



COMMISSION ON FUTURES

(Meeting of Wednesday, November 3, 2021)

THE CHAIR (Rodrigo Goñi Reyes).— There being a quorum, the meeting is open.

(The time is 15 hours and 10 minutes)

—Good afternoon, everyone.

First of all, I want to thank our special guest enormously: Professor José María Lassalle.

I also thank the Catholic University, which has allowed us to have José María here with us today.

We welcome Dr. Facundo Ponce De León, director of the Department of Humanities and Communication at the UCU; Dr. Ana Fascioli, director of the Institute of Philosophy; and Mr. Miguel Pastorino—who is already a regular in our commissions—also a member of the Catholic University team.

It was among our aspirations to have Professor José María Lassalle with us in this Commission on Futures and also in the Special Commission on Innovation, Science and Technology. The Catholic University got ahead of us and has made this opportunity possible. So it has done us a great favor

So that our guest can get to know those of us in the room, let me mention that there are also senators here from all the parties, who have made room in their schedules to be present at this meeting. Today is a regular session day; it is one of the busiest.

There are also some experts accompanying us in this process of the Commission on Futures.

This session will last one hour by the clock, so we have to keep to that time. I am not going to say much more because otherwise I will take time away from José María.

I am going to give a very brief introduction.

José María Lassalle has held a doctorate in Law from the University of Cantabria since 1999. He graduated with the grade of outstanding.

He began his professional career as a researcher and professor at the University of Cantabria.

From 2001 to 2003, he was a professor at Carlos III University in Madrid.

Between 2002 and 2003, he was scientific coordinator at the Center for Hispanic and Ibero-American Studies of the Carolina Foundation, part of the Ministry of Foreign Affairs.

From 2004 to 2008, he continued his academic activity as a professor of Comparative Political Systems at San Pablo University in Madrid, Spain.

He was subsequently a professor at Rey Juan Carlos University in Madrid.

Since 2019, he has been a professor of Theory of Law and Philosophy of Law at Comillas Pontifical University. He is also a professor in the DBA in Management and Technology program and in the postgraduate program in Law and Data Analytics at the Business School of the same university.

Outside academia, he contributes to various media outlets. In 2002, he was at ABC ; then at El País and now he is at La Vanguardia and on television and radio programs of Spain's national system.

He is currently a member of the Board of Directors of the Cercle d'Economia in Barcelona, where we have followed him.

He was a member of the commission of experts that advised the government of Spain in drawing up the National Strategy on Artificial Intelligence.

He has also written several books. I am going to name the last two, which have captivated me: Ciberleviatán. - El colapso de la democracia liberal frente a la revolución digital—which we would like to discuss next—and El liberalismo herido. Reivindicación de la libertad frente a la nostalgia del autoritarismo , which has to do with all these topics that interest us. I don't know how José María is going to enlighten us in such a short time.

As you know, Parliament has several commissions that are addressing digital transformations. This area presents extraordinary opportunities, but also threats to human beings, given what it means for their role and their very ontology—not to mention their role in society, the way they relate to one another, and also its impact on democracy as we know it.

We have talked a lot about the possibility of a Cyberleviathan. Precisely, his book caught our attention. There are always two ways of looking at these situations. One is with disdain, saying: "This is very far off! It will never happen to us!" The other is by taking the necessary precautions and becoming aware. I always prefer to be dramatic. Those of us who are alive have preferred to be dramatic and not to be asleep.

Undoubtedly, José María, in these books and also in his preaching, lays out very well all the risks and threats that are present in the technological-digital era for democracy as we know it.

So, José María, we would like to be able to talk with you about these aspects and have you help us understand the society we live in and, above all, the risks. It is not that we are frightened, but when one prepares to withstand a certain risk, one then has the chance to take advantage of the opportunities; if one does not, those opportunities will go to others.

Once again, I thank you all for coming.

MR. LASSALLE (José María).— Thank you very much, Mr. Chair, for the kind introduction you have given.

I also thank the senators and the Representatives, both men and women, who take part in this Commission, as well as the experts who are present.

I thank you for the kind invitation you have extended to me.

For me, being here is like coming back home, because for seven or eight years I was—the Chair neglected to mention it—a Representative in Congress. I have been a bearer of culture, I know how parliamentary work operates because I was a national Representative in the Spanish Congress and then I was for seven years Secretary of State for Culture and for the Digital Agenda, so I know the other side of power, not only of the Legislative Branch but also of the Executive Branch. So I feel at home, in the place where one returns to a space like this one, which is the space of public, institutionalized deliberation. For me it is always an honor to be able to appear.

I am not quite sure what the format is. I saw that there is a questionnaire and I don't know whether we are going to follow that. The Chair has practically come to say what I would like to reflect on. I will try to be brief and then we would set up a dialogue, an exchange.

I believe that one of the challenges weighing on liberal democracy in all Western countries is precisely the existence of a democratic deficit around the process of digital transformation. We have been living for some years, probably since the beginnings of the digital revolution, materialized at one very specific moment through the appearance of the smartphone and everything that has

represented in terms of the incorporation of technology in a hyper-everyday way into the experience that, as human beings, we project daily onto our way of relating to others, there has been a process of transition, of transformation, of digital revolution that has been developed without democratic control, without a capacity for legislative regulation, without an identification of the risks and problems to which a development could lead us, a development that has progressively been moving toward more dystopian than utopian approaches in the processes of digital transformation. This is a consequence of the fact that the digital revolution has treated the human being as a consumer of content and a user of applications. And modeling the human being within platform-economy structures that have based a concept of prosperity on the generation of data and on the use, through business models, of algorithms that have sought to maximize the obtaining of profits and economic externalities, located in the generation of a prosperity that, far from contributing to an equitable distribution of it, has been generating gaps of inequality much deeper than those that originally existed in that process of transition that post-industrial capitalism is undergoing, typical of a late modernity like the one lived through until the 90s and the early twenty-first century, and an accelerated postmodernity with a cognitive platform capitalism, which is what at this moment characterizes the generation of prosperity and economic development in the vast majority of countries across the planet, not only the liberal democracies. What happens is that in the liberal democracies that transformation of the economic model and the social impact that this transformation of the economic model is having are altering the axes of normativity and the political stabilizers that sustain liberal democracies, among other reasons because the change in the concept of work, as it is identified from the Fordian economy with the pact between capital and labor, which sustained the dynamics of the social and democratic state governed by the rule of law and, therefore, the construction of the welfare state, is being modified in a very radical way and is contributing to the emergence of a new configuration of work, an automated work that tends progressively to marginalize the human being, to limit the added value that human work provides to the development of an automated economy.

Within that scheme of transformation, a phenomenon of erosion is taking place in the economic weight that labor has in the GDP of developed economies—labor weighs less and less in the GDP of all developed economies—and it is a consequence of progressive automation through artificial intelligence, through the models of robotics and mechanization that are being developed at every level and that are causing the human value of work to diminish, affecting fundamentally the areas of professional specialization. That is deteriorating the weight that the middle classes have within liberal democracies, and a liberal democracy cannot be understood without middle classes; they are the great social stabilizers and the ones that, precisely, sustain egalitarian policies and the structures of equity of a democratic society. That dislocation that the middle class is suffering at the global level, which is generating a progressive atomization of social structures, is what is favoring populist phenomena, the emergence of populisms of the far right and the far left, and the progressive

erosion of the alternative center-right and center-left stabilizers that have shaped the political stability of liberal democracies in Europe, in the United States, or in Latin America.

That is the reality that we liberal democracies are suffering most immediately, and it is basically the consequence of a digital transformation without democratic control, that is, without a culture of legal order and rights, and without taking into account that all these processes of accelerated social change bring us extraordinarily close to the phenomena that accompanied another revolution that took place a long time ago, which was the Industrial Revolution. We are in a period of critical transition very similar to the one experienced during the Industrial Revolution of the 20s, 30s and 40s of the nineteenth century, which forced the democratic states in Europe to carry out a whole series of processes of socialization of well-being, of universalization of education, of the right to vote, of the construction of what later became democracy as we understand it. And it was the consequence of trying to subject, to democratize, what the Industrial Revolution was, which generated an industrial capitalism, with the descriptions set out not only by Marx in *Capital* but also by Dickens in his novels, which clearly reflect a series of dislocations, of enormous inequalities that evidently affected European societies throughout the first half and a very important part of the second half of the nineteenth century.

As I say, all this is a consequence of a model of social change driven by technology that lacks governance. A model that, as I was saying a moment ago, treats the human being as a consumer of content, a user of applications. And where does that leave the person? Where does that leave citizenship? That is, we are facing digital transformations that do not contribute to deepening the human person, to giving the person content, coherence, to saving the person from the processes of alienation that technology and, precisely, the architecture that accompanies the development of technology, and that is in all the instruments that digital transformation designs, does not perceive in its civic dimension or in its personal dimension. When we place ourselves in front of a screen, the screen traps us unconsciously; the Kantian concept of coming of age, which has underpinned political modernity since the Enlightenment, is broken. What is sought is not the coming of age of the person who operates in contact with the screen, but the infantilization of the human being. And it is a conscious and deliberate way that lies behind the technological architecture that accompanies the design not only of the content and the applications and of the technological architecture, but it is a reality that is generating tensions that affect even the ontology of the human being. At the same time, it is producing enormous advances, extraordinary changes that have meant, among other things, that the experience of the pandemic was less dramatic than it would otherwise have been. And all this is happening without governance, and the question is: will we accept that this reality continues to occur? Do we have to keep accepting that we live through a process of digital transformation without democratic control? Why does the republican experience of democracy not operate in the sphere of the Internet? That is the great debate, but it is a debate that, unfortunately, is not on most legislative agendas or government agendas. In that sense, Uruguay has for a long time

developed a specific agenda that has worked on governance models applied to technology, has been able to design a process of digital transition with equitable logics, has had a particular impact in the field of education, in the development of egalitarian structures in technological infrastructure. In my opinion, Uruguay has been, and can continue to be, a model in which to recognize, at the very least, the potential for these ideas that I am putting on the table here to be incorporated into the legislative agenda and the political and institutional agenda. Europe is indeed clear on this. The European Union, through the Commission, both in the time of the Juncker presidency and now under the presidency of Von Der Leyen, is insisting that Europe must play the role of a global actor vis-à-vis the United States and China, in what the generation of a democratic governance of technology represents, which is based not only on the development of a data regulation but of an artificial intelligence regulation, of a dignification of data, of a social function of algorithms, and of dynamics that seek, fundamentally, the equitable socialization of technology; generating prosperity, but for everyone, and without this bringing with it the dehumanization of the human being and, of course, leaving behind us the possibility of articulating an improvement of democracy itself as a cyberdemocracy. I believe that these dynamics are part of a frontier that marks a vector that orients a strategy with respect to the future. If we do not incorporate this reflection multilaterally, not only into the United Nations 2050 agenda, not only into all the multilateral structures that articulate relations among liberal democracies, we will expose ourselves to a dystopian design of digital transformation. A dystopian design in which, on one side, the United States is trying out a model; a siliconized model, where there is a clear commodified corporatization of digital transformation, with a design in which neither equity nor governance is conceived as a part of political reflection, even though the Biden Administration is now trying, by all means, to carry out a growing democratic control over the big technology corporations. A case has just been opened against Google, trying to apply antitrust legislation, at least in the area of the marketing of its products; that is already a first identifier of a possible policy that would democratically condition the increase in power that the technology corporations have in the United States. But the design seeks, fundamentally, the political neutrality of the action of technology.

On the other side is China, with a design clearly of surveillance capitalism, of hierarchization and verticalization of power through an artificial intelligence that is at the service of a party in power, of an elite that authoritatively organizes the way its technological design is built, with a clear orientation toward global hegemony.

And the rest of us are the ones who have to be able to design a multilateral construction that allows, as I say, a democratic reflection that clearly commits to the socialization of the value that technology has, that contributes to an equitable interaction among the subjects who operate in the infosphere.

That is somewhat the reflection that lies behind technological humanism, which accompanies the process of applying the Next Generation funds, with which Europe wants to carry out its economic transformation, the construction of a market with a green circular economy, based on a market that reestablishes the patterns of the ordoliberalism that accompanied the construction of the common market after the end of the Second World War and that is in the philosophy of Walter Eucken and the other theorists of European liberalism, who built—I insist—the ordoliberalism of the common market. But at the same time, I insist, this reflection that accompanies this whole process has been incorporated into the legislative agenda, into the political agenda, and it tries to configure Europe as a global actor that seeks, fundamentally, through a technological diplomacy, to weave strategic alliances with other potential global actors. And Latin America, because of its liberal democratic culture, because of its settlement within the dynamics of what is a complex culture, in the democratic, parliamentary, republican sense of the term, presents elective affinities with Europe in the defense of human rights and in the values of democratic culture, and could, at the same time, weave strategic alliances with an area that is very important right now from a geopolitical point of view, which is Africa and, particularly, the Mediterranean world, with a whole projection toward the Arab world, where I believe there is a window of opportunity to—I insist—generate a multilateral governance that redirects the scenario that I have described to you very quickly.

I will stop talking now, I give you the floor and we keep up the dialogue, which I believe will be much more interesting than a conversation monopolized by me at this moment.

Thank you.

(Applause)

THE CHAIR.— While we wait for the questions, I would like to know, with reference to the ending, that dystopia: why do you foresee that, if nothing is done, digital transformation could bring about a loss of critical spirit that, in turn, could foster a demand for a totalitarian organization, which today the digital corporations would have the easy possibility of bringing about? Why do you foresee that possibility, professor? Or is it to provoke us with the book?

MR. LASSALLE (José María).— A series of alterations is really taking place—I identified some of them during my presentation—directly linked to the growing populist polarization that the middle classes are experiencing and that have a very direct connection to what I have described to you. Basically, an ontological transformation of the human being is taking place; that is, the human being is altering his behavioral habits in relation to technology. We live under processes of assisted freedom, in the sense that the capacity, which is at the origin of the Enlightenment and of political modernity, to develop models of responsible critical awareness in the exercise of freedom is being reduced. We cannot understand democracy if there is not behind it a citizen with a capacity for critical awareness that allows him to exercise

his freedom responsibly. In that de-responsibilization that a human being in contact with technology is experiencing, and experiences daily, through the use of applications or access to content, the algorithms that are making us more efficiently what we already are. For example, when we enter a platform and the algorithm places content in front of us based on the digital footprint that we are leaving behind us, seeking that we not leave that footprint but keep going deeper into what we already are, there is evidently a limitation of our natural predisposition, within a modern epistemology, to failure, to error, to fragility, to everything that, as Popper sets out in his epistemological dynamic, explains that we learn from trial and error. If we rule out error and rule out human fragility, we are generating social structures that are increasingly robotized; we are generating models of non-responsible freedom, models of assisted freedom.

If, at the same time, a very important part of behavioral spheres have been modified—a philosopher with a great following in Europe at this moment, Byung-Chul Han, a Korean philosopher but trained in Germany, who offers a reading of Heidegger's thought in contact with the Eastern tradition and is generating very important critical debates in Europe around these questions, raises it—if we live trapped in the screen, we are breaking the structures of sociability that we are accustomed to and that we hold in our social memory, that are in our families, in the form of democratic coexistence, in the way we organize ourselves in business, in how work is carried out; trapped in the screen we develop mechanisms of hyper-individualized narcissism, where the other does not exist, where the other exists as a being who acts more like an avatar with whom we have no contact. And what does that facilitate? It facilitates, and it is one of the reasons that explain, for example, polarization on social networks. If we do not have an other to confront physically and we dissolve that other as an avatar hiding behind an identity that acts on social networks, and social networks have conversational algorithm designs that seek to generate more data traffic—and hatred contributes to data traffic more than friendship does; that has been established empirically, because polarization is to a great extent a result of design with algorithmic biases that contribute to generating morbid conversations that provoke more generation of data because there is a business model behind it that commercializes that data and exploits it regardless of what is happening on the network, among other things by habituating us to hatred, to considering the other as someone we can perfectly well despise without that implying absolutely anything—behavioral elements are being produced, not to mention the loss of our capacity for attention, of our capacity to better fix our feelings as, I almost dare say, mammals, when interacting with others. All of that is a consequence of the behavioral structures that technology incorporates as applied to screens and to technological designs.

Why is all this so? Because there is no legal regulation that protects. For example, to drink a bottle of water there is a regulation, starting from a code that guarantees traceability and that this is good for human health, or does not harm it, but nothing accompanies the use of this smartphone, no series of regulatory clauses that

protect us against the emotional harm it is producing, for example, through mobbing in high schools, through the development of social networks without any control.

That reality of demanding a regulation, a piece of legislation that protects childhood, that protects old age, that introduces biases that end the gender gap, that prevents biases that contribute to racialization, that eliminates biases that contribute to inequality—you start googling and you will see situations where algorithmic biases are reproducing situations that contribute to inequality, not to mention that there is a very marked gender gap in the field, for example, of engineering degree programs, where fewer and fewer women are entering university to pursue engineering degrees. The number of women in CEO positions in the technology sector is infinitely smaller than in any other sector.

In short, there is a series of scenarios that show that there is a world that is increasingly contributing, on the one hand, to limiting our capacity to decide critically and responsibly in the decisions we make and, at the same time, a more unequal world, because in order to be able to handle this in a useful way in personal and civic terms, one has to have cognitive and educational capacities and, above all, a capacity for critical empowerment that very few people have. We can use this to enrich ourselves intellectually or to make our lives easier, but we are not the common run of mortals.

Inequality is accompanying the difference in cognitive capacities to which the development of the technological architecture that accompanies these processes is contributing. And if there are already gaps in education, there will be many more gaps in the capacities to act in relation to technology. If we do not educate toward considering that the human being has to remain the measure of all things here as well, this will end up marginalizing us. It is marginalizing us at work because our professional résumés are being progressively set aside, not only in the economic value for the work we contribute, but tomorrow because the machine is going to make us replaceable and, probably, the only resource—and it would be regrettable if that were the only resource of democracy to save its sustainability—is universal basic income. I do not think that has to be the horizon with which we save democracy in the face of the authoritarian, verticalized tensions of social control to which technological development without democratic control leads us.

THE PRESIDENT OF THE CHAMBER OF REPRESENTATIVES (Alfredo Fratti).

—From my point of view, everything the professor says is a kind of modern slavery. That is how I feel it, we are enslaved; we can't even go to the bathroom without this device.

You said that Europe has this clear; it would be good to know where Europe is heading in this regard, where you think it is heading, because this is incipient.

I think that yes, we have to think. This is changing us: in some cases for the better and in others, with difficulty.

At the same time, I want to know your opinion on basic income, because it clearly gives the impression that in the medium term, if there is not something of that sort, something will collapse, because you put oil in the robot and it keeps running. Thank you.

MR. LASSALLE (José María).— The Commission has, as a defining element of a vector that accompanies the whole development of the new European economic model, what is called a humanistic digital transition, which means, in the first place, carrying out processes of legislative regulation that guarantee the equity and the social function of digital transformation, avoiding the worsening of the gaps of inequality that already exist. In the second place, establishing a governance model that institutionalizes a charter of digital rights, that is, that recognizes a new generation of fundamental rights.

In the same way as in the construction of liberal democracy and of the social and democratic state governed by the rule of law, based on progressive layers of universal human rights—a layer of freedom, a layer of equality, a cooperative layer—there has emerged, and is emerging in the collective imagination, the urgency and the need to articulate a new charter of digital rights, which would allow the configuration of rights of freedom, rights of equality, rights concerning the citizen's relationship with the administration, in short, a whole series of elements that are part of the democratic culture of the West, and it is that there is no progress without rights. The instrumentalization of progress is transformed into individual rights and collective rights.

In the third place, alongside that element of governance in legislative regulation and the recognition of rights, the generation of a transformation of the educational model, fundamentally seeking that education in the twenty-first century and in relation to technology be an education that above all seeks to generate critical skills that make the human being irreplaceable in his collaboration with the machine. That is, it is necessary—and this is a very important part of the approach we are putting forward—to reflect on how we are going to relate to machines and on making sure that machines do not obstruct the survival of human work and human creativity.

For that reason, educational models must be oriented toward taking advantage of what the machine and artificial intelligence can do. For example, in Japan there is an enormous effort to orient a whole legislative strategy on the role that the robot is going to have—it already has one, but it will have more in the future—in the care of the elderly population. Nowadays, because of Japan's demographic decline, there is a problem in addressing how the structure of care for the elderly is developed; Japan has an enormous longevity, they are getting closer and closer to an average age near one hundred. In addition, family units are single-person, so there is no capacity for the family to shelter and protect the elderly, and it is robots that are starting to perform the function of care.

What will be the design that robots will have when carrying out the care with which they will treat the elderly? That is, how do we generate mechanisms of empathy in the robot so that the artificial intelligence and the autonomy it has in its decisions make the elderly person feel protected and looked after in the care? Those dynamics cannot arise from business models; obviously, robots must be developed within a competitive market that sets rules of the game that guarantee fair competition among companies, but we need the data that the robots are going to handle, the algorithms that are going to manage the autonomy with which the robots act, to have an ethical framework that protects the human being and does not subject him to domination. The robot is going to have to identify perfectly that the elderly person is a being who, even though his capacity for autonomy may be limited—for whatever reason—has an authenticity in the foundations of his dignity that must be legally protected. We cannot allow the algorithmic design of the intelligence that will give autonomy to the robot to be set by a model based on the business model of the company that manufactures the robot. By that I do not mean that we should take away from companies the ability to develop robots, which are a business model, but we should regulate it in the market so as to safeguard an ordoliberal approach that keeps this reality from dehumanizing the result being sought, and so that it is not only the usefulness and economic efficiency of the design that accompanies the process, but that care is interpreted under sensitive keys, interpretable from what is the authenticity of the human being. For that, the legislator is needed. For that, governments are needed, the administrative machinery, to ensure that the robot indeed has standards of hygiene, health and care that aim at protecting the dignity of the human being, and not merely treating him from an economic efficiency that makes the robot viable, and the creativity that feeds the design of robots.

SENATOR SÁNCHEZ (Alejandro).— Two questions occur to me. On the matter of the technological revolution, so disruptive, that we are living through, and of artificial intelligence, there are two issues. In a first stage you focused on social networks and algorithms, and I think there is already an established debate at the international level as to whether the regulation of technology companies should be autonomous or whether there has to be legislation. In fact, the debate that arose when Twitter decided to take down a post by Donald Trump gave rise to this debate. Who regulates the content that is there? This gets mixed up with freedom of expression. There is a quite interesting debate in characterizing the platforms first, in the sense of knowing what characteristics they have, in order to then see what kind of legislation needs to be taken up. There is a very interesting issue there.

Although this is very relevant—you referred to the question of robots—I think there is a debate that almost reaches ethical and moral questions. In the short term we will probably have autonomous vehicles. There are already many, and it is going to advance. When that autonomous vehicle is programmed, there are definitions of ethical value. That is, if I am driving along a national highway and a person steps out in front of me, I have an accident because I did not have sufficient reflexes to avoid them. Now, when whoever is driving that car is a robot, in reality, the programming of that car must establish what it values most. Does it value the protection of the vehicle

over the human being who steps out into the road? Does it value more the protection of the user over the one who stepped out in front of it? There is an assessment there of which human being is worth more. If that machine is programmed to protect the user—if I am going to buy an autonomous car I want it to guarantee that I am not going to die in an accident; there is no legislation there—if that is the central axis of the autonomous vehicle, it means that if another human being steps out in front of it, that life ceases to be important.

So, it seems to me that there is a debate here, set in an autonomous vehicle, placed in care, or placed in any other area in which artificial intelligence acts. There is an underlying, essential, philosophical debate. As Representative Valdomir rightly points out to me, there is an ontological debate in terms of what we are building. Therefore, I don't know whether you, in your work—and in the work you are doing in the commission of the European Community—have made progress on that. In short, are there any recommendations in terms of regulatory advances, readings, or debates that are being generated and that might be of interest for beginning to have some elements in this regard?

Thank you very much.

REPRESENTATIVE VALDOMIR (Sebastián).— We thank the professor for being in Parliament today and those who made it possible for him to be with us today.

I think there is a healthy element to highlight from the very beginning of your presentation, which is this healthy tendency that is becoming more and more present in a necessary debate. I mean that liberals of the purest stock—who define themselves as liberals—are worried about regulations and about putting regulations in place to temper or moderate the free forces of markets and economic actors. In this case, unfortunately, we are talking about private transnational actors with far more power than national States, and who are the fruit—precisely—of that laissez-faire, letting things go that gave rise to the creation of these global economic giants that, in some way, are at the origin of the problem you set out.

The main problem on this point—which I no longer place in the realm of ethics and morality but in that of economic relations between public and private actors—lies in the question of technology transfer. Although the European Union is—as you rightly said—at the forefront of putting in place new regulatory frameworks and new frameworks of use for this type of issues, global actors have systematically refused to put in place provisions for the transfer of technologies to the poorest countries, whether in agriculture, in climate, or in energy, and all those technologies are subject to patenting. Patents are no longer only about mechanisms but also about intellectual processes, algorithms, and so on. So finding a solution to this is going to be quite difficult, and it is also possible that, like all global things, they will develop first in one place than in another, which will generate a second-generation problem regarding how the poorest countries, or those with less capacity to confront these transnational actors,

can incorporate into their countries regulatory frameworks that, in some way, protect citizens and democracy.

The last element, professor, is the following. You mentioned gender differences a great deal, but in this room we were all born in the Gutenberg galaxy, and this is a problem of the Bezos galaxy, so to speak. I don't know whether digital natives will think exactly the same way about this problem. Besides, there we have a problem that is no longer about gender but about generations. The kids, our children, who were born from 2002 onward, who have been socialized and educated within this digital galaxy, I don't know whether they share exactly the same concerns and criteria that we are putting into today's discussion. In particular, our central concern as political beings is with regard to States, democracies, and republican systems.

Thank you very much.

SENATOR RUBIO (Enrique).— I find your point of view very easy to share. You put forward some ideas about how public policies could be developed in relation to the educational model in order to try to counteract this. Even so, I would like you to explain a little more what this digital development has meant, both in the models that China applies—at one end—and those that the United States predominantly applies—at the other—although, paradoxically, they end up in similar places, in terms of intrusion into the privacy and intimacy of individuals. I think that is a very relevant issue.

Actually, I share a large part of Han's assessments and of the developments that have been made on this question. It seems to me that here there is one of the knots that we do not perceive to the extent that we are shaped by this type of design, whether from one extreme or the other, but shaped in the end.

Thank you.

SENATOR DOMENECH MARTÍNEZ (Guillermo).— I think we are in a stage of development of capitalism, which I would call supercapitalism, that has swallowed democracy, because when private companies are the ones that set the rules for governments, as we have seen happen, that famous definition of democracy that Abraham Lincoln gave—government of the people, by the people, and for the people—is finished. We are facing a world government of great economic powers. So I don't see how governments can put a limit on these companies; I would like to see it, because I am interested in defending democracy. I believe that democracy is not liberal, but simply democracy, because it is much older than liberalism; the great political leaders, at least of our country—and I believe of the Hispanic world in general—did not need philosophical qualifiers for democracy. Our General Artigas—we all know this perfectly well—said: "My authority emanates from you, and it ceases in the face of your sovereign presence," and he did not need to introduce any element of a philosophical nature.

The truth is that capitalism has brought us to this material development in which companies are more powerful than governments, and I do not see, for the moment, that governments—those that can do so, because the government of Uruguay is very weak in the international concert to do something like that—can put, as the countryman says, the bell on the cat and set rules for those big technology companies. I would like to see, from a person who has evidently studied the subject a great deal and has a lot of knowledge of the problem, a concrete proposal on how governments can reassume power, because this is a dispute over power. Without a doubt there are problems of an ethical nature, et cetera, et cetera, but deep down it is a dispute over power. Who is in charge: these super-companies or governments? That is what I would like to hear; something more concrete on this point.

THE CHAIR.— First, Representative Ope Pasquet has the floor, and then Representative Alexandra Inzaurrealde. Then we are going to let the professor speak, who, I don't know whether I mentioned, was a Spanish Minister of State, specifically in the Secretariat for the Information Society and the Digital Agenda until 2018.

REPRESENTATIVE PASQUET (Ope).— First of all, good afternoon, professor, and thank you very much for your presentation. One question: could you point out to us any case of successful regulation in this area? It was made perfectly clear that there is much more left to do than has already been done, but I want to know of some case that can serve, if not as a model, at least as a point of reference for beginning to study these issues.

That was it, thank you.

REPRESENTATIVE INZAURREALDE (Alexandra).— Good afternoon. Very kind; truly, the talk is more than timely given the concern that my colleagues are pointing out, in the sense that we really see ourselves as dispensable, since there is that feeling, which becomes shared by the citizenry, that decisions do not go through the political system. The political system has no capacity to understand if it does not know what is being regulated; we have to see how we can regulate it. That is, what the beginning is and where the loose end of the skein is, and how we can trust and give legitimacy to those regulations if we do not understand them. I firmly believe that the fact of informing ourselves is already a good start. That feeling of being irrelevant is the greatest violence that one can come to feel; before it was weapons, and tomorrow the difficulty will lie in feeling insignificant and seeing decisions slip away from us. I believe that many recent political phenomena are showing us that distrust on the part of people, given that solutions do not go through the political system.

The other aspect that you mentioned, apart from information and the power it gives to regulate the processes, which at the same time has to be managed, is the matter of working on spirituality, because that is what differentiates us as human beings. Does everything go through regulation, or does it also go through processes such as spirituality that, ultimately, dignify us as human beings? As the senator pointed out, machines

will one day be programmed to measure the physical process of emotions and thus be able, in some way, to predict behaviors. Today we do that naturally, almost intuitively, but a machine will be able to determine it.

Thank you very much, you are very kind, and congratulations.

REPRESENTATIVE ANDÚJAR (Sebastián).— Welcome, thank you very much for sharing your knowledge with us.

What Senator Sánchez raised about the debates that humanity owes itself regarding some upcoming issues is very interesting. We would be interested to know your opinion on how much all this affects people's freedom, how much technological advance has repercussions on the freedom of human beings.

On the other hand, legislative timelines are slow; based on discussions and debates, they are quite slow in relation to the dizzying pace of technology, and perhaps legislation will never be up to date with the rhythm at which technology moves in the world. What is your opinion on how to legislate and keep pace with technological timelines?

Thank you very much.

THE CHAIR.— We postponed the start of the session in order to have this very valuable opportunity with you, but we know that you have a fairly tight schedule. We ask you to give a closing statement; then we can pass along any remaining questions.

MR. LASSALLE (José María).— Thank you very much, and thanks to all the interventions by the parliamentarians present here, which I have summarized into eight and which I am going to try to address now. They raised a first question about who should regulate; that was one of the issues on the table. The democratic State should regulate, and it should do so by seeking to establish multilateral channels at the global level, embedded in the global governance that we also have through the United Nations. Therefore, the effort has to be twofold: State and regional, to the extent that regional governance designs are articulated. In Europe this is paradigmatic, but in Latin America, Mercosur can also take on certain regulatory efforts in that field. It is true that Europe has carried out a process of supranational integration that has dismantled the more territorialized and local narratives that had accompanied its construction over recent centuries, and that is a competitive advantage it has over other geographic areas. But, in any case, the governance model must be State-based, above all because what we are talking about here—this lets me refer to the reflection the Representative raised about power—is that there are two powers in contradiction. That was seen on January 6, 2021, with the assault on the United States Congress, when several technology corporations decided to shut down Donald Trump's accounts on Twitter and Facebook. They did it not because the legislator established that they had to do so, but because they aligned themselves with democracy on their own initiative (*motu proprio*). And what did that reveal? It revealed, as Carl Schmitt said, that the sovereign is the one who decides in moments

of exception. And in a moment of democratic exceptionality, such as the United States lived through on January 6, 2021, it was not democracy that defeated the attempted coup d'état that that country experienced, but rather the decision to defeat it was the consequence of the exercise of an aristocratic, not democratic, power in the hands of some technology corporations.

Jack Dorsey, CEO of Twitter, explained in several tweets that he regretted having to do this, but that the reputational damage the brand could suffer took precedence over what had been a constant insistence of his: safeguarding President Trump's freedom of expression to say what we all knew he had been saying for months, that the elections were going to be a fraud.

That technological power is an aristocratic power, in the classical terms of republicanism: Sallust, Livy. It is an aristocratic power that is in the hands of a few and is not subject to the government of all. Therefore, regulation has to be taken on by a democratic government with everything that this represents.

This has a special implication, as the Representative rightly pointed out, for the autonomous vehicle but, in general, for all the processes that have to do with artificial intelligence. Insofar as, evidently, we must set the standards, the ethical parameters that allow machine autonomy; machines must have the capacity to decide, but that capacity to decide has to conform to ethical criteria. The example he gave goes like this. An autonomous vehicle, when it faces the scenario of deciding whom it has to run over because one of those fateful moments occurs where a baby, an elderly person, a young person can be run over by the car, whom does it protect? Would they be the same criteria that have accompanied the administration of vaccines during the pandemic? What would the criteria be, then? Should we leave that in the hands of the companies that manufacture the autonomous vehicle? Or will all of us here accept and admit that it will evidently depend on the legislator? And the legislator will have to draw on the public ethics on which the coexistence of a democratic society is constitutionalized. Evidently, there is a constitutional ethics, there are principles. And this lets me link up with what the Representative raised about whether there was already some reflection on this. The reflection put forward by the High-Level Expert Group on Artificial Intelligence of 2018 of the European Commission points out that, in order to address the ethical regulations we are talking about, the basis of democracy—in Europe they say liberal democracy—is hopeful for addressing an ethical horizon that regulates the processes we are describing here, with fundamental rights being the ethical and normative basis of that scenario. Therefore, who is it to be: the State or the company that defines it? It is evident, as we were saying: the State.

Going to the reflection the Representative raised about liberals, I want to say that I belong to that strange liberal democrat family that has read very deeply into Adam Smith, but the Adam Smith of *The Wealth of Nations*, of *The Theory of Moral Sentiments*, which connects with a natural-law theory, which has interpreted that before rights come duties, which belongs to a humanist

tradition that starts with Erasmus and has built the whole culture of political modernity, without which we could not understand the thought of liberal democracy, in my opinion.

Adam Smith said, among many other things, that whenever two or more businessmen get together, they do so to conspire against the market. Adam Smith said this. All right?

John Kenneth Galbraith said that there are three books that everyone talks about and nobody has read: the Bible, The Wealth of Nations, and Capital. Well, here Adam Smith is cited without having read Adam Smith. And some proclaim themselves liberals without quite knowing what liberalism is. All right?

Therefore, for liberals, regulation is fundamental. The scope of regulation is another matter, and there we can come across John Rawls or Hayek; probably the more liberal and less neoliberal Hayek, but we will see what the scope of regulation is. A liberal cannot understand reality without regulation. Montesquieu said it in another basically liberal book, The Spirit of the Laws: "For there to be freedom, there must be law; otherwise it is license." Therefore, that is a construct that accompanies the reflection we are putting forward here, and that Europe incorporates because, among other things, it assumes that the Enlightenment, in its failed proto-constitution and in the account of what the foundational principles are on which this reflection we are putting forward here, of a humanistic digital transition, is configured, rests on the Enlightenment and, therefore, these are the regulatory parameters that it believes in as the essence of its foundations. That means that when speaking of technology transfer—I agree—it is a transfer that, at some point, will have to propose... as happens, curiously, with intellectual property, which in the field of authorship is subject to a time limit; there is a moral right of the author that never ends, it is eternal and outlives the author's own life, which is the recognition as author and the moral values that accompany authorship. But the economic exploitation of a creative work is limited in time. Why? Because it is recognized that there is a social function that accompanies the creative work. The creator has only been able to make his work in contact with a society; therefore, he has a monopoly of exploitation for a time, but that time is limited. And from there, it enters a public space of exploitation. That comes from an idea that arises in the Weimar Republic in the constitutional debate on private property, where a model of social function is incorporated into private property. That is, private property is transformed during the interwar period and ceases to be a Napoleonic property, in the most physiocratic sense of the term, which considered it an absolute right, to become a right with a social function, and it generates special properties. And we continue within a private-law logic of property, so we are not entering into a Marxist socialization of property. All right? Therefore, that debate can perfectly well be carried over to the field of industrial property, as also happens with the design of algorithms. And it will have to be so. At some point, Google will not be able to continue exercising a monopoly over its indexing algorithm. All right? So that is behind the approach, then we will see

how; but, well. But that is in the philosophy that must accompany what we are describing here.

SENATOR DOMENECH MARTÍNEZ (Guillermo).— Pardon me, may I?

During the Weimar Republic, Leo XIII was already speaking of the social function of property. And John Paul II, in the Centesimus annus, also speaks of the fact that the right of property has two dimensions: one individual and the other social. I say this because it seems to me that in the field of the debate of ideas it is good to also keep in mind the social doctrine of the Church.

MR. LASSALLE (José María).— I totally agree; but, from a legal point of view, no.

Besides, you were about to touch on my subject, which is property. I wrote my doctoral thesis on John Locke and the Theory of Property. It is a subject I know quite thoroughly.

In any case, there is a very interesting debate between Dominicans and Franciscans in the thirteenth century, in which a reflection is raised on who owns the goods held by the Franciscan congregation, that is, whether the church or the Franciscans themselves, and we could go on forever about that. That is where the debate between ownership and possession takes place.

Coming back to the topic at hand, the natives who were born from 2002 or 2003 onward share this—that is, Generation Z, who at this moment are around their twenties, who are still not absolutely native in the sense that their parents are not digital natives and, therefore, in the part of education they receive, especially in families where books live in the home, they are also indebted to the Gutenberg galaxy. Therefore, they are not stripped of the shadow of the book, but rather the book is still operative in the mentality of those young people.

I have just taken part in a very interesting project titled *El Futuro es Ahora*, a project that has managed to bring together more than fifteen thousand surveys of young people of this generation, in which they were asked to reflect, trying to identify where what they think, what they feel, and what they aspire to lies, and it is curious how deep a connection they have with many of the values that we are pointing out here. That is to say, I am not worried about young people, but about the reaction of those of us who are not so young to the phenomenon we are describing. Moreover, these young people, and particularly my daughters or the children of some of those of us here, who are eight years old, will probably go through educational projects in which critical skills contribute to an emancipation with respect to the relationship they maintain with technology.

Will it be possible to socialize it? I believe so, through educational guidelines. A new *paideia* needs to be rebuilt for educational regulation that sets out the introduction

of critical skills and emancipatory capacities. This connects with the reflection on privacy and intimacy that the senator raised. I completely agree that we are evolving on the basis of the authors he cited. It has been a scenario in which we are closer than we think to a panopticon. I am referring to Bentham's panopticon, which identified and analyzed very well the twenties of the nineteenth century, which is in some way the model of a capitalism that, through its platform design, is indeed using our data in an extractive way, which despite the protection that data has through regulations and legislation as already exist—this is a first step—nevertheless, allowing data by aggregation, which are associated with our footprint, does not fully protect us in our privacy. By introducing small variables into the data, it is perfectly well known who is behind an IP address, despite the application of the regulation that is, through the free data protection, sheltering and protecting us in our intimacy and privacy. Therefore, we need to go further in the governance model and generate cybersecurity structures in the very governance that protects our data. This brings me to the reflection that he raised about capitalism.

I'll finish now, Chair, because I am abusing the patience of Your Honors, as they say in Spain. Of course, capitalism has swallowed capitalism, the Representative was saying, and so how do we put the bell on the cat. Capitalism has swallowed capitalism in the sense that we are facing a cognitive capitalism, which, I insist, treats us strictly as consumers and generators of data and, therefore, has modeled a new design. Original capitalism was based on a responsible action at the time of the setting that regulates prices, because it was assumed, following Adam Smith, that the spontaneity of the market that set prices, within a framework of fair competition, matched our desires with our needs and our economic capacities in a rational exercise of decision. That design is not part of the approach that lies behind what moves us to download a given application. The exercise of the action that fixes the economic decision in an analog market is not a rational element, but here rationality does not operate, because this is evolving more and more toward the symbolic and magical sphere than toward the rational sphere.

How do we put the bell on the cat? By trying to align the assets that public authorities have when designing a legislative agenda. It is necessary to identify what assets States have. For example, France has done so with its strategic plan on artificial intelligence, and Europe is now going to do so with the artificial intelligence regulation, and it has identified what its capabilities are. France identified very early that it had a great capacity to develop very complex algorithms that will manage data in the field of the Internet of Things. Why? Because the matrix foundations of those algorithms require theoretical mathematicians, and France is an extraordinarily well-positioned country in the field of theoretical mathematics. Therefore, it has the capacity to do it by aligning those resources, and it has created an agency that organizes the networked work of all the mathematicians and has associated them with German mathematicians. For what? To develop an artificial intelligence model at the service of certain strategic interests

of France, which seek to safeguard its strategic competitiveness in sectors such as the arms industry, culture and heritage protection, the agri-food and wine industry—at this moment they have an enviable smart farming design at the global level—and the automobile industry around the autonomous vehicle. That is to say, it has understood and identified its assets and has aligned them in a national strategy based on a principle of responsibility. That governance model makes it viable to introduce control mechanisms that can put the bell on the cat.

The reason is not only one of size. Uruguay has an enviable and highly desirable level of technological infrastructure. Why? Because it has an enviable field of experimentation for design, based on the data traffic that it is able to manage, for pilot projects of all kinds, for example in the field of 5G. 5G is fundamental and experimental laboratories are needed, and Uruguay has the capacity to become an experimental laboratory, because it has technological infrastructure that is unique in Latin America. Spain has it in Europe. We have more fiber deployed than Germany, Italy, France and the United Kingdom combined. Only Finland surpasses us.

Therefore, the different alignments and assets have to be identified. Why, for example, can Uruguay also have a competitive advantage in the management of its data? Because the complexity of the data that Uruguay contributes brings it very close to Europe, because of its income levels, its educational levels, its levels of distribution of wealth and of managing complexity without polarities. That is to say, the data that networks in Uruguay contribute have a higher value—I don't want to make a comparison—than other neighboring countries or countries of the region. That, together with being a place where there is a rollout of technological infrastructure and an institutional experience of governance, positions it as a digital nation, with capabilities that others do not have, and that makes it attractive. It is no coincidence that this country has a unicorn and probably has one more, for its size, among the twenty-two unicorns that Latin America has.

Those are the possibilities that an artificial intelligence strategy could perfectly well identify the assets and align them. That is where there are successful regulations. For example, as I was pointing out with the French case.

I will conclude by thanking you for the opportunity to speak today in front of all of you.

Thank you very much.

(Applause)

THE CHAIR.— Thank you very much, José María.

A special thanks to the Catholic University, to Facundo, to Ana Fascioli and to Miguel Pastorino, and to all of you for taking part.

I take this opportunity to say that in the Commission on Futures, members of all the parties are working—they can't let me lie because several of them are present—to propose for Law No. 20,000, which is very close now, a legal commission of experts—there are precedents in Parliament—to seek a charter of digital rights within a timeframe that will be determined in Parliament, which could be six months. The idea is to use Law No. 20,000, which is a symbolic number, for something that truly projects us into the future.

So we have been talking in recent days with Senator Nane, with the Partido Colorado and with Cabildo Abierto, so that in the coming weeks—three laws remain before No. 20,000—both in the Chamber of Representatives and in the Senate, we can create a commission of experts so that within six months a charter of digital rights is proposed to us, in order not to be left behind in this matter that today became clear is more necessary than ever, and at the very least we can debate it.

Thank you, professor. We will have you again, God willing.

Thanks to the Catholic University and to everyone for taking part.

(Applause)

—The meeting is adjourned.

(The time is 16 hours and 33 minutes)

Montevideo, Uruguay . Legislative Branch.