

The Right to Truth in the Digital Age: Disinformation, Democracy, and the Limits of Legal Protection

Abstract

In an era marked by rapid technological advancement and the proliferation of digital platforms, the boundaries between truth, opinion, and disinformation have become increasingly blurred. This paper critically examines the misuse of modern communication technologies and their implications for privacy, knowledge acquisition, and democratic governance. It explores how filter bubbles, data profiling, and algorithmic manipulation empower corporations, political actors, and governments to shape public opinion and suppress dissent. Against this backdrop, the paper questions whether a universal “right to truth” can serve as a viable legal principle or whether such a construct risks legitimizing censorship and authoritarian control. Drawing from philosophical critiques – particularly those of Michel Foucault and J.S. Mill – the paper argues that truth is best approached not as a static right, but as a continuous process supported by freedom of speech, access to education, and institutional safeguards. Ultimately, it calls for the development of dynamic legal, educational, and technological strategies that enable societies to resist disinformation, protect privacy, and foster an informed public capable of engaging in truth-seeking dialogue.

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1 | Introduction

In recent years, digital technologies have profoundly reshaped how individuals access, interpret, and disseminate information. The same tools that democratize knowledge and connect people globally have also enabled the mass manipulation of public opinion, the erosion of privacy, and the deliberate spread of disinformation. As algorithms tailor content to individual preferences and behaviors, filter bubbles and echo chambers distort perceptions of reality, weakening the foundations of shared truth and public discourse. This paper examines the growing tension between technological power and democratic values, particularly in relation to truth, freedom of speech, right to information and the right to privacy. At the heart of this inquiry lies a central research question: Can a legally protected “right to truth” serve as a viable tool to combat disinformation and uphold democratic integrity, or does it risk reinforcing mechanisms of control and censorship? To answer this question, this paper will investigate how corporations and political actors misuse personal data and algorithmic tools to influence electoral outcomes and manipulate knowledge. Moreover, it will present philosophical considerations concerning truth and freedom necessary to search for the truth, drawing on thinkers such as Michel Foucault, John Stuart Mill, and Jürgen Habermas. It will evaluate the roles of courts, experts, and commissions in establishing truth in complex political and social contexts. The paper will also consider whether a legal “right to truth” is desirable or even feasible. The paper concludes that, while truth remains a critical value for democratic societies, protecting it through rigid legal instruments may do more harm than good. Instead, it advocates for adaptive strategies – Including institutional reforms, educational initiatives, and improved digital governance – that create the conditions for truth to emerge through open, respectful, and well-informed public dialogue.

2 | The Right to Truth: International Recognition and Constitutional Challenges

The question of whether there is a right to truth is a nuanced and evolving issue in legal scholarship and practice. Generally speaking, most national constitutions do not explicitly recognize a standalone constitutional right to truth. Instead, constitutional frameworks tend to protect related rights, such as freedom of expression, access to information, the right to a fair trial, and the right to know, which indirectly contribute to the pursuit of truth. However, these rights are distinct from an explicit “right to truth” that guarantees individuals or society the legal entitlement to know objective facts or realities.

The concept of a right to truth has gained more traction in the realm of international law, particularly in the context of human rights violations, enforced disappearances, and transitional justice processes^[1]. It all started on 24 March 1980 when human rights defender Archbishop Óscar Arnulfo Romero was assassinated in San Salvador. On each anniversary of this event, the international community pays tribute to his legacy by celebrating the Day of the Right to the Truth Concerning Serious Violations of Human Rights and the Dignity of Victims. The purpose is to counter the attempts of Archbishop Romero’s murderers to silence the cry for justice, and to emphasise the importance of standing firmly in defence of fundamental freedoms. On this day, we also honor the memory of all victims of serious human rights violations, and support those who promote and protect human rights.

According to the doctrine of public international law, the right to know the truth about gross violations of human rights is an inalienable and autonomous subjective right. For example, Article 24 of International Convention for the Protection of All Persons from Enforced Disappearance (2006) explicitly recognizes the right of victims and their families to know the truth about the circumstances of the disappearance, the progress and results of investigations, and the fate of the disappeared persons.^[2]

¹ Ilona Topa, “Right to Truth on Serious Violations of Human Rights in International Law” *Roczniki Administracji i Prawa*, 2 (2019): 209-225.

² International Convention for the Protection of All Persons from Enforced Disappearance, New York, 20 December 2006. <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-convention-protection-all-persons-enforced>. [accessed: 10.8.2025].

Moreover, even though not legally binding, UN Declaration on the Right to Truth (2011) (UN General Assembly Resolution A/RES/65/196), affirms the right of victims and society to know the truth regarding gross human rights violations and serious crimes under international law, and calls on states to guarantee this right through legal and judicial means.^[3]

Victims and families of victims of mass executions, kidnappings, child abductions and torture expect to learn the truth about what happened to them or their relatives. In this sense, the right to the truth means the right to obtain full and complete knowledge about the events, the circumstances in which they took place, their causes, and persons involved. This right has directly resulted from the activities of international human rights protection bodies but also human rights courts: dealing with the cases of torture, arbitrary detention and enforced disappearances, these institutions have established that states are obliged to disclose the truth about past events, while individuals and collectives have the right to require a comprehensive and accurate information on the fate of their next of kin. Inter-American Court of Human Rights (IACtHR) has repeatedly upheld the right to truth as an essential component of victims' rights.^[4] For example, in cases concerning forced disappearances, the Court has ordered states to disclose full information about the fate of victims and the circumstances of violations (e.g. Barrios Altos v. Peru, 2001).^[5] Also, European Court of Human Rights (ECtHR) has recognized that the right to truth can arise under the right to respect for private and family life (Article 8 of the European Convention on Human Rights), requiring states to investigate deaths or disappearances effectively (e.g. El-Masri v. The former Yugoslav Republic of Macedonia, 2012).^[6] Every victim has the right to know the truth, and to know how the violation of this right affects them. Furthermore, informing the public about fundamental human freedoms and how they have been violated is

³ UN Declaration on the Right to Truth (2011) (UN General Assembly Resolution A/RES/65/196). <https://docs.un.org/en/A/RES/65/196>. [accessed: 10.8.2025].

⁴ Eduardo Ferrer MacGregor, "The Right to the Truth as Autonomous Right under the Inter-American Human Rights System" *Mexican Law Review*, No. 1 (2016): 121-139.

⁵ Jorge Contesse, "Case of Barrios Altos and La Cantuta v. Peru" *American Journal of International Law*, No. 3 (2019): 568-574.

⁶ El-Masri v. the former Yugoslav Republic of Macedonia [2012] ECHR 2067 (13 December 2012).

an extremely important means of defence against repeated abuses, and stands as the core of a democratic state.^[7]

The right to the truth at an international level is linked with the right to justice and redress, and the guarantee that abuse will not happen again. The United Nations and other international organisations also support a number of activities aimed at disclosing the facts of serious violations of human rights and international humanitarian law. Many transitional justice mechanisms, such as Truth and Reconciliation Commissions (TRCs) in South Africa, Argentina, and Chile, have institutionalized the right to truth as a key element for societal healing, enabling victims to learn what happened during periods of repression or conflict.^[8] The UN created also the Commissions of Inquiry in the Central African Republic or Syria, as well as the Tunisia Truth and Dignity Commission. In 2012 Human Rights Council moreover appointed the Special Rapporteur to achieve the mentioned goals; since then, the Rapporteur has analyzed some of the challenges facing the truth committees in transition, presenting also proposals for actions to improve the effectiveness of these mechanisms.^[9] All of these activities are designed to promote justice and equity, encourage redress, and recommend reforms of abusive institutions.

While the right to truth is not universally codified as a stand-alone legal right in international treaties, it has become a recognized principle in international human rights law, with binding and persuasive authority. It can be said that international bodies such as the United Nations have increasingly recognized the right to truth as an emerging principle, emphasizing victims rights to know the circumstances and causes of gross human rights violations. This recognition aims to provide transparency, accountability, and reconciliation after periods of conflict or repression. Nonetheless, this right is typically framed as a procedural or moral imperative rather than a clear-cut right, which leads some to argue that it is an elusive right.^[10]

⁷ More on that see: Noorloos van Marloes, "A Critical Reflection on the Right to the Truth about Gross Human Rights Violations" *Human Rights Law Review*, 4 (2021): 874-898.

⁸ Eric Wiebelhaus-Brahm, *Truth Commissions and Transitional Societies: The Impact on Human Rights and Democracy* (London: Routledge, 2010).

⁹ Pablo de Greiff, *Report of the Special Rapporteur on the Promotion of Truth, Justice, Reparation and Guarantees of Non-Recurrence. Report of the Special Procedure of the Human Rights Council, information, A/HRC/30/13* (Geneva: UN, 7 September 2015).

¹⁰ James A. Sweeney, "The Elusive Right to Truth in the Transnational Human Rights Jurisprudence", *International and Comparative Law Quarterly*, 2 (2018): 353-387.

On the national level, the right to truth is also not codified; however, in some jurisdictions, courts nevertheless have interpreted constitutional rights in ways that align with the right to truth. For instance, Colombia's Constitutional Court has acknowledged the importance of the right to truth in the context of the country's transitional justice efforts.^[11] Similarly, some Latin American constitutions emphasize access to truthful information as part of broader guarantees, such as freedom of expression or the public's right to know.^[12] However, these references do not constitute a universally accepted or fully developed constitutional right to truth, but rather signal an evolving understanding of truth-related interests within constitutional frameworks.

3 | Balancing the Rights: Truth and Transparency in a Democratic State

National legal acts do not yet refer to the right to truth, but to the right to information. The right to information is linked with the access to public information, i.e. with transparency. Many countries emphasize the importance of transparency for the effective functioning of democratic mechanisms, social control over the exercise of power, and the protection of citizens' health. Access to information on public affairs determines the ability to control whether the state really serves the interests of its citizens. Such information is valuable only if it is consistent with reality, i.e. verifiable and objective. Access to information should be exercised in light of the basic principles of a democratic state, which are openness, transparency, and the pursuit of finding out the truth, as well as in light of some

¹¹ Laura Chaparro Piedrahita, "The Right to Truth in Colombia's Comprehensive System of Truth, Justice, Reparation, and Non-Repetition. A Direct Approach to the Intrinsic Relationship between its Mechanisms and Objectives" *Nuevo Derecho*, 18 (2022): 1-15.

¹² Paola Nalvarte, Latin American laws on access to public information are among the best in the world: Unesco report, *LatAm Journalism Review*, June 19, 2017. <https://latamjournalismreview.org/articles/latin-american-laws-on-access-to-public-information-are-among-the-best-in-the-world-unesco-report/>. [accessed: 10.8.2025].

exceptions – allowed in a few cases and provided for by law – which are confidentiality, secrecy, and the prohibition of disseminating knowledge on a specific topic.^[13]

The right to information is also connected with the right to obtain information about persons discharging public functions. In a democratic state ruled by law, it is acknowledged that people need to know more about public officials than about ordinary citizens. In consequence, public officials must take into account the fact that their privacy is limited due to the function they perform, and thus the resulting conflict between the right to public information and the protection of the right to privacy in relation to persons performing public functions is inevitable. In this case, the right to privacy includes, in particular (based on acts of national and international law, together with the jurisprudence of international tribunals), the right to personal inviolability, the right to protect family life, the right to the inviolability of the home, the right to freedom and protection of confidentiality of communication, and the right to information autonomy. This list is considered as one that should be reflected in every branch of law, in which privacy needs to be understood as a sphere of life that every person wants to keep only for themselves.^[14] Every person has a certain intimate sphere of feelings, thoughts, and beliefs that they want to keep secret from others, even from their closest friends. The undisturbed existence of this sphere guarantees proper human development and ensures psychological comfort. This is a sphere that allows for independent decision-making about oneself and allows for free development and shaping of one's personality.

It should be added that the mentioned right to privacy is limited not only in the case of persons performing public functions, but also of citizens when state interest is at stake. In such circumstances, the right of the state – the public interest – clashes with the private right. This is the right to information about the activities of ordinary citizens, in order to protect and ensure security, public order or morality, and the rights and freedoms of other people, as well as to prevent crimes and punish perpetrators, while providing the public with information about the course and results of pending criminal proceedings. In this way, in a democratic system the state and the law provides protection against individuals, groups and movements, that from the point of view of the axiology of the system,

¹³ For more on that, see: James Hollyer, Peter Rosendorff, James Vreeland, "Democracy and Transparency" *Journal of Politics*, No. 4 (2011): 191-205.

¹⁴ Jed Rubenfeld, "The Right to Privacy" *Harvard Law Review*, 4 (1989): 737-807.

are of an extreme nature, by prohibiting certain behaviours and banning the dissemination of specific ideas that can threaten the existence of democracy. Limitations were thus imposed on the concept of “free market of ideas,” and legal limitations were introduced to the right to freedom of speech.^[15] Moreover, several kinds of activities have been excluded from, or limited in, social life.

A democratic state, which tries to ensure peace and order as well as provide extensive protection, must have a large amount of information on its citizens, and needs to find a proper balance of private and public rights and interests if they clash. In each country, the legislator and the courts try to balance these interests, aiming to decide whether to allow – and to what extent – any interference in the privacy of individuals in the name of protection of what is the public.^[16] While the direction and scope of this concession is often problematic, it should not be a problem, as long as there is willingness to search for proper balance. A lot depends on what kind of state is supposed to be established – is it a state based on freedom, individual choice, possibilities of development, allowing search for answers? Or a state in which there is no freedom, the choices have been made, development is possible only in one direction, and no one needs to look for answers anymore, because all answers have been found and just need to be passed to others to be repeated properly? These possibilities are two extremes. On the one hand, we can have a democratic state, which accepts freedom, albeit with certain restrictions necessary to find a balance between competing goods, and, on the other, an authoritarian state in which everything is already known and prescribed. The former situation may cause problems, but the latter will certainly do, as history has amply demonstrated. Nevertheless, the problems of the former type of state can be worked out, as truth can be sought, while in the latter problems lead to one side utterly losing the dispute – which may even mean the loss of life, as there is only one truth which needs to be preached and inculcated. Still, the search for truth in a democratic system is not always a priority and does not happen at all costs, because in order to protect, for example, religious freedom or the right to privacy, or considering the right to defence in court proceedings, these freedoms and rights limit the opportunity to

¹⁵ Gunatilleke Gehan, “Justifying Limitations on the Freedom of Expression” *Human Rights Review* 22 (2021): 91-108.

¹⁶ Edelsky Carole, “Democracy in the Balance” *Language Arts*, No. 1 (2004): 8-15.

get information and to learn the truth[17]. This happens in the name of self-improvement, self-development, and the establishment of order and justice, with the assumption that these goals can be achieved, sometimes in a much better way, without the help of law. It is not information or “truth” that is seen as the most important, but order combined with the idea of people’s self-improvement. The legal system itself does not have to be the only basis for such a state of affairs.

4 | Truth Distorted: How Corporations and Governments Exploit Information

Modern technologies make it possible to violate the basic right, which is the right to privacy, including the right to have a private opinions. This also applies to the search for and acquisition of complete information, as well as the acquisition of knowledge. Filter bubbles are becoming a common phenomenon: as a result of the operation of a specific algorithm, the person using the network receives mostly information selected on the basis of data available on the user, e.g. location or search history. Such use of modern technologies creates both losers and winners. Among those who take advantage of this state of affairs are corporations, political parties, and governments, which want to know the opinions of citizens and present them with an individualised message, while selectively shaping their knowledge and limiting access to information.

As to the role of corporations, there is much disturbing evidence of the activities undertaken by them in various political campaigns, dating from around 2010, including disinformation, as well as the use of hacking and voter suppression through alleged violence and intimidation. In its recent report, the Digital, Culture, Media and Sport Committee warns that “the company, SCL, used behavioural micro-targeting to support their campaign messages ahead of USA mid-term elections in 2014, later claiming that in just one of their campaigns the 1.5 million advertising impressions they generated created a 30% uplift in voter turnout (against the predicted turnout)

¹⁷ Field Steward, “Fair Trials and Procedural Tradition in Europe” *Oxford Journal of Legal Studies*, No. 2 (2009): 365-387.

for the targeted groups.”^[18] The Committee also reports that “another company, AIQ, used tools that “scrape” user profile data from LinkedIn. The tool acts similarly to online human behaviour, searching LinkedIn user profiles, and obtaining their contacts and all accompanying information, such as users’ place of work, location and job title, to be later used for profit.”^[19] Moreover, despite concerns being raised, companies like Facebook made it easy for developers to scrape user data, and to deploy such information in political campaigns without users’ knowledge or consent.^[20] These examples show that companies often acted irresponsibly when handling the vast quantities of data they collected from their customers. Since the problem became the subject of public debate, companies such as Facebook, Twitter, and Google have decided to better protect user data and to prevent the spread of fake news and the creation of fake accounts.^[21] Search engine algorithms have begun to be adapted to promote valuable content, reducing the profitability of publishing false information, and cooperation with organisations providing proven news has been strengthened.^[22] However, today it seems that this was not a permanent trend.^[23]

Not only large technological corporations benefit from allowing the publication of untrue, preferably radical information, thus increasing the readership of websites and profits from advertising on these websites. Political parties also profit from similar practices. Political disinformation

¹⁸ Digital, Culture, Media and Sport Committee, Disinformation and “Fake News”: Interim Report’, House of Commons, HC 1791, February 2019. <https://publications.parliament.uk/pa/cm201719/cmselect/cmcumeds/1791/1791.pdf>. [accessed: 10.8.2025].

¹⁹ Ibidem.

²⁰ Rosalle Chan, “The Cambridge Analytica whistleblower explains how the firm used Facebook data to sway elections” *Business Insider*, 7 May 2020. <https://www.businessinsider.com/cambridge-analytica-whistleblower-christopher-wylie-facebook-data-2019-10?IR=T>. [accessed: 16.1.2025].

²¹ Corinne Tan, “Regulating Disinformation on Twitter and Facebook” *Griffith Law Review*, 4 (2022): 513–536.

²² More on that: HLEG, *A Multi-Dimensional Approach to Disinformation: Report of the Independent High Level Group on Fake News and Online Disinformation* European Commission, 12 March 12 2018. <https://digital-strategy.ec.europa.eu/en/library/final-report-high-level-expert-group-fake-news-and-online-disinformation>. [accessed: 16.1.2025].

²³ Andrew Hutchinson, “Everything you Need to Know about Meta’s Change in Content Rules” *Social Media Today*, 12 January 2025. <https://www.socialmediatoday.com/news/everything-to-know-about-meta-political-content-update/737123/>. [accessed: 16.1.2025].

is often used to harm opponents and secure a positive electoral outcome. An example of this phenomenon are election campaigns, during which information about users and their preferences is utilized. Having such knowledge enables more effective campaigning, tailoring messages to specific voters (i.e. telling voters what they want to hear), as well as modeling voters' behavior. This was also the case during the US presidential election of 2016. The British company cooperating with Donald Trump's electoral campaign team had access to a huge amount of information about nearly 230 million Internet users entitled to vote, and so the team was able to better adjust the messages addressed to them.^[24]

False or "otherwise true" information is also spread by governments, not only through their television channels, but nowadays also with modern technologies. An example of that are coordinated campaigns conducted by Russian agencies in order to influence how people vote in elections around the world. This includes running adverts through social media during elections in other countries, and in breach of their laws. The aim of this type of activity is to mislead the recipients in order to achieve financial or political benefits, for example a specific election result.^[25] The "Disinformation and fake news": Final Report" states that "[u]sers were unaware that they were being targeted by political adverts from Russia, because they were made to look like they came from their own country, and there was no information available at all about the true identity of the advertiser.^[26]"

²⁴ Kate Brannelly, "Trump Campaign Pays Millions to Overseas Big Data Firm" *CNBC*, 4 November 2016. <https://www.nbcnews.com/storyline/2016-election-day/trump-campaign-pays-millions-overseas-big-data-firm-n677321>. [accessed: 16.1.2025].

²⁵ This happens also with human rights language, which is often used and exploited nowadays, even to justify the war. See: David Kennedy, *Of War and Law* (Princeton: Princeton University Press, 2007).

²⁶ Digital, Culture, Media and Sport Committee, *Disinformation and "Fake News": Interim Report*, House of Commons, HC 1791, February 2019.

Truth and Its Discontents: Freedom, Power, and Search for Understanding

In the debate on the spread of false information, it is important to emphasise that, while some people consider certain theses to be false, others perceive them as true because they correspond to their point of view. For some, Western civilisation is full of evil, and the United States is a country that threatens international security, while, for others, Islam and other religions are fundamentally vile. For some, Russia is a country that violates the standards of civilisation and security, while others see it as a country defending its national interests.^[27]

How can we distinguish misleading information from the truth? With the mass dissemination of various content and practices, it is increasingly difficult to separate truth from untruth, facts from fiction, especially when “everyone” says the same thing about specific truths or facts. So, can we rely on the truth/false distinction at all? Those who want to answer this question positively point to the right to information and the right to education, which are the basis for an education that is better adapted to new needs and conditions.

In many countries, information rights are guaranteed by the basic laws,^[28] and so is the right to education. The particular objective of access to information and education is to gain knowledge and learn the truth. This truth is considered a condition for scientific, cultural, or social development, and as such is one of the highest values of Western civilization. The possibility of knowing it is inscribed in the classical concept of truth, which is based on the assumption that the known facts correspond to reality; however, our ability to understand and describe that reality has always been questioned, also by philosophers and sociologists of science.^[29] In the modern era, a question has been asked with increasing frequency: what are facts, and what is reality?

²⁷ See: Mia McCarthy, “U.N. Calls for Russia to Leave Ukraine” Politico, 2 February 2023. <https://www.politico.com/news/2023/02/23/un-resolution-condemning-russia-ukraine-invasion-00084234>. [accessed: 16.1.2025].

²⁸ See: Art. 61 of the Constitution of the Republic of Poland, art. 31 of the Constitution of Romania, art. 100 Constitution of Norway.

²⁹ For more on that, see: Gerald Vision, *Veritas: The Correspondence Theory and Its Critics* (Cambridge: The MIT Press, 2004).

Among the critics of the classical concept of truth was Michel Foucault, who claimed that the truth “is the most recent illusion,” and so is our knowledge about it. According to Foucault, knowledge is shaped by social practices, and reaching the truth is questionable, because the cognitive process and the acquisition of knowledge are entangled in a struggle for power. He claimed that “power produces knowledge [...] that power and knowledge are directly related; that there are no power relations without a correlated field of knowledge, and no knowledge that does not presuppose and does not create power relations.”^[30] In other words, there is no knowledge independent from power relations. These relations shape what is presented to us as “the knowledge” and “the truth.” In fact, this is not the objective knowledge and the truth but the one that serves the interests of some. Appropriate discourse and social practices are created to support the process of pursuing these interests.

Foucault was among the pragmatists, critical theorists and postmodernists, who also criticised the classical conception of truth. They all questioned whether we are able to gain the objective knowledge. We can also easily see how hard it is for scientists to establish objective truth, for example, regarding the healthiness of GMO food, the causes of climate change, or appropriate retirement age in particular countries.^[31] These issues are tightly connected with conflicting economic and political interests. It is equally hard to gain true information and objective knowledge about past and present decision processes. This casts doubts as to whether such processes can be truly transparent, not only because sometimes they take place without full knowledge and understanding of persons involved, but also because those who think they know the reasons for their decisions sometimes claim the necessary secrecy regarding state activities or evoke the business judgment rule.^[32]

³⁰ Michele Foucault, *Discipline & Punish: The Birth of the Prison* (New York: Viking, 1977), 27. More on that: Gerald Turkel, “Michael Foucault: Law, Power, and Knowledge” *Journal of Law and Society*, 2 (1990): 170-193.

³¹ On that see: Michele S. Carolan, “The Multidimensionality of Environmental Problems: The GMO Controversy and the Limits of Scientific Materialism” *Environmental Values*, No. 1 (2008): 67-82.

³² For more on the role of business judgment rule, see: Kilanowski Marcin, “Deep Capture: The Hidden Role of Rationalizations, Psychology and Corporate Law, And What Philosophy Can Do About It,” [in:] *Philosophy in the Time of Economic Crisis, Pragmatism and Economy*, ed. Kenneth W. Stikker, Krzysztof P. Skowroński (London: Routledge, 2018), 108-125.

Following this line of reasoning, we see how knowledge is entangled in power, in political or economic decisions. However, such thinking can be dangerous, because it can lead to arguing that “everything is political”. The claims of postmodernism can support all those who practice the dissemination of subjective opinions as equally valid, and deny the possibility of talking about objective facts and thus about truth and knowledge. Reaching for the argument that television is “political”, that legislators, prosecutors, judges or the academy is “political”, makes us slowly slide towards authoritarianism, as what matters is the subjective opinion of this or that “political” group - a power-holding group which wants to win for itself as much space as possible, not by force of argument, but by argument of force. Why argue when there is no truth to discover?

When Foucault’s considerations are no longer just a philosophical narrative and become the reality, we hear the voices saying that we must defend the truth in the face of a deluge of fake news. Some argue that it is possible, although it is not easy. They argue that defending the truth requires effort, diligence, courage, and determination. It remains hidden, and we must be careful not to miss it. Plato claimed that truth and knowledge are the fruit of effort, the result of a long philosophical search.^[33] Relying on the belief that obtaining knowledge is possible is one thing, though obtaining it is another. Who should be nominated as a guardian of the truth? Those that are designated to do it are scientists, even though they are often in disagreement with each other, as already said. Another way to gain knowledge and establish the truth is through the work of a group of experts; yet, their work may be contested by other groups of experts – even more so when the issue is political, or when interests of particular groups in the society are involved, which is most often the case.^[34] Thus, it is sometimes more appropriate to establish fact-finding commissions or truth and reconciliation commissions, composed of representatives of different stakeholders, of different views, but always those that are interested in resolving the issue and finding the truth. In their work, they rely on the willingness of all to engage in dialogue, in common effort to search for the answer.^[35]

³³ Daniel A. Kaufman, “Knowledge, Wisdom, and the Philosopher” *Philosophy*, 81 (2006): 129-151.

³⁴ See: Daniel Kennedy, *A World of Struggle: How Power, Law, and Expertise Shape Global Political Economy* (Princeton: Princeton University Press, 2016).

³⁵ More on that: M. B.-J. Hirsch, et al., ‘Measuring the Impacts of Truth and Reconciliation Commissions: Placing the Global ‘success’ of TRCs in Local Perspective’ 47 (3) *Cooperation and Conflict* (2012) p. 386-403.

The search for answers and truth is also the task of judges. From Nuremberg to The Hague, the truth has been repeatedly established through court proceedings – although there are allegations that the tribunals operating in these cities were established by the victors. There is no doubt that it is important for a judge to rule impartially and independently, which only happens in democratic countries, when the court's decision is the result of applying the law, and not issuing sentences in line with the expectations of the authorities, as was the case with the courts that sentenced Alexei Navalny or Andrzej Poczobut.^[36] This does not change the fact, that even if the verdicts are issued in accordance with the law and the principles of impartiality and judicial independence, they will still be controversial for some – such as the judgments of the European Court of Justice and the European Court of Human Rights indicating that Poland and Hungary violated the rule of law. The governments of these countries claim that they are only defending Christian values and their sovereignty, and do not want to comply with the verdicts, considering them not to be based on truth and politically motivated.^[37] Certainly, the upcoming ruling of the International Criminal Court in The Hague on charges against Putin for war crimes in Ukraine will also be recognized only by some.^[38] This will show that the judicial path is not the best and indisputable way to establish the truth.

Apart from the work of scientists and experts, as well as court litigation, which is often based on the work of researchers and expert committees, we unfortunately have no other tools to determine what the truth is, or what actions should be taken to achieve the right or true result, which is the expected state or goal. We also need to be aware that, regardless of the contested result of the search for truth, it will be always based not on what the facts were or are, but on what claims about facts were considered confirmed, justified or proven. It will also have to be based on freedom of speech.

³⁶ Dasha Litvinova, "Russian Court Sends an Associate of Kremlin Foe Navalny to Prison for 7 1/2 years" *AP NEWS*, 14 June 2023. <https://apnews.com/article/russia-opposition-crackdown-navalny-associate-75a5b906a6515a9e1cfbede75cb5f4fc>. [accessed: 16.1.2025]; Yuras Karmanau, "Belarus Upholds 8-year Prison Sentence for Journalist of Top Polish Newspaper" *AP NEWS*, 26 May 2023. [accessed: 16.1.2025].

³⁷ Steven Erlanger, Monika Pronczuk, 'Poland Escalates Fight With Europe Over the Rule of Law' *The New York Times*, 15 July 2021. <https://www.nytimes.com/2021/07/15/world/europe/poland-hungary-europe.html>. [accessed: 16.1.2025].

³⁸ 'Situation in Ukraine: ICC judges issue arrest warrants against Vladimir Vladimirovich Putin and Maria Alekseyevna Lvova-Belova' International Criminal Court 17 March 2023. <https://www.icc-cpi.int/news/situation-ukraine-icc-judges-issue-arrest-warrants-against-vladimir-vladimirovich-putin-and>. [accessed: 16.1.2025].

As in every debate – whether social, political, or legal; whether conducted on front pages or in the chambers of parliaments, university rooms, or courts – a necessary precondition to seeking the truth is the freedom of speech. We need this freedom to speak about how to search for the truth, what the truth is, or how we should understand it. As John Stuart Mill said, freedom of speech is necessary; however, it should not be used to irresponsibly say whatever one wants to say, but to search for the truth.^[39] He argued that a prevailing opinion or common knowledge on any matter can be wrong, and there is no chance of rectification if people do not have the right to express their views. And these people often know best when they face difficulties, when the “shoe pinches” as John Dewey pointed out.^[40] Even though what they know might only be partially true, the freedom to question what we know or believe can lead to the discovery of aspects that were not known or recognised before; for example, that women should have voting rights. However, it is important to choose the right moment to do so, as Mill advises. What is important is not only that the truth is told, but also the way in which it is conveyed. The more difficult the truth, the more care should be taken to express it. Questioning the status quo or the common knowledge should happen when the emotions are low because that will enable people to listen to each other’s arguments and will lead to better understanding of others.^[41] According to Isaiah Berlin, another famous proponent of the necessity for freedom in our private and public life, freedom that we have should lead to better understanding. For that, Berlin claimed, we need tolerance, which requires us to show respect for others.^[42] Jürgen Habermas adds to Mill’s and Berlin’s prescription for a healthy society a requirement to undertake the communication that is governed by communicative rationality, and not merely the rationality that is directed toward achieving a particular goal, because that aim can be far from the goal of discovering the truth.^[43] Such communication should be

³⁹ John K. Ryan, “Truth and Freedom” *The Journal of Higher Education*, 7 (1949): 349–352.

⁴⁰ John Dewey, “Democracy and Educational Administration”, [in:] *The Later Works of John Dewey*, Vol. XI, ed. Jo A. Boydston. (Carbondale: Southern Illinois University Press, 1987), 217–26.

⁴¹ John Stuart Mill, *On Liberty* (Indianapolis: Hackett Publishing Company 1978).

⁴² Beata Polanowska-Sygulska, *Filozofia wolności Isaiaha Berlina* (Kraków: Znak, 1998), 197.

⁴³ Habermas Jürgen, *The Theory of Communicative Action. Reason and the Rationalization of Society* Vol. I (Boston: Beacon Press, 1984), 10.

based on equal treatment of those that speak, or equal treatment of the parties involved in dialogue, which rests on the respect of the dignity of all. There should be mutual respect between speakers – even if what they do or think is not to be respected, they themselves should be respected.

Drawing conclusions from the above recommendations of Mill, Berlin, Dewey, and Habermas, it should be said that freedom of speech is related to the necessity of understanding. The parties to the conversation should make an effort to try to understand each other. They should treat each other equally, and conduct the conversation at an appropriate time. These are formal conditions that we should always protect in a healthy, democratic society. Other beneficial traits are humility in seeking answers, and a willingness to question one's own position and change it in response to what is said. All this can, of course, lead to a situation in which many voices are heard at the same time, so it can be difficult to find the one closest to the truth; however, choosing only one and pushing the others aside can limit the debate and ultimately lead to the acceptance of untruth – a false image of the world that, imposed on others without reflection, has so often become the basis for authoritarian rule in the past.^[44]

The aforementioned authors list the conditions necessary to reach the truth, though perhaps only temporarily; necessary to reach a short-term consensus or even a compromise – which may, however, allow for the later discovery of the truth. Understanding this, one should approach with caution any claims that the truth has already been known. They can directly or indirectly lead to the end of dialogue, and, in the worst case, to a ban on speaking on certain issues, i.e., the introduction of censorship. Even the best-informed and educated censors may not know everything, and in protecting the truth they know, they may ignore the one waiting to be discovered. Consequently, as Isaiah Berlin warned, many human concerns, voices, or needs can be sacrificed on the altar of truth, as has been the case in the past.^[45]

⁴⁴ Timothy Snyder, *On Tyranny: Twenty Lessons from the Twentieth Century* (New York: Crown, 2017).

⁴⁵ Berlin writes: "One belief, more than any other, is responsible for the slaughter of individuals on the altars of the great historical ideals – justice or progress or the happiness of future generations, or the sacred mission or emancipation of a nation or race or class, or even liberty itself, which demands the sacrifice of individuals for the freedom of society. This is the belief that somewhere, in the past or in the future, in divine revelation or in the mind of an individual thinker, in the pronouncements of history or science, or in the simple heart of an uncorrupted

6 | Beyond Rights: Procedural Safeguards for Truth in a Complex Information Era

Knowing the truth is foundational to making informed and effective decisions, both at individual and societal levels. Yet, in the current era of an unprecedented information crisis – marked by misinformation, disinformation, and the rapid spread of manipulated content – establishing and protecting the truth has become increasingly challenging. While there is growing discourse about enshrining the “right to truth” in law,^[46] including proposals of public law solutions to guarantee and secure the truth in various areas of public affairs,^[47] the concept remains largely aspirational rather than codified with clear, practical content.^[48]

Introducing legal measures to safeguard truth raises however, critical concerns. Chief among these is the risk of censorship: laws intended to “protect the truth” could be misused to suppress dissent, limit freedom of expression, and create an authoritarian monopoly on what constitutes truth, in which searching for truth is not possible.^[49] Freedom of speech remains indispensable in the quest for truth, because it allows for the expression of diverse claims and arguments, encourages critical scrutiny, and prevents society from becoming trapped behind an artificially imposed single narrative. Of course, truth will rarely be straightforward or absolute. While some facts are clear-cut and easily verifiable (such as forensic evidence in an accident), most truths – especially in social, political, and scientific realms – are complex, contested, and evolving. Conflicts

good man, there is a final solution.” See: Isaiah Berlin, *Four Essays on Liberty* (Oxford: Oxford University Press, 1969), 167.

⁴⁶ Karol Dobrzeniecki, “«Prawo do prawdy» w perspektywie filozoficzno-prawnej. Przyczynek do dyskusji” *Pacta Universitatis Wratislaviensis. Przegląd Prawa i Administracji*, Vol. CXXII (2020): 73–85.

⁴⁷ Kurt Wagner, “Facebook is Building an Oversight Board. Can That Fix Its Problems?” *Bloomberg*, 24 June 2019. <https://www.bloomberg.com/news/articles/2019-06-24/facebook-is-building-an-oversight-board-can-that-fix-its-problems?embedded-checkout=true>. [accessed: 16.1.2025].

⁴⁸ Grzegorz Maroń, “The Category of Truth in the Constitutions of Modern States” *Przegląd Prawa Konstytucyjnego*, 2 (2022): 237–251.

⁴⁹ Of course there is nothing wrong in believing that there is truth or having a belief that one knows the truth. The issue is how one uses that knowledge. See: Marcin Kilanowski, “Abandoning Truth is not a Solution. A Discussion with Richard Rorty” *Diametros*, 61 (2019): 34–50.

and disagreements in the pursuit of truth are inevitable and even necessary. They should, however, always be characterised by constructive disagreement, framed by mutual respect and a shared commitment to inquiry as Habermas pointed out, which will foster deeper understanding and will advance knowledge.

We operate in a world of complexity, which requires a lot of our attention. We cope with it by relying on accumulated knowledge, but we often find that it is limited, especially when we observe the unintended consequences of our actions.^[50] History teaches us that relying on rigid laws and once-and-for-all accepted truths does not allow us to respond appropriately to new situations and discoveries. As Mathias Risse rightly points out truthfulness matters, “but it seems better to capture this significance by saying that these matters are of great value and accordingly require vigorous legal protection, instead of capturing in terms of rights.”^[51] The truth will not set us free, Risse says.^[52] After presentation of the arguments in this article it can be said also that the right to truth will not set us free. We need a society in which truth is considered as a something to search for, and in which proper conditions exist to do so. Therefore, instead of a right to truth, we need procedures and strategies, so that truth can be discovered or approached in constantly changing conditions. The goal now should be to develop strategies that will provide access to information and reliable knowledge, and to allow us to defend ourselves against disinformation and protect our privacy. Such processes and strategies may prove helpful in addition to the existing forms of seeking the truth through court proceedings and the work of expert groups or commissions

Our overarching goal should be to develop coherent, multi-level strategies that not only enable the widest and most equitable access to reliable information, but also provide effective mechanisms for defending against disinformation, protecting individual privacy, and preserving freedom of speech. Contemporary information societies are facing a growing crisis of trust in knowledge and information. Disinformation – while not a new phenomenon in the history of communication – has taken on a new scale and dimension in the digital age. The spread of false or manipulated content

⁵⁰ Some call it black swans: Elise Payzan-LeNestour, “Can People Learn about «Black Swans»? Experimental Evidence” *The Review of Financial Studies*, 12 (2018): 4815–462.

⁵¹ Matthias Risse, *Political Theory of the Digital Age. Where Artificial Intelligence Might Take Us* (Cambridge: Cambridge University Press, 2023), 94.

⁵² *Ibidem*, 76.

through automated recommendation systems, microtargeting of informational messages, and the lack of algorithmic transparency pose serious threats to democracy, the integrity of public discourse, and individual liberties. An effective response to these challenges requires well-thought-out, diversified, and long-term strategies spanning four key areas: educational, technological, legislative, and institutional

6.1. Educational and Social Strategy

In the long term, education is the most effective line of defense against disinformation and the erosion of public debate. Crucially, this means not only transmitting knowledge about the media, but, more importantly, fostering the skills required for critical thinking, source evaluation, and independent judgment. Therefore, it is essential to introduce comprehensive media and information literacy into the school curriculum at all levels. This education should cover not only the functioning of traditional and digital media but also the ethical, legal, and psychological dimensions of navigating the information space. Integrated media literacy programs should be embedded within formal education systems – from primary schools to universities – with a focus on critical thinking, narrative analysis, and the ability to distinguish between facts and opinions.

Parallel efforts must target adult education – through training for teachers, civil servants, journalists, and public opinion leaders, who play a key role in shaping societal norms and attitudes. Another essential element of this strategy is supporting NGOs and grassroots civic initiatives engaged in digital education and the fight against disinformation. These activities should be reinforced by public campaigns that highlight the impact of false content on the quality of public life, and promote responsible participation in social communication. Only an informed society, equipped with appropriate tools, can effectively resist manipulation and use information as a source of empowerment, rather than a mechanism of control.

6.2. Technological and Digital Strategy

In an era of algorithmic communication and personalized messaging, it is crucial to develop technological solutions that enhance transparency and strengthen users' informational autonomy. Increasingly,

algorithms – whose functioning remains opaque and beyond external scrutiny – make decisions about what content users are exposed to. For this reason, digital platforms must be legally required to disclose the criteria by which content is filtered and ranked. Algorithmic transparency should go hand in hand with the ability for users to adjust search results themselves—for example, by filtering sources, disabling personalization, or selecting content types.

A key aspect of any anti-disinformation strategy is increasing transparency and accountability, also among digital intermediaries such as search engines, social media platforms, and content aggregators. These entities, whose business models are driven by the monetization of user attention, tend to amplify extreme, controversial, and often false content. Therefore, it is crucial to enforce disclosure of recommendation algorithm mechanisms, and to empower users with tools to influence how content is presented to them.

In parallel, we must support the development of independent fact-checking tools, such as browser extensions, mobile apps, or integrated modules on social platforms, that allow users to quickly assess the credibility of content. Open-source solutions are particularly valuable in this regard, offering greater transparency and enabling user communities to contribute to development and improvement. This strategy should also involve investments in digital infrastructure – especially in underserved or remote areas – to ensure that everyone, regardless of location, has equal access to knowledge and tools for information verification.

6.3. Legislative Strategy

Systemic responses to disinformation require not only adequate legal frameworks, but also mechanisms for their effective enforcement in the digital environment – where the boundaries of responsibility are often deliberately blurred. A key development priority in this area should be the creation of legislative frameworks that clearly define the accountability of both disinformation producers and the entities that distribute such content – this includes digital platforms, content aggregators, and advertising intermediaries. To date, most regulations have focused primarily on financial aspects and data protection compliance. However, there is now a growing need for mandatory, non-financial audits of tech companies. These audits should evaluate algorithmic transparency, content moderation practices, and their impact on the quality of public discourse.

Such audits – conducted by independent research institutions or regulatory bodies with supervisory powers – should become a standard requirement for major digital platforms, particularly those with global reach and significant influence over public opinion. Their findings should be made publicly available and serve as the basis for legal interventions, administrative penalties, or functional restrictions on certain platform features. Simultaneously, we must develop robust protections for whistleblowers and investigative journalists who expose cases of information manipulation. Additionally, privacy regulations must be strengthened, with particular emphasis on restricting covert profiling of users based on political or ideological content. Legal frameworks should also include transparency in the financing of informational campaigns and limit the microtargeting of political messages without users informed consent. Effective legislation must, therefore, balance the protection of freedom of speech with the principles of responsibility and transparency in the digital realm.

6.4. Institutional and International Strategy

Strengthening institutional and international safeguards against disinformation requires both the development of specialized analytical structures and the adoption of shared values and operational standards in the digital environment. One key initiative involves establishing independent national and regional observatories, tasked with monitoring information flows, identifying disinformation campaigns, analyzing their sources and distribution channels, and developing recommendations for policymakers, media, and civil society. These institutions, operating at the intersection of public, academic, and civic sectors, could serve as the foundation for national information strategies. They must function transparently, interdisciplinarily, and with full independence from political or commercial pressure.

At the international level, there is an urgent need to adopt universal principles for functioning in the digital space—principles that protect the fundamental rights of users and counteract the growing power imbalance between global tech corporations and democratic societies. In this context, a European Digital Charter should be considered, and – on a global scale – a Universal Digital Bill of Rights, akin to the Universal Declaration of Human Rights but adapted to the digital era. Such a document could define standards for personal data protection, algorithmic transparency,

anti-censorship principles, and the promotion of informational pluralism. The adoption of such a charter would reflect shared democratic values and offer a common normative basis for harmonizing national policies and establishing accountability mechanisms for technology giants. This charter – comparable in scope to the EU Charter of Fundamental Rights – could become a foundational ethical framework for digital democracy.

Finally, the institutional strategy must also recognize the importance of local knowledge hubs – such as libraries, universities, and cultural institutions—which can serve as centers for information competence. Supporting their activities through grants, partnership programs, and dedicated spaces for public dialogue is essential for building social resilience to disinformation and restoring trust in knowledge as a common good.

7 | Conclusion

Paradoxically, with the development of modern technologies and wider access to a variety of content, it is becoming doubtful today whether there is still a chance to gain knowledge and effectively seek the truth about the world around us. We experience difficulties in accessing reliable information and protecting our privacy, in light of systematic manipulation of data, which facilitates misleading citizens through fake news campaigns and the transmission of content containing hate speech. The prevalence of fake news can be linked primarily to the popularity of social media as channels of communication between people. Unfortunately, drawing knowledge from a small number of sources encourages people to lock themselves in information bubbles and consider false content to be true, because everyone around receives the same messages. Many observers emphasise that disinformation should be counteracted both at the national and international level, although some point out the chances of controlling this phenomenon are small; however, this does not mean that they should not be taken.^[53]

⁵³ See: Femi Olan, Uchitha Jayawickrama, Ogiemwonyi Arakpogun et al., “Fake News on Social Media: The Impact on Society” *Information Systems Frontiers*, 26 (2024): 443–458.

As it was said international law refers to the right to truth. A similar right exists on the national level – the right to information. However, the right to information may get into conflict with the right to privacy. While legislators and courts were trying to find a proper balance between access to true information and protection of privacy, they started to be challenged with the development of new technologies. The information and data obtained by tech companies, political parties, and governments became means for developing disinformation and “fake news”, serving the economic or political interests of these entities on the national or international ground. In this paper, I have asked, whether in democratic societies, we can still defend the idea of reaching for the truth, of gaining information and knowledge, while respecting the right to privacy and the right to freedom. A positive answer was given, indicating what conditions should be created to make this possible and at the same time the proposal was addressed that we need a new right, even a constitutional right – the “right to truth”. One of the main challenges, however, to constitutionalizing the right to truth lies in the complexity and sometimes subjective nature of truth itself. Truth is rarely a fixed or uncontested fact; it often requires interpretation, ongoing inquiry, and debate. This makes it difficult to enshrine in rigid constitutional provisions without risking misuse or authoritarian control over what is deemed “true.” Such risks could undermine freedom of speech and pluralism, which are essential for democratic societies and for the very process of discovering truth. Consequently, most legal systems focus on creating procedural guarantees, such as judicial investigations, truth commissions, and mechanisms for access to information, which facilitate the pursuit of truth without attempting to constitutionally mandate a definitive “truth.”

In summary, while there is no clear, universal constitutional right to truth, the concept has significant recognition in international law, and is increasingly reflected in court interpretations and normative principles related to human rights and transitional justice. Instead of a direct constitutional right, many legal systems rely on a combination of related rights and institutional procedures designed to promote transparency, accountability, and the ongoing search for truth within society. Ultimately, truth is not a static endpoint, but an ongoing process requiring vigilance, cooperation, and adaptability. Embracing this holistic approach equips societies to confront misinformation, build trust, and nurture democratic resilience in an era defined by both unprecedented access to information and profound challenges to its integrity. That can happen thanks to proper procedures, and it can be further supported by proper strategies. By prioritizing these

strategies, societies can empower individuals to make informed decisions, resist manipulation, and engage constructively with differing perspectives. Importantly, these strategies balance the need to safeguard truth with the imperative to protect freedom of speech and individual rights, avoiding the dangers of censorship or authoritarianism.

In today's complex and rapidly evolving information landscape, protecting the pursuit of truth requires more than declaring a formal "right to truth." It demands a multifaceted strategy that integrates access to reliable information, critical thinking, transparency, privacy protection, ethical use of technology, robust institutions, and a culture of respectful dialogue. Each element addresses distinct challenges – whether technological, social, or legal – and together, they create the conditions under which truth can be continuously sought, contested, and refined.

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