



Universidade de Brasília
Faculdade de Direito

PLANO DE ENSINO

DIREITO, INTERNET E SOCIEDADE: TEORIA SOCIAL E JURÍDICA PARA A COMPREENSÃO DA INTERNET

DISCIPLINA DE PRÁTICA E ATUALIZAÇÃO EM DIREITO (PAD) GRADUAÇÃO EM DIREITO (FDD) – 2018/2

PROFESSOR ALEXANDRE VERONESE.

Ementa: A disciplina oferta conteúdos formativos básicos de teoria do direito e de teoria social. A teoria jurídica básica é aquela que se convencionou chamar de Realismo Jurídico. Todavia, vários dos autores listados se encontram no campo do “Critical Legal Studies” ou do “Law and Society”. As teorias sociais mobilizadas estão situadas no debate contemporâneo, ao redor de dois autores: Manuel Castells e Bruno Latour. O objetivo central da disciplina é fornecer um acervo teórico para melhorar – do ponto de vista teórico – as pesquisas em andamento sobre Internet na área de direito.

Metodologia: Serão realizados seminários semanais, com debate presencial sobre os textos disponibilizados na disciplina.

Avaliação: Será demandado um trabalho final para avaliação.

PROGRAMA E CRONOGRAMA DO CURSO.

LEITURAS NECESSÁRIAS AO LONGO DO CURSO.

LATOUR, Bruno. **Jamais fomos modernos**. São Paulo: Ed. 34, 2009.

LATOUR, Bruno. **Ciência em ação**. São Paulo: Editora da UNESP, 2012.

LATOUR, Bruno. **Reagregando o social: uma introdução à teoria do ator-rede**. Bahia: Editora da UFBA, 2012.

AULA 1. Teoria da informação e direito

BOYLE, James. A theory of law and information: Copyright, spleens, blackmail, and insider trading. **California Law Review**, v. 80, p. 1413, 1992. Disponível:

https://scholarship.law.duke.edu/faculty_scholarship/166/

AULA 2. "Lex informática" – entre ciberlibertarianismo e regulação: os primórdios

REIDENBERG, Joel R. Governing networks and rule-making in cyberspace. **Emory Law Journal**, v. 45, p. 911, 1996. Disponível:

https://ir.lawnet.fordham.edu/faculty_scholarship/29/

REIDENBERG, Joel R. Lex informatica: The formulation of information policy rules through technology. **Texas Law Review**, v. 76, p. 553, 1997.

Disponível: https://ir.lawnet.fordham.edu/faculty_scholarship/42/

AULA 3. Constituição e Internet: filosofia social de Lawrence Lessig.

LESSIG, Lawrence. The constitution of code: limitations on choice-based critiques of cyberspace regulation. **CommLaw Conspectus**, v. 5, p. 181, 1997. Disponível:

<https://scholarship.law.edu/commlaw/vol5/iss2/5/>

LESSIG, Lawrence. The law of the horse: What cyberlaw might teach. **Harvard law review**, v. 113, n. 2, p. 501-549, 1999. Disponível:

<http://wilkins.law.harvard.edu/podcasts/AudioBerkman/old/199/1999-05.pdf>

LESSIG, Lawrence. Reading the constitution in cyberspace. **Emory Law Journal**, v. 45, p. 869, 1996. Disponível:

<http://moglen.law.columbia.edu/CPC/archive/const-theory/lessig-reading.pdf>

AULA 4. A regulação pelo Código, de Lawrence Lessig.

LESSIG, Lawrence. **Code: version 2.0**. New York: Basic Books, 2006. Capítulos 1 até 5 (p. 1-80).

LESSIG, Lawrence. What things regulate speech: CDA 2.0 vs. filtering. **Jurimetrics**, v. 38, n. 4, p. 629-670, 1998.

LESSIG, Lawrence. Law regulating code regulating law. **Loy. U. Chi. LJ**, v. 35, p. 1, 2003. Disponível: <https://core.ac.uk/download/pdf/28950514.pdf>

AULA 5. Expandindo Lessig: mudança jurídica ou cultural?

GRIMMELMANN, James. Regulation by software. **Yale Law Journal**, v. 114, p. 1719, 2004. Disponível:

<https://www.yalelawjournal.org/note/regulation-by-software>

FRIEDMAN, David. Does technology require new law. **Harvard Journal of Law & Public Policy**, v. 25, p. 71, 2001. Disponível:

<https://digitalcommons.law.scu.edu/facpubs/22/>

ROSS, Richard J. Communications Revolutions and Legal Culture: An Elusive Relationship. **Law & Social Inquiry**, v. 27, n. 3, p. 637-684, 2002.

Disponível: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=333042

AULA 6. Expandindo Lessig: comunitarismo de rede.

MURRAY, Andre D. Nodes and gravity in virtual space. *Legisprudence: International Journal for the Study of Legislation*, Hart Pub., v. 5, n. 2, out./2001, p. 195-221.

MURRAY, Andrew D. **Information, technology, law: the law and society**. Oxford: Oxford University Press, 2013. Capítulos 3 e 4 (p. 37-83).

AULA 7. Pluralismo jurídico e Internet.

BERMAN, Paul Schiff. Cyberspace and the state action debate: the cultural value of applying constitutional norms to private regulation. **University of Colorado Law Review**, v. 71, p. 1263, 2000. Disponível:

<https://core.ac.uk/download/pdf/13527591.pdf>

BERMAN, Paul Schiff. The Globalization of Jurisdiction: Cyberspace, Nation States, and Community Definition. **University of Connecticut School of Law**, 2002. Disponível: <https://core.ac.uk/download/pdf/13527591.pdf>

AULA 8. Autonomia regulatória dos objetos.

HUNTER, Dan. Cyberspace as Place and the Tragedy of the Digital Anticommons. In: **Law and Society Approaches to Cyberspace**. Routledge, 2017. p. 59-139. Disponível:

<https://scholarship.law.berkeley.edu/californialawreview/vol91/iss2/4/>

LASTOWKA, Greg. Google's Law. **Brook. Law Review**, v. 73, p. 1327, 2007. Disponível: <https://works.bepress.com/lastowka/4/>

BOYLE, James. Foucault in cyberspace: Surveillance, sovereignty, and hardwired censors. In: **Law and Society Approaches to Cyberspace**. Routledge, 2017. p. 235-263. Disponível:

https://scholarship.law.duke.edu/faculty_scholarship/619/

AULA 9. Direito privado e Internet: ainda, objetos.

RADIN, Margaret Jane. Humans, computers, and binding commitment. **Indiana Law Journal**, v. 75, p. 1125, 2000. Disponível: <https://www.repository.law.indiana.edu/ilj/vol75/iss4/1/>

RADIN, Margaret Jane. Property Evolving in Cyberspace. **Journal of Law & Communications**, v. 15, p. 509, 1995.

RADIN, Margaret Jane. Regulation by contract, regulation by machine. **Journal of Institutional and Theoretical Economics JITE**, v. 160, n. 1, p. 142-156, 2004. Disponível: https://papers.ssm.com/sol3/papers.cfm?abstract_id=534042

RADIN, Margaret Jane. Online standardization and the integration of text and machine. **Fordham Law Review**, v. 70, p. 1125, 2001. Disponível: <http://fordhamlawreview.org/issues/online-standardization-and-the-integration-of-text-and-machine/>

AULA 10. O debate da liberdade de expressão.

BALKIN, Jack M. Digital speech and democratic culture: A theory of freedom of expression for the information society. **New York University Law Review**, v. 79, p. 1, 2004. Disponível: http://digitalcommons.law.yale.edu/fss_papers/240/

BALKIN, Jack M. The future of free expression in a digital age. **Pepperdine Law Rev.**, v. 36, p. 427, 2008. Disponível: http://digitalcommons.law.yale.edu/fss_papers/223/

BALKIN, Jack M. Free Speech is a Triangle. SSRN, 2018. Disponível: https://papers.ssm.com/sol3/papers.cfm?abstract_id=3186205

AULA 11. Direito e vida social.

COHEN, Julie E. Cyberspace as/and Space. **Columbia Law Review**, v. 107, p. 210, 2007. Disponível: <https://scholarship.law.georgetown.edu/facpub/807/>

COHEN, Julie E. Configuring the networked citizen. 2012. Disponível: <https://scholarship.law.georgetown.edu/facpub/803/>

CRAWFORD, Susan P. Network Rules, **Law and Contemporary Problems**, v. 70, p. 51-90, 2007. Disponível: <https://scholarship.law.duke.edu/lcp/vol70/iss2/4/>

AULA 12. A autocomunicação de massa e o poder contemporâneo.

CASTELLS, Manuel. **O poder da comunicação**. São Paulo: Paz e Terra, 2015, capítulos 1 até 3.

CHANDER, Anupam. How Law Made Silicon Valley. **Emory Law Journal**, v. 63, p. 639, 2013. Disponível: <http://law.emory.edu/elj/content/volume-63/issue-3/artides/how-law-made-silicon-valley.html>

AULAS 13 e 14. Os estudos sociais sobre a ciência e tecnologia.

McGEE, Kyle. **Bruno Latour: the normativity of networks**. London: Routledge, 2014, capítulo 1.

EPSTEIN, Dmitry; KATZENBACH, Christian; MUSIANI, Francesca. Doing internet governance: practices, controversies, infrastructures, and institutions. **Internet Policy Review**, v. 5, n. 3, 2016. Disponível: <https://policyreview.info/artides/analysis/doing-internet-governance-practices-controversies-infrastructures-and-0>

HOFMANN, Jeanette; KATZENBACH, Christian; GOLLATZ, Kirsten. Between coordination and regulation: finding the governance in Internet Governance. **New media & society**, v. 19, n. 9, p. 1406-1423, 2017. Disponível: https://papers.ssm.com/sol3/papers.cfm?abstract_id=2836068

MILAN, Stefania; TEN OEVER, Niels. Coding and encoding rights in internet infrastructure. **Internet Policy Review**, v. 6, n. 1, 2017. Disponível: <https://policyreview.info/artides/analysis/coding-and-encoding-rights-internet-infrastructure>

POHLE, Julia; HÖSL, Maximilian; KNIEP, Ronja. Analysing internet policy as a field of struggle, **Internet Policy Review**, v. 5, n. 1, 2016. Disponível: <https://policyreview.info/artides/analysis/analysing-internet-policy-field-struggle>

DE FILLIPI, Primavera; HASSAN, Samer. Blockchain technology: from "code is law" to "law is code". **First Monday**, v. 21, n. 12, 2016. Disponível: <http://firstmonday.org/ojs/index.php/fm/article/view/7113>