Damian Tambini, **Media Freedom**, Medford, MA: Polity Press, 2021, 224 pp., $69.95 (hardcover), $24.95 (paperback), $20.00 (e-book).

Reviewed by
Andrei G. Richter

Comenius University in Bratislava, Slovakia, richter.andrei@gmail.com

At least statistically, the book under this review raises a lot of questions, though provides only a few answers. The question mark appears there 146 times, 102 times the author uses the word “question” in his text, and only eight times writes “answer.”

Damian Tambini is an expert analyst and a scholar of media freedom, he serves as Associate Professor at the prestigious London School of Economics (LSE), occasionally advising ad hoc committees of the European Commission and the Council of Europe on media freedom related issues. Prior to the LSE, he headed the the Programme in Comparative Media Law and Policy at the Centre for Socio-Legal Studies, a constituent part of the Law Faculty of the University of Oxford.

In the book’s introductory chapter, Tambini opens his cards by raising the really pertinent issues on media freedom in today’s world and sets the intrigue by promising to deal with them with “a new approach to democratic communication that runs with the grain of the history of press and speech freedom” (p. 2). Such an approach apparently leads the author to design a theory that will guide a reform of media governance and legal judgements on freedom of expression. Chapters 2 and 3 of the book are on the history of media freedom law and policy intertwined with the history of the media themselves. The last three chapters provide and explain author’s vision for contemporary and future media governance. In particular, Chapter 5 presents the essence of the new media theory, while Chapter 6 covers an application of this theory to Internet and social networks.

In the author’s analysis, I find paramount his presentation of the theory. The author rightfully suggests to merge the positive and negative approaches to media freedom. He considers media freedom granted, as an institutional one (p. 133), to internet-based media and some intermediaries, which have replaced press and broadcasting in the “information ecology” (p. 126). He suggests and briefly describes 10 key principles of media freedom (p.136-138), though, at least to me, they look more like ten considerations. Then he explains the key challenges to the current “impasse” with understanding of media freedom: the role played by the AI, jurisdiction issues, content liability, and news funding.

The author ambitiously suggests that the stakeholders compile a new “social contract” between “citizens, state and media”, (p. 164) as the basis for media regulation in the future. The contract shall provide those recognized as the media (in fact, big social media companies) certain privileges through an exchange of their monopoly for responsibility, duty of care and self-regulation (p. 158). A violation of the social contract shall lead to a loss of the media status, as decided by “an independent commission”, separate from the state (pp. 140, 163-164). Tambini ambitiously calls this social contract “The First Settlement” (p. 150), and draws the following parallel with the First Amendment:

“The US Supreme Court’s reinterpretation of the First Amendment in the early twentieth century shaped liberal politics for a century. It is time for a reinterpretation that permits a new age of institution building and a new settlement for our new media.” (p. 177).

In the course of learning the history of media freedom, the author persistently compares and separates the approaches that have emerged in the US and the elsewhere of the world. He insists, again and again, on US being an “outlier” (pp. 9, 27, 67), on its “exceptionalism” (through “claiming” – *sic!* – that their standards are higher than elsewhere, p. 50), and on the US “divergence” and “deep divisions” (pp. 8, 49, 69) with the rest of the world and “global standards” of the UN. Often, the rest of the world comes to “Europe”, or the European Union, or the Council of Europe, or just the UK. At one point, the author rightly acknowledges that the book focuses on the examples of the US and the UK, as those being most familiar to him (p. 32). Therefore, a curious reader will not see in the chapters even mentions of media freedom concepts or policies in the “other” Europe of the former Soviet countries, such as Russia or Ukraine.

I find the main weakness of the book in author’s trying to set aside and isolate the US concepts on media freedom from the rest of the world. With all available criticism of the state of media freedom in America, especially in recent years, its alienation with other democracies looks artificial. Moreover, the author himself points to the similarities between the First Amendment and the European Convention on Human Rights (p. 134), while of course the role of the Americans in drafting UN principles on human rights cannot be overestimated. Perhaps, the real “divergence” is to be found between the liberal media standards shared by both US and other democracies, and the attacks on media freedom foundations, including theoretical ones, coming from the populist “illiberal states” of Central Europe, or autocracies in Russia and Belarus, or many other alien to both traditional and modern human rights concepts governments in the world. None of them, alas, are taken into account in the book.

Tambini’s interpretation of the history of media regulation in the US and the UK also seems to be patchy. Speaking of the UK, Tambini fails to even mention the Bill of Rights (1688), though he describes its French and US equivalents. He would render the ideas of the first Royal Commission on the Press, but forgets the subsequent two Royal Commissions.

Speaking of the US, Tambini debates a lot about the “public interest” standard in licensing, but only in the past tense (p. 85, 88, 94), while it is – though lacking “teeth” after the fall of the Fairness Doctrine (the latter’s substance was, unfortunately, left unexplained by the author) – still in place (FCC, 2021, Introduction), and, moreover, “persists” (Trager, et.al., 2018, 407). Tambini puts, in contrast to Europe, the lack of a “strong doctrine” of “watchdog” function of the press in the US (p. 54, 63), while other scholars believe it is well-developed in the case law of the Supreme Court, including in its arguments in the Pentagon Papers judgment (Carroll, 2020, p. 543). Facts also do not prove the “marginal” (p. 92) position of non-commercial broadcasting, such as the NPR, with its millions of consumers (Folkenflik, 2020).

The book abounds in contextual information on its subject-matter, with plenty references to sources and facts. Still, it’s style is purely academic, so most likely its target audience are researchers of media law and policy, and, hopefully, it will be found useful by policy-makers internationally.

The next edition of the publication would gain from better editing, as the author incidentally mixes Freedom House with Freedom Forum (p. 111), ICCPR with UDHR (p. 51), taxation with the household fee for PSB in Germany (pp. 95-96), *Groppera* case with *Centro Europa* (pp. 86-87, fn 90), the exact number of criteria for the new notion of the media, developed by the Council of Europe (six, not five, p. 167).

Alan Rusbridger, the former editor of *the Guardian,* who currently leads *Prospect* magazine in the U.K., endorsed the book by Tambini as “a comprehensive and compelling guide to the arguments we need to have” in the battles over media freedom. The arguments in question might provoke counter-arguments, but raising the issues of media freedom is exceptionally important at this stage, when the world contemplates with awe the related technological transformations and disinformation attacks, that are happening in the media field in so many ways. The text adds to the breadth and depth of the discussion on both what are “the media” today, and what is the grain in “media freedom”, the battles over which will continue.

**References**

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