

Book Review

Human Rights in the Digital Age, Edited by Mathias Klang and Andrew Murray

The GlassHouse Press, 2005. xiv and 243 pp (incl index). ISBN 1904385311. TP £25

The title gives clear a indication of what the reader of this collection can expect. The combination of “human rights” and the information revolution has never before been the focus of a specialised stand-alone publication. For this reasons alone, the book is a much welcome and long anticipated undertaking, seeking to bridge the gap in legal literature between the existing plethora of traditional human rights (HR) studies and the growing Criminal and Private Law discourse over the impact of digital technologies. The editing team of M. Klang and A. Murray make clear in the preface their intentions to fill the existing void with an “initial reference point”. To this end they have sought the contribution of well-known specialists and experts in the field of information technology law.

The result of their effort probably works best for readers who lack previous contact with recent works in ICT law literature. 17 chapters draw upon the experience of that research background to give a measured account of HR-related legal problems over the past decade that were the response to technologically more aware and active societies. They also attempt to outline key points of a modern human rights based critique of regulatory approaches and trends developing within this social context.

In this manner, the editors at least partly succeed in realising their main objective. The linear progression of material in mutually interdependent sections allows for complex arguments to emerge, and a comprehensive picture is given of what has been achieved so far, which aspects have been ignored and what is currently being contested regarding regulatory approaches to internet governance that impact, one way or the other, with core human rights values. “Human Rights in the Digital Age” provides therefore for a practical handbook.

Yet, the book falls short of locating the analysis with equal success in the filed of HR law per se. Since the majority of participating authors share an academic background and upbringing in technology law, the influence of leading ICT law authorities dominates inevitably the field of analysis. Thus, approaches to human rights themes in most of the articles are reflections on the abstract moralities behind the application of private, criminal and administrative law, and their matching legal debates. The emphasis on the effects of innovation and technology on private and criminal law thus largely bypasses debates about HR legal theory and its doctrinal foundations.

The editors take the lead in this direction, by loosely arranging material under the popular ICT law triptych of “content-liability-privacy”. Arguably, this taxonomy facilitates a human rights orientation for examining communications laws and may perform well within the respective research fields. Here, however, it also acts highly prescriptive, which limits the conceptualisation of freedoms to their function as a simplified guiding motif (notably, most legal textbooks with an interest in the repercussions of technologies on the human being pick the very same pattern).

Similarly, contributors appear hesitant to take their methodology and findings beyond the theoretical insights which ICT law research has established through its brief

history. This happens either in pursuit of familiarising readers to a given legal background or due to experiencing more confidence in rephrasing affirmed facts that leave little room for disputing their basis.

In any case, in many chapters the selected case studies and presented viewpoints demonstrate heavy reliance on research and conclusions of the late 90's. To present a few examples, Esler hints at a fascinating discussion by touching upon blocking technologies in online search engines, only to settle later on an outdated, in terms of both legal and technical interest, model of filtering systems; Chatterjee takes on the issue of online sexual exploitation and their underlying pathology of morals to present another fairly traditional feminist account of legal regulation of sexuality, while Rowland and Sutter, in their respective chapters, built their cases on freedom of expression and censorship on the exhausted court precedents of *Zeran v AOL* and *Godfrey v Demon*.

From this point of view, "Human Rights in the Digital Age" conveys a faithful overall review of past achievements. It does not though adopt a more iconoclastic attitude towards its predecessors in the technology literature, which would be necessary if one wanted to reach further ahead to future innovations, and envisaging the legal implications these might have for the lawyer of tomorrow. This is not exactly a chance lost, but nonetheless a somewhat underused opportunity to predict infringement of freedoms and to assist in preparing the setting for future battles.

With a few exceptions such as the first of two chapters written by Klang, - a 'usual suspect' in this sense - where he teases the reader with a fresh HR look over denial of service attacks, the material abstains from moving deeper into current techno-social trends. This is unfortunate as many of them have raised much more pressing questions about their legal nature than e.g. the issue of ISP's liability for online content, which is by now well understood. Conversely, if any attention is given to relevant issues of growing technological importance, like in Christie's article on electronic surveillance of employees, authors confine their writing to analysing local regulatory frameworks, while the HR arguments, formulated in pre-ICT ways, are treated from the beginning as self-evident truths.

Bringing this review to a conclusion: A book on Human rights in the digital age is timely and welcome, and this one here provides a useful overview on the role played by digital technologies within a HR environment. The non-lawyers, or indeed lawyers without previous knowledge of ICT to whom I introduced the book were rather impressed and satisfied with the account that is provided here. A more demanding reader though could reasonably object to the delivered outcome. A traditional, pre-ICT conception of Human rights is presumed, not analysed. Nor does it explore the full range of freedoms and rights, or ask whether new forms of rights are necessitated by the information revolution. As a consequence, the technological aspects remain somewhat accidental to the human rights question, and business as usual, for both disciplines, remains the order of the day.

And yet, the book meets the editors' stated ambition with clarity and efficiency, without yearning for more than it offers. From this down to earth perspective, none of the above objections might matter in the end.

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