

Ryszard Piotrowski

University of Warsaw, Poland

e-mail: r.j.piotrowski@uw.edu.pl

ORCID: 0000-0002-3801-7364

DEMOCRACY AND THE DEVELOPMENT OF INFORMATION AND COMMUNICATIONS TECHNOLOGY*

Abstract

If we accept that the democratic paradigm involves majority rule being constrained by human rights, including, in particular, the right to privacy, then the continuing encroachments on this paradigm must be seen as a threat to the foundations of democracy. A culture of respect for privacy comes as an indispensable condition for a human being to develop and nurture a personality aware of their individual identity, enabling him or her to assess the performance of public authority in a manner independent of the latter.

In everyday practice, as it happens, people find their affairs to be increasingly determined by non-human factors, a result of the expansion of automated services and stock-exchange transactions, the internet of things, etc.

The rules laid down by constitutions of democratic states are about the exercise of power by sovereign people, not by sovereign algorithms. Such a sovereignty is grounded in the freedom of choice, which involves dialogue, persuasion, and the deliberative process as a basis for making decisions. Artificial intelligence, in the currently existing forms, is not capable of reasoning based on knowledge and culture, nor can it conduct a dialogue in which it could be persuaded to change its view and thus accept a given arrangement.

* Based on a paper presented at the ICON-S Conference “Islands and Ocean: Public Law in Plural World” in Wellington (3-5 July 2023) Panel.

No instrument has been developed up to this day that would embrace a spiritual culture, which is intrinsic to humans.

KEYWORDS

human rights, new technologies, democracy, human dignity, right to privacy, constitution, algorithmic society

SŁOWA KLUCZOWE

prawa człowieka, nowe technologie, demokracja, godność człowieka, prawo do prywatności, konstytucja, społeczeństwo algorytmiczne

1. Tools and their development have been changing people and civilizations all the time, and in the process, vital questions have been asked about progress.¹ Actually, the very existence of humanity has been threatened by some of the tools for quite a while. But the novelty of the “new technologies” lies in their capacity to replace humans in their creative skills. Intelligence, once an exclusive property of humans and, to a certain extent, other living beings, has now been embedded in man-made tools – and to a degree that, in some areas, surpasses the skills of their creator. This kind of intelligence is commonly referred to as artificial intelligence (AI).

What is new in new technologies? A tool replacing an inventor becomes even more creative than a human being: An AI has learned to win chess by making moves human grand masters never considered. An AI has discovered a new antibiotic by analyzing molecular properties human scientists did not understand. An AI is transforming how humans are experiencing reality.² A tool invented by humans is almost able to gain control over them.

What is human in a human being? Creativity, “the God’s spark”, makes humans superior over their tools.³ However, according to the European Parliament Report of 2017, “ultimately there is a possibility that in the long-term, AI could surpass human intellectual capacity”.⁴

¹ Cf. N. Postman: *W stronę XVIII stulecia* [Polish edition of *Building A Bridge To The Eighteenth Century*], Warszawa 2001, p. 43.

² Cf. H. A. Kissinger, E. Schmidt, D. Huttenlocher: *The Age of AI And Our Human Future*. London 2021, p. 7 *et seq.*

³ Cf. M. du Sautoy: *The Creativity Code: Art and Innovation in the Age of AI*, Cambridge 2019, p. 20 *et seq.*

⁴ Cf. European Parliament, Report with recommendations to the Commission on Civil Law Rules on Robotics, A8-0005/2017, https://www.europarl.europa.eu/doceo/document/TA-8-2017-0051_EN.html (accessed 12 September 2023).

Tools capable of controlling their users, though, have yet to be created. Until recently, it did not seem possible that these would be “thinking tools”. No tools existed that would give credence to the idea of replacing judges⁵ or law professors with computer technologies that could write a constitution to order, create fictitious evidence for the court, or corroborate non-existent events by blurring the line between lies and truth. This line is of critical importance in a system deserving the description “democratic”, in accordance with the European traditions of the concept (it being so much distant from the present day, when governments called democratic, acting in the interests of arms manufacturers, put the world at risk of annihilation).⁶

2. While specific practical applications of artificial intelligence are generally viewed in a positive light, overall assessments of the new technologies and their implications are usually mixed. On the one side, there is a belief in the positive impact of digitization and AI applications on economic development, societal well-being, environmental protection, health care, and education. This conviction is reflected in the position of the European Commission on the future direction of EU regulations and initiatives in the field of artificial intelligence.⁷ A rapid AI development, the Commission believes, can improve health care (precise diagnosis, better prevention of diseases), increase the efficiency of farming, help mitigate the negative effects of climate change, increase citizens’ safety, and improve the efficiency of production systems. However, as the Commission notes, the development of artificial intelligence also carries potential risks of non-transparent decision-making, discriminatory practices, invasion of privacy, and criminal applications. The Commission’s “White Paper” is not a piece of legislation, but rather a set of proposals for action setting the future direction of EU regulations and initiatives in the AI field. This is what makes the document particularly noteworthy: it emphasizes the importance of subjecting AI to human control,⁸ and points to the need to regulate the practice of facial recognition in public spaces, which poses threats to human rights and dignity.⁹ The Commission also encourages debate on the legitimacy of AI use for remote biometric identification purposes.¹⁰

However, there is no shortage of views expressing deeper concerns about the adverse consequences of AI domination, where humans play a subservient role to the tools they have themselves created.

⁵ Cf. R. Susskind, *Sądy internetowe i przyszłość wymiaru sprawiedliwości* [Polish edition of *Online Courts and the Future of Justice*], Warszawa 2021, pp. 207 *et seq.*

⁶ Cf. <https://thebulletin.org/doomsday-clock/> (accessed 12 September 2023).

⁷ European Commission, *White Paper On Artificial Intelligence – A European Approach to Excellence and Trust*, Brussels, COM (2020) 65 final.

⁸ European Commission, *White Paper* ..., p. 21.

⁹ *Ibidem.*

¹⁰ European Commission, *White Paper* ..., p. 22.

The system of information totalitarianism in an algorithmic society, unlike the totalitarian systems known to date, is based on a fundamental cultural change, triggered by the new communication technologies that allow actual information enslavement to assume the cloak of information liberation. After all, the actual resignation of the right to privacy, which is taking place over the Internet, does not reflect a desire to come under surveillance, but rather a new need – for self-creation and self-presentation as a sign of belonging to a community.¹¹

Because of the new technologies, “human consciousness is shaped through unprecedented filter, television, computers, and smartphones compose a trifecta offering nearly constant interaction with a screen throughout the day. Human interactions in the physical world are now pushed relentlessly into the virtual world of networked devices”.¹² However, the information overload does not translate into an actual expansion of knowledge or wisdom, as is demonstrated by the practice of educational institutions, revealing that “a surfeit of information may paradoxically inhibit the acquisition of knowledge and push wisdom even further away than it was before”.¹³ The shift towards online education has failed to significantly increase the level of knowledge among graduates of varied schools. As it turned out, the information and communication technologies threaten to “diminish the individual’s capacity for an inward quest by increasing his reliance on technology as a facilitator and mediator of thought”.¹⁴ Also, the “chatbotization” of education, especially the humanities, sometimes seen as a harbinger of future change in the identity of universities, will not replace the researcher’s inherent ability to pose questions and propose hypotheses beyond the current state of knowledge available to chatbots at any given time.

One should agree that the desire for “the pursuit of transparency and connectivity in all aspects of existence, by destroying privacy, inhibits the development of personalities with the strength to take lonely decisions”¹⁵ and, in fact, deprives the individual of the right to their own thoughts. This is because, on the one hand, the operation of search engines isolates the searcher within his or her own “information bubble”, considerably undermining democratic dialogue and perpetuating divisions in society. Owing to such profiling, Internet users are provided with information which suits their expectations, interests, and preferences, including political ones. This has the effect of hindering public debate, understood as a potential trigger of change for those encased in their “information bub-

¹¹ Cf. R. Piotrowski, *Prawo do tożsamości informacyjnej i jego znaczenie w ustroju demokratycznym* [Right to information identity and its importance in the democratic system] (in:) J. Jaskiernia (ed.), *Wpływ standardów międzynarodowych na rozwój demokracji i ochronę praw człowieka* [The impact of international standards on the development of democracy and human rights protection], Warszawa 2013, pp. 490 *et seq.*

¹² Cf. H. Kissinger: *World Order*, London 2014, p. 348.

¹³ *Ibidem*, p. 350.

¹⁴ *Ibidem*, p. 351.

¹⁵ *Ibidem*, p. 353.

bles”¹⁶ and adopting as their own the thoughts that have been served to them. With the information tailored to meet audience expectations – which is necessitated by the requirements of efficient advertising – the audiences’ established beliefs are further reinforced, leaving little room for alternative opinions.¹⁷ Because of user profiling by search engines, users receive answers even before they can ask a question,¹⁸ thus being deprived of the right to their own thoughts. And, on the other hand, the operators of various online platforms keep out content they consider inappropriate and thus impose preferred views on users. This, again, tricks people out of the fundamental right to their own thoughts.

3. Being an alternative to individual autonomy, the autonomy of “thinking tools” can pose a threat to individual freedom. Privacy is essential not only as a guarantee of democracy but also as a guarantee of freedom, understood as the individual’s agency, a manifestation of his free will. This relationship is identified by Y. N. Harari, writing that “it was reasonable to assume that I had free will, because my will was mainly shaped by the interdependence of internal forces that no one on the outside could see. I could enjoy the illusion that I had control over my decisions, while outsiders could never really understand what was going on inside me or how I made decisions [retranslated]”.¹⁹ In Harari’s view, we are now “at the cusp of two major revolutions. On the one hand, biologists are deciphering the mysteries of the human body, especially the brain and human emotions. On the other, computer scientists are giving us unprecedented data processing power. When the biotechnology revolution is combined with the information technology revolution, it will create big data-based algorithms capable of watching and understanding my feelings much better than I myself can – which means that power will likely pass from humans to computers. My illusion of free will is presumably going to crumble because every day I will be confronted with institutions, corporations, and government agencies that will understand what was previously my inaccessible inner sphere – and will influence it [retranslated]”.²⁰

¹⁶ On this subject, cf. E. Pariser: *The Filter Bubble: How the New Personalized Web Is Changing What We Read and How We Think*, New York 2012.

¹⁷ Cf. M. Ainis: *Il regno dell’Uroboro*, Milano 2018, pp. 13 *et seq.*

¹⁸ *Ibidem.* Also cf. R. Piotrowski: Cf. R. Piotrowski: *Prawa człowieka w pułapce technologii i polityki [Human rights in a trap of technology and politics]*, (in:) J. Jaskiernia, K. Spryszak (eds.), *System ochrony praw człowieka trzeciej generacji wobec nowych wyzwań cywilizacyjnych [Third generation system of human rights protection vis-a-vis new civilizational challenges]*, Vol. 3, Toruń 2023, p. 377.

¹⁹ See Y. N. Harari: *21 lekcji na XXI wiek [Polish edition of 21 Lessons for the 21st Century]*, Kraków 2018, p. 75.

²⁰ *Ibidem.* Also cf. R. Piotrowski: *Nowe technologie a nowe prawa człowieka, [New technologies and New Human Rights]* (in:) J. Jaskiernia, K. Spryszak (eds.), *Wyzwania dla powszechnego systemu ochrony praw człowieka u progu trzeciej dekady XXI wieku [Challenges for universal system of human rights protection at the beginning of third decade of 21st century]*, Toruń 2021, pp. 207 *et seq.*

To meet the new challenges, we need new laws that will affirm age-old notions of human dignity.

The right to personal inviolability, or prohibition of arbitrary encroachments by government – immortalized in the writ of *habeas corpus* – needs to be reinterpreted. In view of the potential dangers of a person's consciousness being interfered with, without their consent, we must proclaim and respect the principle of *habeas mentem*, in order to guarantee an individual's inner freedom or the basis of their dignity.

To an increasing extent, decisions affecting citizens are being made by AI algorithms, rather than by humans. GPT technology²¹ attempts to replace the problem-solving ability inherent in humans with such capacity being inserted in a device. In its consequences, in terms of the progressive erosion of people's right to their own thoughts, this technology surpasses the Internet. Gradually and inevitably, the authority laid down in constitutions is drifting further and further apart from the real power wielded by new technology developers. This is evidenced in the apparent ineffectiveness of appeals to democratic governments to halt or slow down research in the field.

Among those warning of the consequences of technological development was Stanislaw Lem, who argued that we are in a technological trap, reflecting the "outcome of a widespread deployment of technogenic solutions, which turns the purported benefits of such widespread deployment into an either one- or many-sided catastrophe, one that becomes more and more recognizable and less and less preventable by those powerful decision-makers to whom this catastrophe owes its prolific extent and strong destructive qualities".²²

The inevitability of catastrophe was recognized by Nick Bostrom, comparing our situation to that of a child playing with a bomb: "For a child with an undetonated bomb in his hands, a sensible thing to do would be to put it down gently, quickly back out of the room, and contact the nearest adult. Yet what we have here is not one child but many, each with access to an independent trigger mechanism. The chances that we will all find the sense to put down the dangerous stuff seem almost negligible. Some little idiot is bound to press the ignite button just to see what happens".²³

Elon Musk called for a pause in artificial intelligence research. In his view, "At some point, it may be important to get an independent review before starting to train future systems, and for the most advanced efforts to agree to limit the rate of growth of compute used for creating new models. Therefore, we call on all AI labs to immediately pause for at least 6 months the training of AI systems more powerful than GPT-4. This pause should be public and verifiable and include all

²¹ Cf. <https://openai.com/blog/chatgpt> (accessed 12 September 2023).

²² Cf. S. Lem: *Pułapka technologiczna*, (in:) *Tajemnica chińskiego pokoju*, Kraków 1996, p. 115.

²³ Cf. N. Bostrom, *Superintelligence, Paths, Dangers, Strategies*, Oxford 2014, p. 259.

key actors. If such a pause cannot be enacted quickly, governments should step in and institute a moratorium”.²⁴

Geoffrey Hinton considers artificial intelligence a threat to humanity’s survival.²⁵

New technologies are seen as the underpinning of a new economy described in the literature as “surveillance capitalism”, a “new economic order that claims human experience as free raw material for hidden commercial practices of extraction, prediction and sales”.²⁶ Surveillance capitalism gives birth to a new kind of power, namely instrumentarian power which “knows and shapes human behavior toward others’ ends. Instead of armaments and armies, it works its will through the automated medium of an increasingly ubiquitous computational architecture of ‘smart’ networked devices, things, and spaces”.²⁷

Information and communication technologies, therefore, may pose a systemic threat to democracy, by enabling the “origin of a new instrumentarian power that asserts dominance over society and presents startling challenges to market democracy”.²⁸ These technologies pave the way for an “expropriation of critical human rights that is best understood as a coup from above: an overthrow of the people’s sovereignty”.²⁹ The culture of respect for privacy, now being subject to destruction in the system of information totalitarianism, is an indispensable formative condition for men to become aware of their own individual identities, allowing them to judge governments’ performance on their own. An individual deprived of privacy is also stripped of dignity, not only as a result of the total surveillance to which they may be subjected³⁰ but also because of their vulnerability to informational manipulation enabled by the use of new technologies.³¹

The operation and survival of a democratic system depend on a number of factors to which it owes its complex identity. These are listed by Pericles in an inspir-

²⁴ Cf. <https://futureoflife.org/open-letter/pause-giant-ai-experiments> (accessed 24 September 2023).

²⁵ Cf. <https://www.technologyreview.com/2023/05/02/1072528/geoffrey-hinton-google-why-scared-ai/> (accessed 24 September 2023).

²⁶ Cf. S. Zuboff, *The Age of Surveillance Capitalism. The Fight for a Human Future at the New Frontier of Power*, London 2019, p. 1.

²⁷ *Ibidem*.

²⁸ *Ibidem*.

²⁹ *Ibidem*.

³⁰ Including, in particular, by Pegasus spyware.

³¹ Cf. R. Piotrowski: *Współczesne zagrożenia ustroju demokratycznego* [Contemporary threats to the democratic system] (in:) K. Rączka, B. Godlewska-Bujok, E. Maniewska, W. Ostaszewski, M. Raczkowski, A. Ziętek-Capiga (eds.), *Między ideowością a pragmatyzmem – tworzenie, wykładnia i stosowanie prawa. Księga jubileuszowa dedykowana Profesor Małgorzacie Gersdorf* [Between idealism and pragmatism – the making, interpretation and application of law. Jubilee book dedicated to Professor Małgorzata Gersdorf], Warszawa 2022, pp. 1220 et seq.

ing definition of democracy, which deserves to be called a holistic definition.³² According to Pericles, democracy “is based on the majority of citizens, not on a minority”, but at the same time, “in private disputes, every citizen is equal in the face of the law [and] the individual is valued not because he belongs to a certain group, but because of the personal talent he stands for”. “In our state life,” Pericles goes on, “we are guided by the principle of freedom ... in private life, we do not look with suspicious curiosity about the behavior of our fellow citizens, do not reluctant to neighbor ... and do not throw at him contemptuous looks ... We are guided by forbearance in private life, we respect rights in public life; we are obedient to everybody’s power and rights, especially those unwritten, who defend the victims and whose transgression brings universal shame”. At the same time, democracy is a system in which “the most opportunities for leisure after work” have been created, and the “everyday charm” of private dwellings “distracts from worries”.³³

Recognizing the need for a holistic understanding of democracy, one must notice the crucial importance of two premises for the operation of this system: 1) the ability to distinguish the majority from the minority, and 2) the ability to distinguish truth from its opposite. These coessential premises now come under dire threat, posed by the development of new technologies.

The blurring of the line separating truth from falsehood is as important for democracy as are the consequences of the combined biotechnology and IT revolutions, bringing about the destruction of man’s “illusion of free will”.³⁴ The blatant disregard for principles in international relations and in domestic political practice, the recourse to double standards, and the lying by governments who call themselves democratic have given rise to the notion of post-truth,³⁵ which, however, by no means legitimizes the destruction of the axiology of a democratic state. With the onset of new technologies, democracy has become – more pronouncedly than in its early days – a permanent spectacle in which the line between reality and the appearance of reality is obscured.³⁶ The narrated world has become more important than the real world, and the opinion poll numbers are more important than the increasingly irrelevant electoral programs. Democracy comes under threat from the fading of truth and rationality in the political sphere, which has been morphing from rational to emotional. For “political truth”, the key

³² For the holistic definition of the Constitution, cf. R. Piotrowski: *Judges and the Limits of Democratic Power in the Light of the Constitution of the Republic of Poland*, (in:) *Ruch Prawniczy, Ekonomiczny i Socjologiczny*, 1/2019, p. 224.

³³ Cf. Thucydides: *The History of the Peloponnesian War*, New York – London, p. 123 *et seq.*

³⁴ Cf. Y. N. Harari: *21 lekcji na XXI wiek* [Polish edition of *21 Lessons for the 21st Century*], Kraków 2018, p. 75.

³⁵ Cf. R. Keyes: *The Post-truth Era: Dishonesty and Deception in Contemporary Life*, New York 2004.

³⁶ Cf. R. Piotrowski: *Współczesne zagrożenia ustroju demokratycznego* [Contemporary threats to the democratic system], p. 1223.

criterion is winning and clinging to power, rather than conformity of words with facts. Consequently, “it is in the nature of political reality to make war on truth in all its forms [retranslated]”.³⁷ The truth is determined by whoever has the informational advantage resulting from political and financial superiority.

The emergence of the AI software known as GPT creates a system “that generates or manipulates image, audio or video content that appreciably resembles existing persons, objects, places or other events and would falsely appear to be authentic or truthful (‘deep fake’)”.³⁸ An EU regulation requires the system’s users to disclose that the content has been artificially generated or manipulated, but this obligation “shall not apply where the use is authorized by law to detect, prevent, investigate and prosecute criminal offenses or it is necessary for the exercise of the right to freedom of expression and the right to freedom of the arts and sciences guaranteed in the Charter of Fundamental Rights of the EU, and subject to appropriate safeguards for the rights and freedoms of third parties”.³⁹ However, the requirement of appropriate safeguards for third parties’ rights and freedoms, laid down in this provision, hardly looks like sufficient protection against such abuses that could lead to the destruction of the democratic system.

New technologies’ privacy-destroying applications may encourage such an understanding of democracy where it is seen as unlimited majority power. When perceived in such a way, democracy is actually reduced to a tribal democracy, in which the majority’s interests – political, economic, national, and religious – trump human rights.⁴⁰

The notion of integral democracy, as opposed to tribal democracy, refers to a regime where the power of the majority is constrained by human rights (including the rights of minorities), and which rests on a constitutional culture reflecting this constraint and on a basic law confirming it. In a state embracing integral democracy, the sovereign’s role is actually performed by laws, which denote the sovereignty of the values that limit the majority rule in order to protect human rights (these rights stemming from inalienable human dignity). Thus, the notion of sovereignty is equated with values that have been translated into laws.⁴¹ Risks

³⁷ Cf. H. Arendt: *Prawda a polityka* [Polish translation of *Truth and Politics*], (in:) *Literatura na świecie*, No. 6/1985, p. 166.

³⁸ Art. 52.3 of the Regulation of the European Parliament and of the Council Laying Down Harmonised Rules on Artificial Intelligence (Artificial Intelligence Act) and Amending Certain Union Legislative Acts, COM (2021) 206 final.

³⁹ *Ibidem*.

⁴⁰ Cf. R. Piotrowski, *Wybrane dylematy powszechności praw człowieka* [Certain dilemmas about the universal nature of human rights], (in:) J. Jaskiernia (ed.), *Uniwersalny i regionalny wymiar ochrony praw człowieka. Nowe wyzwania – nowe rozwiązania* [Universal and regional dimensions of human rights protection. New challenges, new solutions], Warszawa 2014, Vol. 1, p. 52 et seq.

⁴¹ Cf. R. Piotrowski: *Demokracja nieliberalna czyli oksymoron konstytucyjny* [Illiberal democracy, or a constitutional oxymoron], (in:) M. Serwaniec, A. Bień-Kacała, A. Kustra-

associated with majority rule can be reduced by the separation of powers, the rule of law, the supremacy of the Constitution, and by judicial review – a system sometimes referred to as constitutional democracy.⁴² Integral democracy, unlike tribal democracy, recognizes the universal nature of human rights. As matters stand, however, modern political culture has increasingly been turning into a culture of tribal democracy, based as it is on post-truths, double standards, supremacy of self-interest, rivalry of all against all, and social inequality.

Those impacting the perception of reality by media and ICT users wield a new kind of power – and this power threatens democracy, understood as freedom of choice.⁴³ Meta's privacy policy and terms of service are not subject to judicial review in the countries where the company operates, yet they shape public debate and impact the freedom of expression there. In the space shaped by the new information and communication technologies, the exercise of freedom of speech and freedom to participate in public debate has been increasingly contingent on accepting more and more pronounced restrictions on freedom – and these restrictions are not grounded in democratically passed laws. The freedom so restricted is but an illusion of freedom. Enjoying their monopolistic position, online services tend to act as a public authority, for which, however, they have no democratic legitimacy.⁴⁴ And yet their real power distorts the basic principles of the state's system of governance, including the principle of popular sovereignty.

4. To meet the new challenges, we need new laws that will affirm age-old notions of human dignity. The right to personal inviolability, or prohibition of arbitrary encroachments by government – immortalized in the writ of *habeas corpus* – needs to be reinterpreted. In view of the potential dangers of a person's consciousness being interfered with, without their consent, we must proclaim and respect the principle of *habeas mentem*, in order to guarantee an individual's inner freedom or the basis of their dignity. This necessitates that a constitutional and international dimension be imparted to a right that stipulates:

- that key state-level decisions impacting human condition, life, and freedom must be made by humans, not automated systems or other AI contraptions;
- if artificial intelligence were to make decisions, then it should be properly equipped with value-based criteria.

Rogatka (eds.), *Potentia non est nisi da bonum. Księga Jubileuszowa dedykowana Profesorowi Zbigniewowi Witkowskiemu* [*Potentia non est nisi da bonum. Jubilee Book dedicated to Professor Zbigniew Witkowski*], Toruń 2018, p. 611 *et seq.*

⁴² On the notion of constitutional democracy see W. F. Murphy: *Constitutional Democracy*, Baltimore 2007, p. 528 *et seq.*

⁴³ Cf. R. Piotrowski: *Prawa człowieka w pułapce technologii i polityki* [*Human rights in a trap of technology and politics*], (in:) J. Jaskiernia, K. Spryszak (eds.), *System ochrony praw człowieka trzeciej generacji wobec nowych wyzwań cywilizacyjnych* [*Third generation system of human rights protection vis-a-vis new civilizational challenges*], Toruń 2023, p. 351 *et seq.*

⁴⁴ *Ibidem*.

The principle *habeas potestatem humanam* is of crucial importance for the survival of democracy in the contemporary world.

While it seems fair to acknowledge that a democracy may sometimes allow for indispensable restrictions on human rights (with minority rights respected), it must be emphatically demanded that such restrictions may only be imposed by humans exercising legislative, executive, or judicial powers – not by algorithms, computer software and applicable AI forms. The very survival of the democratic system, with its roots in the dignity of the person, requires that the right to privacy and protection of personal data be guaranteed.

The culture of abdication of privacy protection may breed consent to the creation and practical use of technologies capable of penetrating an individual consciousness without his or her consent (the so-called mindreading).

The right to personal inviolability understood as a prohibition on its arbitrary breach by the government – and reflected in the centuries old principle of *habeas corpus* – needs to be reinterpreted. Given the potential threat of interference in a person's mind without that person's consent, constitutions and international law must proclaim the principle of *habeas mentem*. The principle *habeas mentem* according to which everyone's right to intellectual identity and integrity, the right to one's thoughts being free from technological mind-bending interference, is as essential for the survival of the democratic system as the right to be governed by humans – and it may well prove equally endangered. The principle *habeas mentem*, reflecting the need to provide guarantees for human internal freedom, may prove to be the last redoubt of human dignity, threatened as it is by loss of the rights to privacy and to informational identity. Unfortunately, in the contemporary world, the prospects for democracy based on the spiritual culture of human rights protection are even more limited and discouraging, as they have always been.

The democratic system is inseparably linked to human agency, not to even the most sophisticated manmade tools. The right to keep human affairs under human control is among the basic human rights. A situation where people fail to control their tools, far from being a regular feature of the democratic system, may actually portend its failure. Constitutions, therefore, should reiterate the right to keep human affairs under human control, meaning that the status of the individual – their rights, freedoms, and obligations – must not be defined by computer programs alone.

REFERENCES

- Ainis M., *Il regno dell'Uroboro*, Milano 2018
Arendt H., *Prawda a polityka*, "Literatura na świecie", No. 6/1985
Bostrom N., *Superintelligence. Paths, Dangers, Strategies*, Oxford 2014

- Brzeziński Z., *Between Two Ages. America's Role in the Technetronic Era*, New York 1970
- du Sautoy M., *The Creativity Code: Art. and Innovation in the Age of AI*, Cambridge 2019
- Harari Y.N., *21 lekcji na XXI wiek*, Kraków 2018
- Keyes R., *The Post-truth Era: Dishonesty and Deception in Contemporary Life*, New York 2004
- Kissinger H., *World Order*, London 2014
- Kissinger H., Schmidt E., Huttenlocher D. (eds.), *The Age of AI And Our Human Future*, London 2021
- Lem S., *Pułapka technologiczna* (in:) *Tajemnica chińskiego pokoju*, Kraków 1996
- Murphy W. F., *Constitutional Democracy*, Baltimore 2007
- Pariser E., *The Filter Bubble. How the New Personalized Web Is Changing What We Read and How We Think*, London 2011
- Piotrowski R., *Demokracja nieliberalna czyli oksymoron konstytucyjny*, (in:) Serowaniec M., Bień-Kacała A., Kuśtra-Rogatka A. (eds.), *Potentia non est nisi da bonum. Księga Jubileuszowa dedykowana Profesorowi Zbigniewowi Witkowskiemu*, Toruń 2018
- Piotrowski R., *Judges and the Limits of Democratic Power in the Light of the Constitution of the Republic of Poland*, "Ruch Prawniczy, Ekonomiczny i Socjologiczny", Vol. 1/2019
- Piotrowski R., *New Technologies or New Human Rights: The Right to a Government by Humans and the Right to One's Own Thoughts*, "Studia Iuridica" 2018, Vol. LXXVI
- Piotrowski R., *Prawa człowieka w pułapce technologii i polityki* in Jaskiernia J., Spryszak K. (eds.), *System ochrony praw człowieka trzeciej generacji wobec nowych wyzwań cywilizacyjnych*, Vol. III, Toruń 2023
- Piotrowski R., *Prawo do tożsamości informacyjnej i jego znaczenie w ustroju demokratycznym*, (in:) Jaskiernia J. (ed.), *Wpływ standardów międzynarodowych na rozwój demokracji i ochronę praw człowieka*, Warszawa 2013
- Piotrowski R., *Współczesne zagrożenia ustroju demokratycznego*, (in:) Rączka K., Godlewska-Bujok B., Maniewska E., Ostaszewski W., Raczkowski M., Ziętek-Capiga A. (eds.), *Między ideowością a pragmatyzm – tworzenie, wykładnia i stosowanie prawa. Księga jubileuszowa dedykowana Profesor Małgorzacie Gersdorf*, Warszawa 2022
- Piotrowski R., *Wybrane dylematy powszechności praw człowieka* (in:) Jaskiernia J. (ed.), *Uniwersalny i regionalny wymiar ochrony praw człowieka. Nowe wyzwania – nowe rozwiązania*, Vol. 1, Warszawa 2014
- Postman N., *W stronę XVIII stulecia*, Warszawa 2001
- Susskind R., *Sądy internetowe i przyszłość wymiaru sprawiedliwości*, Warszawa 2021
- Tegmark M., *Life 3.0 Being Human in the Age of Artificial Intelligence*, London 2018
- Thucydides, *The History of the Peloponnesian War*, New York – London, 1950
- Zuboff S., *The Age of Surveillance Capitalism. The Fight for a Human Future at the New Frontier of Power*, London 2019