

FUNDAMENTAL RIGHT TO NON-MANIPULATION: A NEW FRONTIER OF PERSONALITY RIGHTS IN THE DIGITAL AGE

DIREITO FUNDAMENTAL À NÃO-MANIPULAÇÃO: UMA NOVA FRONTEIRA DOS DIREITOS DE PERSONALIDADE NA ERA DIGITAL

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John Ross Silva Carvalho*

*Universidade Estácio de Sá, Rio de Janeiro, Rio de Janeiro, Brasil

Orcid: <https://orcid.org/0009-0008-7194-3539>
johnrossadv@gmail.com

Marcos Filipe Machado Cruz**

**Instituto de Pesquisa Econômica Aplicada (IPEA), Brasília, Distrito Federal, Brasil

Orcid: <https://orcid.org/0009-0009-9610-1634>
cruz.marcos@ebserh.gov.br

Kárita Carneiro Pereira***

***Universidade de Gurupi (UNIRG), Gurupi, Tocantins, Brasil

Orcid: <https://orcid.org/0000-0003-4134-1330>
karitacarneiropereira@gmail.com

Thallita Muriel Cardoso Rodrigues****

****Faculdade Autônoma de Direito (FADISP), São Paulo, São Paulo, Brasil

Orcid: <https://orcid.org/0009-0006-9387-3186>
thallitarodrigues@hotmail.com

Hermison Victor Pereira Alencar Sampaio*****

*****Escola Superior do Ministério Público do Estado de Goiás (ESMP-GO), Goiânia, Goiás, Brasil

Orcid: <https://orcid.org/0009-0008-7958-2029>
hermisonvictor@gmail.com

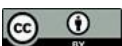
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Abstract

This article examines one of the most subtle yet profound transformations of contemporary Brazilian democracy: the gradual replacement of overt public deliberation by concealed forms of algorithmic governance, in which political microtargeting assumes a central role in electoral influence. This dynamic displaces the exercise of political freedom of expression from the shared public sphere into private and opaque circuits, where rational persuasion gives way to the calculated exploitation of behavioral predispositions and cognitive vulnerabilities. As

Resumo

O presente artigo retrata as transformações mais silenciosas da democracia moderna brasileira: a crescente substituição do debate público manifesto, por formas ocultas de gestão algorítmica, nas quais o micro direcionamento político detém o papel primordial de influência eleitoral. Tal dinâmica desloca o exercício da liberdade de expressão política do espaço público comum para circuitos privados e invisíveis, nos quais a persuasão racional cede lugar à exploração calculada de predisposições comportamentais e vulnerabilidades cognitivas.



a result, acute constitutional tensions emerge between freedom of expression, informational self-determination, and the very integrity of the democratic process, calling into question the normative foundations of the Democratic Rule of Law enshrined in the 1988 Federal Constitution. We argue that the preservation of Brazilian democracy requires the development of more robust legal instruments aimed at algorithmic accountability and the protection of the public sphere as a collective constitutional good. The research adopts a deductive methodological approach, grounded in an extensive review of both national and international scholarship, as well as a critical analysis of the Brazilian regulatory framework, with particular attention to the General Data Protection Law (Lei Geral de Proteção de Dados Pessoais) and electoral legislation. We find that the structural opacity of algorithmic systems employed in electoral campaigns significantly hinders social, administrative, and judicial oversight of these practices, thereby enabling sophisticated and diffuse forms of public opinion manipulation that frequently evade traditional mechanisms of legal accountability.

Keywords: Political Microtargeting. Digital Democracy. Public Sphere. Algorithmic Manipulation. Data Protection.

Emergem tensões constitucionais agudas entre a liberdade de expressão, a autodeterminação informativa e a própria integridade do processo democrático, colocando em xeque os pressupostos normativos do Estado Democrático de Direito consagrados pela Constituição Federal de 1988. A preservação da democracia brasileira exige a construção de instrumentos jurídicos mais robustos, orientados à responsabilização algorítmica e à proteção da esfera pública como bem constitucional coletivo. A investigação adota metodologia dedutiva, ancorada em ampla revisão bibliográfica de autores nacionais e estrangeiros, bem como na análise crítica do marco regulatório brasileiro, com especial atenção à Lei Geral de Proteção de Dados Pessoais e à legislação eleitoral. Constata-se que a opacidade estrutural dos sistemas algorítmicos empregados em campanhas eleitorais dificulta de modo significativo o controle social, administrativo e jurisdicional dessas práticas, abrindo espaço para formas sofisticadas e difusas de manipulação da opinião pública, frequentemente imunes à responsabilização jurídica tradicional.

Palavras-chave: *Microtargeting Político. Democracia Digital. Esfera Pública. Manipulação Algorítmica. Proteção de Dados.*

1 INTRODUCTION

Modern society is undergoing a profound transformation. Digital technologies interfere not only with how we communicate, but with the very essence of how individuals influence one another, actively shaping behaviors, preferences, and modes of perception.

Social media platforms have emerged as central actors in this process. Their automated recommendation algorithms—largely invisible yet omnipresent—operate as silent curators of digital experience, filtering realities and selectively amplifying certain narratives while marginalizing or obscuring others. These dynamics are not normatively neutral; they carry significant social, political, and constitutional consequences,

particularly insofar as they reconfigure the conditions under which public opinion is formed and democratic deliberation takes place¹.

Democratic deliberative processes—the foundational structures through which free societies construct consensus and make collective decisions—are currently facing substantial threats. The integrity of these structures has been repeatedly undermined. Simultaneously, individual autonomy, a core principle that enables citizens to exercise genuine and independent choice, is subject to increasing pressure; the risks involved are real, tangible, and urgent.

In this context, the legal protection of the fundamental right to non-manipulation emerges as a normative necessity. Even in the absence of explicit constitutional recognition, the freedom to form convictions and to make decisions must remain safeguarded against covert and asymmetrical forms of influence, particularly those capable of distorting individual judgment and compromising the authenticity of democratic choice.

Legal protection must evolve in order to recognize a fundamental right that remains largely in the shadows of the legal order: the right to non-manipulation. But what does this right entail? It constitutes an essential prerogative that guarantees every individual protection against covert techniques, deceptive practices, and disproportionate mechanisms that insidiously infiltrate the human psyche with the purpose of influencing, distorting, or co-opting what is perhaps its most valuable capacity: self-determination.

The genuine formation of convictions and the autonomous making of decisions are foundational mental processes that cannot be commodified, captured, or subjected to manipulation by opaque algorithms and obscure persuasive strategies².

This right transcends the mere protection of personal data. It goes further, safeguarding the very essence of human agency—our capacity to think, choose, and act freely, without becoming invisible instruments of external interests. It seeks to protect individuals from being subtly steered by endless streams of algorithmically curated content—whether labeled as videos, reels, or any other branding strategy employed by

¹ SILVEIRA, S. A. **Democracia e os códigos invisíveis: como os algoritmos estão modulando comportamentos e escolhas políticas**. São Paulo: Edições Sesc, 2019.

² CANOTILHO, J. J. G. **Direito constitucional e teoria da constituição**. 7. ed. Coimbra: Almedina, 2003.

platforms to differentiate what is, in substance, the same phenomenon: manipulation through invisible algorithms.

The legal recognition of this right is not merely desirable; it is imperative. This article sets out to explore the depths of this emerging right, undertaking a necessary and timely investigation. The analysis developed herein is both dogmatic and critical, aiming to uncover the layers that constitute this new legal paradigm. Where do its constitutional foundations lie? Which normative bases sustain its existence and legitimacy within the Brazilian legal framework? These questions demand careful and systematic examination.

Furthermore, how does the right to non-manipulation interact with other fundamental rights already consolidated within the Brazilian Constitution? Freedom of expression, privacy, human dignity, and the free development of personality are interwoven in a complex web of interdependence and potential tension. Understanding these relationships is crucial to any coherent constitutional framework capable of addressing contemporary forms of influence.

The digital environment, however, presents distinctive challenges. Its fluid, transnational, and technologically sophisticated nature complicates the effective application of traditional legal safeguards. How can this right be ensured in a space where algorithms continuously evolve and national boundaries increasingly lose their regulatory force?

Finally, this article examines the range of possible legal responses. Does the Brazilian legal order already provide adequate tools for protection? Is new legislation required, or can interpretative adaptations suffice? These are complex questions—but they are also inescapable.

2 THE CONSTITUTIONAL FOUNDATIONS OF THE FUNDAMENTAL RIGHT TO NON-MANIPULATION

The 1988 Federal Constitution does not expressly mention a right to non-manipulation. This is true. However, the absence of an explicit reference in the constitutional text does not imply that such a right lacks legal existence. Quite the opposite: this fundamental right finds solid grounding within the system of rights

enshrined in the Constitution—a living and dynamic framework capable of expansion and adaptation in response to new realities that challenge human dignity.

From where does this constitutional grounding emerge? It derives from multiple constitutional sources. Several provisions and principles enshrined in the 1988 Constitution converge to form the normative substrate necessary for the existence of this emerging right. Human dignity, as a foundational principle permeating the entire legal order; freedom as a supreme constitutional value; the protection of intimacy and private life; and political pluralism as a foundational pillar of the Republic.

These constitutional pillars do not exist in isolation. They engage in dialogue and mutual interaction. Through this complex interplay, implicit normative spaces are revealed - zones of protection that, although not explicitly named by the constitutional framers of 1988, logically flow from the values and rights already positivized. The right to non-manipulation inhabits precisely this space: implicit, yet undeniable. We begin, therefore, with the foundational principle of human dignity³.

Enshrined in Article 1, item III, of the Federal Constitution as a foundational principle of the Republic itself, human dignity transcends its mere normative articulation to constitute the true axiological matrix—the central value axis—of the right to non-manipulation. But why is this so? We argue that the answer lies in the very essence of what “dignity” signifies within its constitutional meaning.

Human dignity presupposes autonomy. It recognizes each individual as a subject—never as an object—endowed with the capacity for rational self-determination and bearer of an inviolable existential sphere in which freedom is exercised in a full and authentic manner. It affirms that human beings are capable of thinking, judging, and choosing for themselves. Manipulation, in turn, undermines and ultimately destroys these conditions of autonomy.

When an individual is subjected to manipulation, they cease to be a subject and become an instrument. Their capacity for genuine choice—one that emerges from convictions that are authentically their own and formed through intact deliberative processes—is subverted, distorted, and co-opted by external forces operating in the

³ SARLET, I. W. (Org.). **Dimensões da dignidade: ensaios de filosofia do direito e direito constitucional**. 2. ed. rev. e ampl. Porto Alegre: Livraria do Advogado, 2009.

shadows. The individual is reduced to a means for the ends of others, thereby losing their status as an autonomous agent. We contend that this constitutes a direct affront to the essential core of human dignity—an outcome that is unacceptable and unconstitutional.

Yet, there is more. The right to non-manipulation is also firmly grounded in the fundamental right to freedom, expressly guaranteed in the opening clause (*caput*) of Article 5 of the Federal Constitution. At this point, a crucial distinction must be drawn: what does it truly mean to be free?

Traditional conceptions of freedom tend to emphasize solely its negative dimension: the absence of physical coercion, external constraints, or visible restraints. If no one prevents an individual from acting, then that individual is considered free. The analysis often ends there.

Authentic freedom, however, demands far more. It requires the preservation of the very internal conditions that make genuine self-determination possible: intact psychological conditions, adequate informational environments, and a cognitive sphere that enables individuals to form their own convictions without covert interferences designed to distort their perception of reality.

Manipulation strikes precisely at these internal foundations of freedom. It corrupts cognitive processes—the mental mechanisms through which individuals understand the world—and contaminates volitional processes, through which preferences are formed and decisions are made.

The result is merely apparent freedom: formal in structure, yet hollow in substance. The essence of freedom itself is compromised.

Let us now consider another fundamental dimension: privacy and the protection of personal data. Constitutional Amendment No. 115/2022⁴ marked a historic milestone by elevating the protection of personal data to the status of a fundamental right, expressly incorporating it into the catalogue of rights set forth in Article 5 of the Constitution. This inclusion was not accidental. Rather, it constitutes a deliberate constitutional response to concrete and growing threats to individual autonomy in the digital age.

⁴ **BRASIL.** Constituição (1988). **Emenda Constitucional nº 115, de 10 de fevereiro de 2022.** Altera a Constituição Federal para incluir a proteção de dados pessoais entre os direitos e garantias fundamentais e para fixar a competência privativa da União para legislar sobre proteção e tratamento de dados pessoais. Brasília, DF: Presidência da República, 2022. Disponível em: https://www.planalto.gov.br/ccivil_03/constituicao/Emendas/Emc/emc115.htm. Acesso em: 4 fev. 2026.

The relationship between data protection and the right to non-manipulation is profound, intimate, and inseparable. We may consider the following: technology companies collect trillions of data points regarding individuals' behaviors, preferences, psychological vulnerabilities, and patterns of thought. These data do not remain inert. They are processed through highly sophisticated algorithms that generate detailed psychological profiles—precise mappings of the human psyche—capable of revealing fears, desires, biases, and emotional points of susceptibility⁵.

For what purpose? To deploy personalized persuasion techniques with surgical precision. Tailored messages designed to exploit specific individual vulnerabilities. Content calibrated to influence behavior and decision-making in ways that often escape conscious awareness. We argue that this represents one of the most sophisticated and pernicious forms of contemporary manipulation—largely invisible, yet profoundly destabilizing in its effects.

The right to non-manipulation also possesses a collective, social, and political dimension. At this level, it directly engages with the democratic principle and political pluralism, both of which are expressly enshrined as foundational elements of the Republic in the opening clause (*caput*) and item V of Article 1 of the Constitution. Democracy is not merely a set of formal procedures—periodic elections, vote counting, or the alternation of power. Authentic democracy presupposes something deeper.

We argue that it requires citizens who are genuinely capable of forming their own political convictions autonomously, free from covert manipulative practices that distort their perception of social reality. It further presupposes the integrity of deliberative processes, in which arguments are assessed on their merits, rather than amplified or suppressed by opaque algorithmic systems.

Mass manipulation undermines these foundational assumptions. This is particularly evident in electoral contexts, where the integrity of deliberative processes is decisive for the legitimacy of electoral outcomes. When political campaigns employ targeted psychological segmentation to exploit voters' cognitive vulnerabilities, and when personalized disinformation distorts collective perceptions of social reality, the very

⁵ **BIONI, B. R. Proteção de dados pessoais: a função e os limites do consentimento.** 3. ed. Rio de Janeiro: Forense, 2021.

foundations of democratic legitimacy are eroded. What remains is a façade democracy—apparently functional, yet fundamentally compromised.

3 DEFINING MANIPULATION AND ITS CONSTITUTIVE ELEMENTS

At this point, a complex - and indeed crucial - challenge emerges. For the right to non-manipulation to be effectively protected by law, and for it to move beyond the abstract realm of ideas into the concrete sphere of judicial application, we must establish precise criteria. Criteria capable of identifying, with a reasonable degree of certainty, what constitutes manipulation and what does not.

Why is this necessary? Because not all influence amounts to manipulation. Not all persuasion is illegitimate. And not every communicative act aimed at convincing another individual constitutes a violation of autonomy.

The dividing line is subtle. A professor who passionately argues in favor of a philosophical thesis undoubtedly influences students - but does this amount to manipulation? An advertiser who crafts an emotionally compelling commercial seeks to persuade consumers - but does this violate self-determination? A politician who delivers an eloquent speech to win votes is communicating ideas - but does this compromise democratic integrity? We therefore require conceptual clarity.

For legal purposes, manipulation may be defined as the influence exerted over another person's will or cognition through the deliberate use of covert techniques, deceptive communicative practices, or substantial informational asymmetries that undermine the individual's capacity for conscious self-determination—crucially, without that individual possessing full awareness of, or effective control over, the mechanisms employed to influence them.

We emphasize that this absence of knowledge or control constitutes the defining element that distinguishes manipulation from legitimate forms of influence or persuasion⁶.

⁶ **FRAZÃO, A.** Como conter as dark patterns? **Blog GEN Jurídico**, Rio de Janeiro, 8 ago. 2022. Disponível em: <https://blog.grupogen.com.br/juridico/areas-de-interesse/consumidor/como-conter-as-dark-patterns/>. Acesso em: 4 fev. 2026.

What distinguishes manipulation from legitimate persuasion? Transparency, informed consent, and the genuine possibility of conscious resistance. When arguments are presented openly, we are able to assess them critically. When a product is marketed explicitly, we are aware that persuasion is taking place and can activate our cognitive defenses. By contrast, when opaque algorithms exploit psychological vulnerabilities of which we ourselves are unaware, when neuroscientific techniques bypass conscious reasoning, and when influence is exerted through mechanisms that operate in the shadows, manipulation is taking place. This distinction is essential and legally consequential.

But which elements, more specifically, characterize legally relevant manipulation? Under what conditions can we state, with legal certainty, that an individual has in fact been manipulated in a manner that justifies legal intervention?

In the present study, we identify five constitutive elements that emerge as essential to the legal characterization of manipulation.

First, intentionality. The manipulating agent must act deliberately, with the conscious purpose of influencing the behavior or convictions of others. We are not dealing with accidental influences or unintended side effects; manipulation requires a directed volitional element, aimed at shaping decision-making or belief formation in a purposeful manner.

Second, the exploitation of vulnerabilities. Manipulation operates through the systematic use of means that exploit cognitive, emotional, or informational vulnerabilities of the individual. These include unconscious cognitive biases, emotional fragilities, and informational gaps that hinder adequate judgment. The manipulator does not merely present arguments; rather, they instrumentalize human weaknesses in order to shape behavior or belief formation.

Third, substantial asymmetry. There exists a significant disparity of power or information between the manipulator and the manipulated individual. One party possesses knowledge, technological resources, or operational capacities that the other neither knows of nor is able to control. We argue that this asymmetry establishes a fundamentally unequal relationship in which genuine self-determination becomes practically unattainable.

Fourth, the impairment of self-determination. The practical outcome of manipulation is the effective compromise of an individual's capacity for conscious self-determination. Choices cease to be authentically one's own and instead become the product of influences that operate beyond the individual's awareness.

Fifth - and perhaps most decisively - the absence of informed consent. The individual neither possesses full knowledge of nor exercises effective control over the mechanisms of influence deployed against them. Consent is absent because one cannot consent to what one does not know.

Where these five elements are simultaneously present, we contend that manipulation is legally established, thereby justifying—and indeed requiring—state intervention.

4 INTERACTION WITH OTHER FUNDAMENTAL RIGHTS

The right to non-manipulation does not exist in sterile isolation. It does not float alone within the constitutional ether. Like any fundamental right, it inhabits a complex legal ecosystem - one in which multiple rights coexist, interact, mutually reinforce one another, and, inevitably, at times come into tension. We contend that understanding these relationships is essential for the practical application of this emerging right.

The right to non-manipulation and freedom of expression stand in a complex dialectical relationship, marked by both complementarities and tensions that require careful balancing. On the one hand, protecting individuals against manipulation may indeed necessitate limitations on certain communicative practices, particularly those involving insidious techniques of psychological influence and forms of disinformation⁷.

Protection against manipulation must not become a convenient pretext for authoritarian censorship. Governments have historically been inclined to justify restrictions on freedom under the rhetoric of “protecting” citizens, and the risk of abuse in this context is both concrete and well documented.

At the same time - and this is the central paradox - robust informational freedom constitutes one of the most effective antidotes to manipulation itself. Societies in which

⁷ MIGUEL, L. F. **Democracia e desinformação**. São Paulo: Todavia, 2022.

information circulates freely, in which multiple voices are able to express themselves, and in which public debate flourishes without excessive constraints tend to be more resilient to systematic forms of manipulation. Plurality of perspectives generates cognitive counterweights that strengthen individual and collective autonomy.

The challenge, therefore, lies in reconciling these two rights. We must recognize that freedom of expression is not absolute; it does not shield manipulative practices that undermine the very democratic public debate it is meant to protect. Simultaneously, however, we must ensure that any restrictions are precise, proportionate, and never transformed into instruments of ideological control. This balance is fragile - but indispensable.

The right to information, expressly enshrined in Article 5, item XIV, of the Federal Constitution, maintains a deeply intimate relationship with the right to non-manipulation.

Why is this the case? Because manipulation frequently operates through three informational strategies: deprivation, by concealing relevant information; distortion, by presenting information in a misleading manner; and asymmetry, by creating dramatic disparities in access to knowledge.

Accordingly, access to accurate, plural, and properly contextualized information is not a mere complement to the right to non-manipulation. We argue that it constitutes a fundamental precondition for its effective exercise. Without high-quality information, genuine self-determination becomes illusory, and choices that appear free are, in reality, conditioned by distorted perceptions of reality.

Transparency thus emerges as one of the central pillars of protection against manipulation. Consider the traditional personality rights: privacy, private life, and honor. How do they relate to this emerging right to non-manipulation? We argue that the relationship is twofold: it is simultaneously one of unfolding and mutual reinforcement.

The right to non-manipulation can be understood as a natural extension of these classical rights into the twenty-first century, a necessary adaptation in the face of technological threats that the drafters of the 1988 Constitution could never have fully anticipated. The protection of the intimate sphere and informational self-determination has always aimed to preserve individuals from undue external interference. Digital manipulation represents precisely this: a sophisticated and invasive interference in people's psychic lives and existential decisions.

However, there is also a reverse effect: the explicit recognition of the right to non-manipulation strengthens and revitalizes these traditional rights. It provides them with new interpretive dimensions. It expands their protective horizons beyond original conceptions, enabling them to confront contemporary challenges with renewed normative force. We argue that we are witnessing old rights in new contexts, resulting in an expanded protection of human dignity.

5 OWNERSHIP AND DIMENSIONS OF THE RIGHT

The right to non-manipulation possesses, like many fundamental rights, a dual nature. Bifurcated, yet complementary. It operates simultaneously in two distinct dimensions⁸, the individual and the collective, each with its own particularities, specific rightholders, and distinct protective mechanisms. Understanding this duality is essential to visualizing the complete scope of this emerging right.

In its individual dimension, the right to non-manipulation belongs to every natural person. Without exceptions. Without distinctions based on age, social condition, educational level, or technological sophistication.

But what exactly does this individual dimension protect? Far more than one might initially imagine. It encompasses, evidently, protection against manipulation in consumer decisions - those everyday choices about what to buy, which service to hire, what product to acquire. Marketing techniques that abusively exploit psychological vulnerabilities? Protected against. Subliminal advertising that circumvents conscious cognitive defenses? Prohibited.

But it goes further. Much further. The protection extends to personal existential choices: whom to form relationships with, which career to pursue, what values to adopt, what lifestyle to embrace. These fundamental decisions, which shape one's very life trajectory, cannot be subjected to covert manipulation without frontally violating human dignity.

⁸ MARTINS, G. M. *Liberdade de expressão, democracia e regulação das plataformas digitais*. São Paulo: Almedina, 2022.

And there is yet another layer, perhaps the most important: the right not to be subjected to techniques that directly compromise mental health, psychic integrity, or one's very capacity for self-determination. Addictive algorithms that exploit neurological reward systems. Behavioral conditioning techniques. Practices that induce states of anxiety, dependency, or perceptual distortion.

All of this violates the individual dimension of the right to non-manipulation. The person, in their irreducible singularity, deserves comprehensive protection. Yet the right to non-manipulation is not exhausted by individual protection.

It transcends the boundaries of merely personal interest to reach something broader, more fundamental: the very integrity of democratic processes and of the public sphere where a society's collective destiny is constructed.

Consider this: when mass manipulation practices are employed, especially in sensitive electoral contexts or during crucial deliberations about public policies that will affect millions, what is at stake is not merely the self-determination of isolated individuals. It is the very legitimacy of the democratic regime itself.

Coordinated disinformation campaigns that systematically distort public perception about candidates or proposals. Psychological targeting that exploits social divisions to manipulate electoral outcomes. Algorithms that create hermetic informational bubbles, preventing genuine public debate⁹.

These practices affect the collectivity as a political body. They compromise the authentic formation of popular will. They subvert the fundamental presupposition that democratic decisions must emerge from processes of genuine deliberation. Here, the holder of the violated right is not merely individual citizens - John or Jane Doe - but the people themselves as a constitutionally organized political community.

This dimensional duality of the right to non-manipulation is naturally reflected in the legal mechanisms available for its protection.

Individual protection can, and must, be exercised through traditional channels. Individual actions seeking immediate cessation of manipulative practices. Claims for material and moral damages. Urgent precautionary measures. Citizens have standing to judicially defend their own self-determination.

⁹ CASTELLS, Manuel. **Ruptura: a crise da democracia liberal**. Rio de Janeiro: Zahar, 2018.

But the collective dimension demands broader instruments. Collective protection mechanisms. Public civil actions brought by the Public Prosecutor's Office or Public Defender's Offices, aimed at curbing large-scale manipulative practices. Judicial actions with broad popular access, allowing any citizen to defend the collective interest in democratic integrity, as appropriate. Proactive action by specialized agencies such as consumer protection bodies (PROCONs) and other institutions defending citizenship.

The architecture of protection must be multifaceted. Because the threat is multidimensional - individual and collective, personal and political, private and public¹⁰. The right to non-manipulation embraces all these dimensions simultaneously. And legal protection must do the same.

6 CONCLUSION

The fundamental right to non-manipulation emerges as a necessary legal response to the challenges that contemporary technological transformations pose to the conditions for exercising individual autonomy and democracy. Although not explicitly provided for in the constitutional text, it finds solid grounding in the system of fundamental rights enshrined in the 1988 Federal Constitution, especially in the principles of human dignity, freedom, and the democratic regime.

The fundamental right to non-manipulation is not theoretical caprice. It is not academic invention. We argue that it emerges as a necessary - indeed urgent - legal response to the profound and unprecedented challenges that contemporary technological transformations impose on the very conditions for exercising individual autonomy and democratic life. We live in an era where algorithms know our vulnerabilities better than we know ourselves. Where companies possess capabilities of psychological influence that would make twentieth-century propagandists blush. Where the very notion of "free choice" becomes questionable in the face of sophisticated behavioral conditioning techniques.

¹⁰ PARISER, E. *O filtro invisível: o que a internet está escondendo de você*. Tradução de Diego Alfaro. Rio de Janeiro: Zahar, 2012.

In light of this, the law cannot remain inert. Although the 1988 constitutional text does not explicitly mention this right - how could it? - its grounding in the system of fundamental rights that our Constitution enshrines is solid, robust, undeniable. Human dignity as a foundation of the Republic. Freedom as a supreme value. The democratic regime as a civilizational commitment. All these principles converge to demand protection against manipulation.

Doctrinal recognition, however, is only the first step. Necessary, but insufficient. The realization of this right demands much more than beautiful theoretical constructions on academic pages. It requires action, transformation, and concrete implementation.

Normative responses that translate principles into applicable rules. Institutional responses that create effective agencies, procedures, and mechanisms. Education that develops in people critical capacities to identify and resist manipulation attempts.

All of this must be calibrated to the complexity of contemporary manipulative phenomena - phenomena mediated by digital technologies whose functioning most people do not understand, operated by algorithmic systems whose logic remains opaque even to specialists, and implemented by corporations whose economic power rivals that of nation-states.

The complexity is daunting. But it cannot paralyze us. We argue that the challenge facing the law transcends the simple identification and sanction of manifestly manipulative practices, although this too is necessary.

The greater, deeper challenge is to create an entire normative and institutional ecosystem. We contend that we must construct a legal-political environment that preserves the conditions of possibility for individual self-determination and genuine democratic deliberation even – especially - in a technological context characterized by three dangerous features: dramatic informational asymmetries between citizens and corporations; algorithmic opacity that renders influence mechanisms invisible; and historically unprecedented capacities for intervention in human cognition and behavior.

Effective protection of the right to non-manipulation will never be achieved through a single normative instrument. A single law, however well drafted, is insufficient. A single sphere of action - whether judicial, legislative, or executive - cannot address the magnitude of the problem. What is required is a genuinely multidimensional approach. Multifaceted. Integrated. This includes specific legislation that establishes clear

parameters and adequate sanctions. Evolutionary interpretation of already enshrined fundamental rights, allowing constitutional norms from 1988 to address problems of 2026. Specialized regulatory action by agencies with technical expertise in the technologies involved. Development of citizens' technical and critical capacities through digital education and media literacy. Mechanisms for international cooperation, because algorithmic manipulation does not respect national borders. All of this must function in harmony. Simultaneously. In coordination. Is it ambitious? Yes. Difficult? Tremendously. Impossible? No. We argue that ultimately, it concerns something very simple and very fundamental.

Preserving the very human condition of the autonomous subject. Keeping alive the possibility of authentic democratic life in the face of the vertiginous transformations of the digital age.

The right to non-manipulation is, in this sense, one of the most important rights of the twenty-first century. We argue this because without it, all other rights - freedom of expression, political participation, privacy, dignity, among others - become vulnerable, potentially hollow.

REFERENCES

- ALEXY, R. **Teoria dos direitos fundamentais**. Tradução de Virgílio Afonso da Silva. 2. ed. São Paulo: Malheiros, 2015.
- ANTUNES, R. **O privilégio da servidão: o novo proletariado de serviços na era digital**. 2. ed. São Paulo: Boitempo, 2020.
- ARENDT, H. **A condição humana**. Tradução de Roberto Raposo. 10. ed. Rio de Janeiro: Forense Universitária, 2007.
- AVRITZER, L. **Impasses da democracia no Brasil**. São Paulo: Civilização Brasileira, 2016.
- AVRITZER, L.; NAVARRO, Z. (org.). **A inovação democrática no Brasil: o orçamento participativo**. São Paulo: Cortez, 2003.
- BARCELLOS, A. P. de. **A eficácia jurídica dos princípios constitucionais: o princípio da dignidade da pessoa humana**. 3. ed. Rio de Janeiro: Renovar, 2011.
- BIONI, B. R. **Proteção de dados pessoais: a função e os limites do consentimento**. 3. ed. Rio de Janeiro: Forense, 2021.

BIROLI, F. **Gênero e desigualdades: limites da democracia no Brasil**. São Paulo: Boitempo, 2018.

BOBBIO, N. **O futuro da democracia**. Tradução de Marco Aurélio Nogueira. São Paulo: Paz e Terra, 2000.

BOBBIO, N. **O futuro da democracia: uma defesa das regras do jogo**. Tradução de Marco Aurélio Nogueira. 11. ed. São Paulo: Paz e Terra, 2015.

BONAVIDES, P. **Teoria constitucional da democracia participativa**. São Paulo: Malheiros, 2001.

BRASIL. Constituição (1988). Emenda Constitucional nº 115, de 10 de fevereiro de 2022. Altera a Constituição Federal para incluir a proteção de dados pessoais entre os direitos e garantias fundamentais e para fixar a competência privativa da União para legislar sobre proteção e tratamento de dados pessoais. Brasília, DF: Presidência da República, 2022. Disponível em: https://www.planalto.gov.br/ccivil_03/constituicao/Emendas/Emc/emc115.htm. Acesso em: 4 fev. 2026.

CANOTILHO, J. J. G. **Direito constitucional e teoria da constituição**. 7. ed. Coimbra: Almedina, 2003.

CASTELLS, M. **A sociedade em rede**. Tradução de Roneide Venâncio Majer. 20. ed. São Paulo: Paz e Terra, 2019.

CASTELLS, M. **Ruptura: a crise da democracia liberal**. Rio de Janeiro: Zahar, 2018.

DAHL, R. A. **A democracia e seus críticos**. São Paulo: Martins Fontes, 2012.

ELY, J. H. **Democracia e desconfiança: uma teoria do controle judicial**. São Paulo: Martins Fontes, 2010.

FRAZÃO, A. Como conter as dark patterns? **Blog GEN Jurídico**, Rio de Janeiro, 8 ago. 2022. Disponível em: <https://blog.grupogen.com.br/juridico/areas-de-interesse/consumidor/como-conter-as-dark-patterns/>. Acesso em: 4 fev. 2026.

HABERMAS, J. **Direito e democracia: entre facticidade e validade**. 2. ed. Rio de Janeiro: Tempo Brasileiro, 2003. v. 1 e 2.

HABERMAS, J. **Mudança estrutural da esfera pública**. São Paulo: Editora UNESP, 2014.

KYMLICKA, W. **Cidadania multicultural: uma teoria liberal dos direitos das minorias**. Tradução de Júlio Assis Simões. São Paulo: Martins Fontes, 1996.

MARSHALL, T. H. **Cidadania, classe social e status**. Tradução de Meton Porto Gadelha. Rio de Janeiro: Zahar, 1967.

MARTINS, G. M. **Liberdade de expressão, democracia e regulação das plataformas digitais**. São Paulo: Almedina, 2022.

MENDES, G. F. **Direitos Fundamentais e Controle de Constitucionalidade: estudos de direito constitucional**. 4. ed. São Paulo: Saraiva, 2012.

MENDES, G. F.; BRANCO, P. G. G. **Curso de direito constitucional**. 16. ed. São Paulo: Saraiva, 2021.

MENDES, G. F.; BRANCO, P. G. G.; COELHO, I. M. **Curso de Direito Constitucional**. 4. ed. São Paulo: Saraiva, 2009.

MIGUEL, L. F. **Democracia e desinformação**. São Paulo: Todavia, 2022.

MOROZOV, E. **Big tech: a ascensão dos dados e a morte da política**. Tradução de Clóvis Marques. São Paulo: Ubu, 2018.

MOUFFE, C. **O paradoxo democrático**. São Paulo: Editora UNESP, 2003.

PARISER, E. **O filtro invisível: o que a internet está escondendo de você**. Tradução de Diego Alfaro. Rio de Janeiro: Zahar, 2012.

SARLET, I. W. **A Eficácia dos Direitos Fundamentais: uma teoria geral dos direitos fundamentais na perspectiva constitucional**. 13. ed. Porto Alegre: Livraria do Advogado, 2018.

SARLET, I. W. (org.). **Dimensões da dignidade: ensaios de filosofia do direito e direito constitucional**. 2. ed. rev. e ampl. Porto Alegre: Livraria do Advogado, 2009.

SARLET, I. W.; MARINONI, L. G.; MITIDIERO, D. **Curso de direito constitucional**. 3. ed. São Paulo: Saraiva, 2021.

SILVA, J. A. da. **Curso de Direito Constitucional Positivo**. 45. ed. São Paulo: Malheiros, 2023.

SILVEIRA, S. A. da. **Democracia e os códigos invisíveis: como os algoritmos estão modulando comportamentos e escolhas políticas**. São Paulo: Edições Sesc, 2019.

SILVEIRA, S. A. da. **Exclusão digital: a miséria na era da informação**. São Paulo: Fundação Perseu Abramo, 2001.

TEFFÉ, C. S. de; SOUZA, C. A. P. O direito visual e o consentimento livre, informado e inequívoco. **Migalhas**, São Paulo, 29 dez. 2022. Disponível em: <https://www.migalhas.com.br/coluna/migalhas-de-protecao-de-dados/379335>. Acesso em: 4 fev. 2026.

VALLE, V. C. L. L.; ANTIK, A.; LIMA, E. M. C. C. de. **O enfrentamento da desinformação e do discurso de ódio: um novo modelo regulatório para as redes sociais**. *Revista Eurolatinoamericana de Derecho Administrativo*, Santa Fe, v. 10, n.1.

ZUBOFF, S. **A era do capitalismo de vigilância: a luta por um futuro humano na nova fronteira do poder**. Tradução de George Schlesinger. Rio de Janeiro: Intrínseca, 2020.

Authors' Contribution

All authors contributed equally to the development of this article.

Data availability

All datasets relevant to this study's findings are fully available within the article.

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