

Media Regulation and Public Sphere in the Digital Age: An Analysis in the Light of Constructive Democracy

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Abstract : The article proposed intends to analyze the possibility (and conditions) of a media regulation law in a democratic rule of law in the twenty-first century. To do so, will be presented initially the idea of the public sphere (by Jürgen Habermas), showing how it is presented as an interface between the citizen and the state (or the private and public) and how important is it in a deliberative democracy. Based on this paradigm, the traditional perception of the role of public information (such as system functional element) and on the possibility of media regulation will be exposed, due to the public nature of their activity. A critical argument will then be displayed from two different perspectives: a) the formal function of the current media information, considering that the digital age has fragmented the information access; b) the concept of a constructive democracy, which reduces the need for representation, changing the strategic importance of the public sphere. The question to be addressed (based on the comparative law) is if the regulation is justified in a polycentric democracy, especially when it operates under the digital age (with immediate and virtual communication). The proposal is to be presented in the sense that even in a twenty-first century the media in a democratic rule of law still has an extremely important role and may be subject to regulation, but this should be on terms very different (and narrower) from those usually defended.

Keywords : constructive democracy, media, digital age, public sphere

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