenges to constitutionalism in the Nordics (together with the University of Helsinki and the University of Lund).

Overview

The Round Table is structured around a keynote speech, five main panels, and a young scholars' panel:

1. Keynote speech
2. Panel 1: How does digitalization affect research methods in Constitutional Law?
3. Panel 2: The impact of digitalization on elections and referendums
4. Panel 3: The impact of digitalization on the legislator, the executive and the courts
5. Panel 4: The impact of digitalization on rights
6. Panel 5: Visions for the future: Reflections on how to regulate cyberspace and AI in the future – short interventions on our digital future
7. Panel 6: Young scholars' panel



13.00-13.30 - Opening speeches:

- Dean Jacob Graff Nielsen, Faculty of Law, University of Copenhagen
- Adrienne Stone, President of the IACL
- Helle Krunke, First Vice President of the IACL, Head of Centre for European and Comparative Legal Studies (CECS) and PI of the NOS-HS-funded network 'CONNOR 2030: Constitutionalism in the Nordics' on current constitutional challenges: Digitalization, climate change and migration

13.30-14.00 - Keynote speech:

- Karen Yeung, University of Birmingham, UK:
Upholding fundamental constitutional principles in the age of algorithms

Monday

31 January 2022

14.00-15.45 - Panel 1:

How does digitalization affect research methods in Constitutional Law?

Chair: Anna Jonsson Cornell, General Secretary of the IACL, University of Uppsala, Sweden

- Tom Ginsburg, University of Chicago, US: Quantitative comparative methods
- Helle Krunke, University of Copenhagen, Denmark: Error and Accountability in Digitised Public Decision Making
- Pablo Riberi, Universidad Nacional de Córdoba, Argentina: Ethics and digitalization
- Urska Sadl, European Union Institute, Italy, and University of Copenhagen: Social Science methods eg. network analysis

15.45-16.15 - Coffee break



Monday

31 January 2022

31 January 2022

Monday



16.15-18.00 - Panel 2: The impact of digitalization on citizens involvement: constitutional change, referendums and elections

Chair: Henrik Wenander, University of Lund, Sweden

- Charles Fombad, University of Pretoria, South Africa: Democracy and fake news in Africa
- Björg Thorarensen, University of Iceland, Supreme Court Judge, Iceland
- Selin Essen, University of Ankara, Turkey: Role of internet on electoral integrity
- Desmond Johnson, Hague University of Applied Sciences, The Netherlands: Structural Domination and Electoral Freedom: Safeguarding the Integrity of the US Electoral Process Through the use of Blockchain-Based Voting
- Licia Ciani and Davide Zecca: Political micro-targeting: between competition law and constitutional law concerns

9.00-11.00 - Panel 3: The impact of digitalization on the legislator, the executive and the judiciary

Chair: José Maria Serna, National University of Mexico, Mexico, and Xavier Grousot, University of Lund, Sweden

- William Gilles, University of Sorbonne, France: Digitalization and transparency: Towards more or less transparent governance?
- John Morison, Queen's University Belfast, United Kingdom: Computerised courts and (semi) automated legal decision-making
- Akiko Ejima, Meiji University Law School, Japan
- Tania Groppi, University of Sienna, Italy: The impact of digitalization on the use of foreign precedents by Constitutional Courts
- Konrad Lachmayer, Sigmund Freud University Vienna, Austria: Digitalizing Parliament - Democratic Deliberation in Times of the Pandemic

11.00-11.15 - Coffee Break

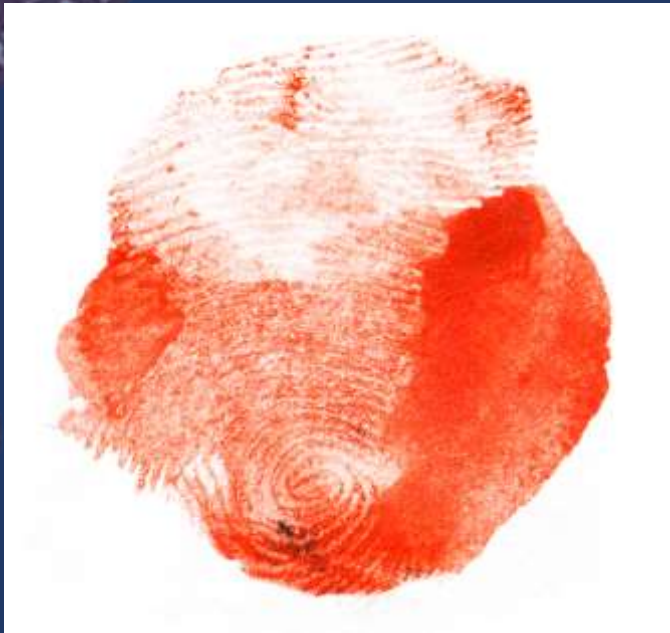


Tuesday

1 February 2022

1 February 2022

Tuesday



11.15-13.30 - Panel 4: The impact of digitalization on rights

Chair: Adrienne Stone (IACL President, Australia)

- Martin Scheinin, University of Oxford, England: Privacy and nondiscrimination: New challenges posed by modern technologies
- Tuomas Ojanen, University of Helsinki, Finland: On the intersection of intermediary liability and fundamental rights
- Surya Deva, Macquarie Law School, Australia
- Oreste Pollicino, University of Boconni, Italy, *and Co-chair of the IACL Research Group on 'Constitutions in the age of the internet', and the IACL Research Group on 'Algorithmic State, Society and Market – Constitutional Dimension': "Digital constitutionalism" and the apparent paradox of private digital powers performing de facto constitutional functions*
- Edoardo Celeste: Internet bills of rights and the digital constitutionalism movement: between constitutional adaptation and new rights

13.30-14.30 - Lunch

14.30-15.45 - Panel 5: Visions for the future: Reflections on how to regulate cyperspace and AI in the future – short interventions on the digital future

Chair: Jens Elo Rytter, University of Copenhagen, Denmark

- Eva Brems, University of Ghent, Belgium: Rights for AI?
- Xavier Groussot, University of Lund, Sweden: The EU and the digital future
- Wen Xiang, University of Copenhagen, Denmark: The Chinese approach to future regulation
- Matthijs Maas, University of Cambridge, UK: 'Capability-scalable governance approaches for uncertain AI risks'
- Hin-Yan Liu, University of Copenhagen, Denmark: Extended Reality and the challenges of non-normative modes of regulation for (constitutional) legal thinking
- Giovanni de Gregorio: Digital Constitutionalism: A Comparative Constitutional Analysis

15.45-16.15 - Coffee Break



1 February 2022

Tuesday



16.15-18.15 - Panel 6: Session for young scholars

Chairs: Oreste Pollicino, University of Boconni, Italy, and Co-chair of the IACL Research Group 'Constitutions in the age of the internet', and the IACL Research Group on 'Algorithmic State, Society and Market – Constitutional Dimension', and Iris Nguyen Duy, University of Agder, Norway, Deputy General Secretary of the IACL

- Katja de Vries: *Let the robot speak! AI-generated speech and freedom of expression*
- Stella Christoforidou: *Transforming predictions to decisions: The impact on democracy and the rule of law*
- Neha Tripathi and Anubhav Kumar: Impact of digitalization on political campaigning: Analysis of free and fair election in Indian context
- Marina Bán and Boldizsár Szentgáli-Tóth: *Artificial Intelligence and Legal Certainty: Promising Perspectives and Severe Risk Factors*
- Simon Drugda and Mikele Schultz-Knudsen: *A Democratic Experiment: The Design and Impact of the Danish Citizens' Initiative*
- Sue Anne Teo: Mapping the Contours and Utility of Human Dignity in addressing AI challenges
- Reijer Passchier: Digitalization and the (im)balance of power between the three branches
- Simon Drugda: *Digitalising High Courts: A Comparative Study*
- Giacomo Giorgini Pignatiello: Reconfiguring the Administrative State in the Age of Digital Constitutionalism

18.15-18.30 - Closing of the Round Table



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