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Debate on the Quality of Judicial Decisions (from Theory to Practice)

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ABSTRACT : The judicial decision is much more than compliance with legal norms, the judicial production of the law itself is present. There are methods to optimize judgment by granting it reliability, but the study-debate on optimization mechanisms have been continually disregarded. The process of judicial decision-making is one of the most complex, since this decision escapes in its essence the Theory and Philosophy of Law and fits more deeply into the intimacy of the "agent" of the decision whose universe is to be understood. The authority it judges fulfils a duty of State and at the same time exercises a flexible part of its own obligations and limits in the isolation of its individuality and under the flow of procedures that hang between the content of the decision and its formal externalization, the judgment.The theme of the judicial decision on which this reflection intends to delimit the epistemic fields that law faces: the problem of unlimited space that contemplates the debate on the rational production of decisions and aims to contribute to the advancement of the bases of theoretical and practical rigor necessary for the constitution of a Theory of Judicial Decision. This research seeks to visualize the growing, complex and sophisticated context in which Western democracies have witnessed the increase of rational demands for the improvement of human rights guarantee institutions.

KEYWORDS: *Secrecy of Justice, Freedom, Ethics, Judicial Decision, Performance Indicators of Judicial Decision (KPi's).*

I. INTRODUCTION

At a time when the legal culture is growing in judicial protagonist, it is necessary to face the control of the publicity of judicial decisions. It is in this context that the article makes an invitation to reflection and debate on how to give rational justification for judicial decisions.

The text is divided into three chapters. The first indicates the context and pretext for the text developed, after modernity, the contemporary debate around fundamental rights and the effectiveness of the fundamental right to rational justification of judicial decisions. In the second chapter, the question of the rationality of decision will be investigated in the view of authors widely investigated by contemporary legal theory. In the third and final chapter it is proposed the systematization of criteria capable of providing the measurement of that rationality, because it is understood that, once the rationality of the judicial decision is confirmed, effectiveness will have been lent to the fundamental right insculpido in art. 93, IX of the Political Charter.

It turns out that this contemporary debate around fundamental rights is legally emptied if conducted only on extralegal bases, that is, sociological, philosophical, political, historical, etc. It is necessary to provide a means of providing traffic and exchange between these various forms of apprehension and reflection of experience.

Surprising the right through this linguistic perspective it is possible to promote incisions in the phenomenon that will cause several layers of language to emerge, which, if properly considered, facilitate the full understanding of the integrality of the observed object. Based on the chosen bias, the right can be analyzed as a system of utterances modeled in prescriptive language. Not that the right is reduced only to this system of statements,

In fact, semiotics provides the perception of an epistemological cut as a starting point for all other possible investigations that are intended to be undertaken about the phenomenon. Here is the usefulness of the semiotic option. It is based on this semiotic option that the distinction is made between prescriptive utterances and legal norms, a very important distinction for the fixation of methodological and conceptual premises that are used throughout the work. The above option also facilitates the understanding of the existence of the various layers of language in which the legal phenomenon is manifested, especially the languages of positive law and the metalanguage of the science of law, each with its own contours.

In the language of positive law it is possible to surprise the right as a system that has a vast repertoire of elements, principles and rules, assembled by force of a structure, which maintains the unity and cohesion of the system, allowing its patronization. The communicational bias of the legal phenomenon also allows the understanding that this phenomenon manifests itself in at least four logical planes – general, individual, abstract and concrete – making it possible to cut the path of constructing the meaning of the phenomenon, facilitating the compartmentalized approach of the phenomenon.

All these concepts of general theory of law are theoretical assumptions so that a concept for fundamental rights can be proposed, a category within which the right of rational justification of judicial decisions is included, the central object of investigation.

Here there is an alert to the fact that once the investigation in the temporal quadrant of postmodernity is contextualized, rationality will be faced without rescues of matrices external to this context. Thus, some contemporary theories that are concerned with the issue of rationality in the legal sphere will be investigated. The first theory investigated is that of law as integrity proposed by the Englishman Ronald Dworkin which develops around the pretext of the debate about the possibility of a single correct decision for each specific case that is presented to the legal assessment.

Then, the argumentative rational discourse of the German Robert Alexy is the target of speculation, when then it will be demonstrated how the author maintains that legal discourse is a special case of rational practical discourse. Next, it is the turn to analyze the theory proposed by another German, NiklasLuhmann, with his systemic theory. To close this investigation about rationality in its contemporary features, the rational acceptability proposed by the Finnish Aulis Aarnio is investigated. Having demonstrated the contemporary contours of legal rationality, the time has come to systematize criteria that, according to the position defended in this work, enable the realization of the fundamental right to rationally base judicial decisions.

In this sense, it is affirmed that decision-making rationality is verified both internally and externally. The criteria for the measurement of the internal rationality of the decision are pointed out:

(i) the consistency and procedural correction of the decision, when the validity and effectiveness of the prescriptive statement embodied in the judicial decision are analyzed.
(ii) the proper structuring of the decision-making statement.
(iii) the verification of the statement regarding due process, broad defense, and adversarial proceedings; and
(iv) the enunciation of the catalyst facticity of judicial activity.

About the external rationality of the decision, they are pointed out as a criterion for its measurement,

(i) the validity, validity, and effectiveness of the legal grounds for the decision.
(ii) (ii) the proper interpretation of the statements adopted as legal grounds for the decision.
(iii) (iii) the decision-making alignment with the agenda of legal values of the political community.
(iv) (iv) the alignment of interpretations to the agenda of fundamental objectives of the political community.
(v) (v) the preservation of the legal principles relied upon and possibly colliding.
(vi) (vi) decision-making alignment with precedents.
(vii) (vii) the narrowing of the linguistic MIOLO_Teoria between decisão_040915_Leticia.indd 13 04/09/15 14:54 14 science and case law.
(viii) (viii) the universality of the reasons for deciding.
(ix) (ix) the possibility of normative renewal of the decision; and
(x) (x) the empirical congruence of the decision.

Each of these criteria has clarified its theoretical contours, so that one can understand how to apply them effectively.
At this introductory moment it seems useful to borrow the warning of Laurence Tribe and Michael Dorf (2007, xlviii), according to which in no way is it pretense to provide the reader with the last key to the full understanding of the legal phenomenon. The goal carried out here is to simply systematize what throughout human experience is already made available to the interpreter of law, but perhaps in a diffuse way, thus providing a low understanding of its infinite possibilities.

I. SCIENTIFIC METHOD

Introduction

This is an exploratory study that seeks to clarify and organize the concepts presented in the literature of legal sciences, communication sciences, information science and other sciences. It is not a proposal of new terms and concepts, but an organization that allows to identify a common denominator between the different concepts already indicated in the literature, in a way that allows its grouping by identity, application / use and pertinence / aggregation of value in the context, in which the terms are inserted. Data collection is characterized by bibliographical research, on the terms and concepts related to the disciplines of justice and social well-being of people.
It is a descriptive and analytical approach seeking to know and analyze existing cultural and/or scientific contributions on this subject, from the literature review. The research was structured based on the systemic approach to understanding the problems of postmodernity, seeking in practical, operational or application terms the solution of "real life" problems of organizations and people.

Theme and Search Problem

The development of science has been based on the objectives of understanding nature and the phenomena linked to the real world in the last four centuries. For this, scientific knowledge was subdivided into thousands of disciplines that, very successfully, made the sciences evolve. This advance eventually generated classical science, which uses often ineffective methods to deal with some of the most complex contemporary problems. Thus, new sciences emerged in the post-war period and developed differently from classical science, presenting, as one of its identifying traits, interdisciplinary practice, necessary for the development of its research.
Currently, the terms justice, rationality of judicial decision, judicial legislation is part of the scientific vocabulary and have their concepts more or less defined (although still distant from consolidation), by the need of the current scientific field, immersed in increasingly complex and diversified projects, and a "[...] increasingly intense mobilization of knowledge converging in view of action" (Japiassu, 1977, p.44).
Globalization and technological development have posed new challenges to governments and judicial systems regarding the organization, response capacities, but also the challenges and motivations that allow anticipating future behaviors related to ignorance and idiosyncrasies underlying the myopia of their visions.

Questions for debate

1. Are human rights guaranteed by the Judicial Decision of Human Justice?
2. Do the attitudes and behavior of judges contribute to improving the Quality of The Judicial Decision?
3. Does the debate on fundamental rights and the rational justification of judicial decisions contributeto improving the quality of judicial decisions?
4. What will be the metrics to assess the Quality of the Judicial Decision?

Goals

The Charter of Fundamental Rights of the European Union recognizes a wide catalogue of rights for citizens and residents of the European Union. The Charter includes civil and political rights, economic, social, and cultural rights, as well as "third generation" rights, such as the right to the protection of personal data.
Solemnly proclaimed in Nice in December 2000, the Charter has been legally binding since the entry into force of the Treaty of Lisbon in December 2009 (see Article 6 of the Treaty on European Union).
The scope of the Charter is restricted to the scope of EU law, i.e. it binds the institutions, bodies and bodies of the European Union in all its activities, but it is binding only on the Member States when they apply EU law.
The **European Union Agency for Fundamental Rights provides** an online tool on the Charter, including the full text of the letter, legal explanations of the articles, relevant national and Union case-law.
This article seeks to contribute to the debate of conceptual understanding of the importance of meanings and concepts related to judicial decision, within the scope of legal sciences and social sciences, among others, from a theoretical framework. The objective is to analyze the scientific research developed by the Sciences, which participate in more than one area of knowledge The theoretical discussion of the different concepts and empirical research constitute the basis for the tracing of its structure, presented at the end.
The research focused on the theory of judicial decision, focusing especially on its nature and characteristics, from the analysis of its praxis in investigations involving participation with more than one discipline. Therefore, we studied the main forms of interaction between the disciplines currently present in scientific practices, as well as, we sought to contextualize the area of Legal Sciences in the field of contemporary science, through the analysis of its epistemological characteristics.

Methodological Approach

As for its nature, the research is qualitative since it does not claim to quantify events or privilege the statistical study. Its focus is on obtaining descriptive data, that is, the incidence of topics of interest in fields, such as legal sciences, communication sciences, information science and other sciences. With regard to the extremities, the research is exploratory in nature and descriptive in nature, to the extent that

the technique used is categorized, consensually, as a study of direct documentation, which provides for the consultation of sources related to the study in *different media*, printed or electronic.

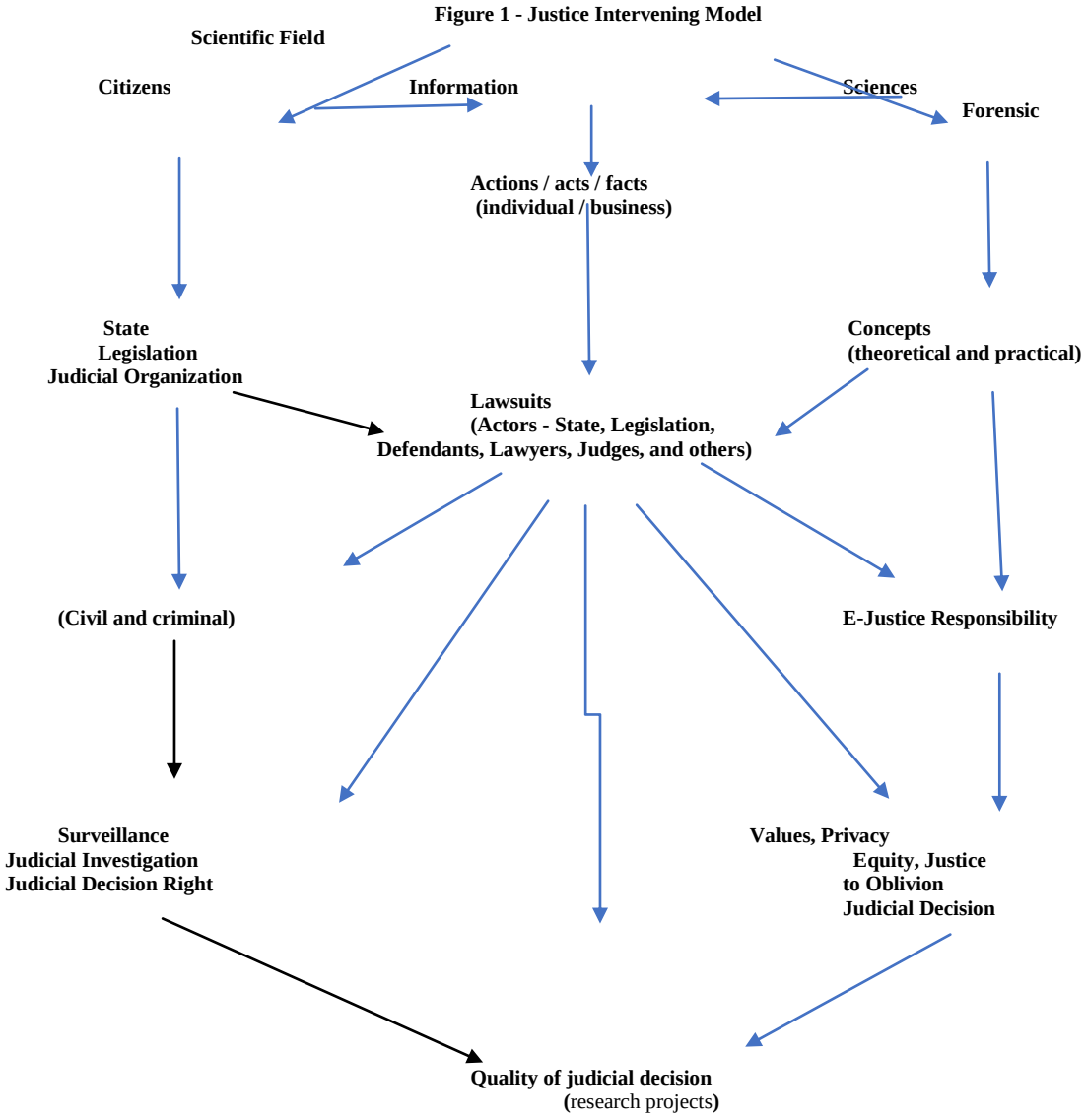
The complexity and turbulence of the digital society have led to the globalization of information on the problem of judicial processes and consequences, as essential processes for the development and innovation of sciences and technologies. Information is the source of the energy that drives the "*engines*" of the Digital Society, but in order to use it we need to convert it into a usable form: knowledge (Murteira, 2001).

The research method is likely to cause two or more sciences to interact with each other. This interaction can go from simple communication of ideas to the mutual integration of concepts, epistemology, terminology, methodology, procedures, data, and research organization. Data collection is characteristic of bibliographic research, on terms and concepts.

It is necessary to understand, through a theoretical review of the concepts, through the historical reference documents; of a psychosocial analysis of the concepts of Secrecy of Justice, Freedom, Ethics, Privacy, Equity, Right to Oblivion, Justice, Judicial Decision, Performance Indicators of Judicial Decision (KPi's), applied to the Legal Sciences and social sciences; the normative framework in which they fit; the Internet, as a platform for the exercise of human action and the problems associated with it; digital data, surveillance of citizens; the social engineering of power; online social networks and spaces of trust and conflict.

It is a descriptive and analytical approach seeking to know and analyze existing cultural and/or scientific contributions on this subject, from the review of existing literature. The research was structured based on the systemic approach to understanding privacy problems and the right to inform, in the Knowledge Society, Complex and Turbulent. We represent this conceptual network, as follows:

Figure 1 - Justice Intervening Model



Source: own elaboration

The model of approach to intervention in information actions , in the academic space, with the purpose of production and information sharing and knowledge, among the participants, in addition to the promote the development of search, recovery, organization, appropriation, production and dissemination skills of relevant information to scientific researchers, judicial managers and other interest groups in society.

II. THEORETICAL-METHODOLOGICAL FRAMEWORK OF RESEARCH

FUNDAMENTAL CONCEPTS

Honesty

Honesty is a value **or quality proper to the human being who has a close relationship with the principles of truth, justice and moral integrity**. An honest person is one who always seeks to precede the truth in his thoughts, expressions, and actions.

Throughoutthe history of philosophy, honesty has been studied by many thinkers. For example, Socratesdevoted himself to investigating its meaning and to inquire what honesty really is. Later, philosophers like Kant defined a series of general ethical principles that included honest conduct among them. Another philosopher, Confucius, differentiated different levels of honesty to ethics and according to their degree of depth were called Li, Yi and Ren. It is a matter of debate whether honesty is an innate characteristic of the human being or whether it is the result of their interaction in society.

In this sense, honesty (as an ethical or moral quality of society) is also linked to sincerity, coherence, integrity, respect and dignity. But since human truth can never be absolute, honesty is also a subjective value, as it depends on the context and the actors involved. Therefore, it becomes difficult to establish moral parameters sharing by a society or a culture or other, and even between groups or individuals. And these conceptions can change radically and what for some is a demonstration of honesty, for others is not.

In the different fields of a society, the concept of honesty is variable and privilege able. For example, in science honesty is a priority, but in political areas this notion is much more debatable. However, the contamination of honesty has reached several fields in which the sentence of this fact is very versatile and depends on the standards applied. Thus, while a dishonest event is repudiated without hesitation by the entire scientific community, when a contagion or fraud is demonstrated, unfortunately this example is not recognized on many occasionsin the powers of the State.

What are the values of honesty:

- **Respect** - is the ability to consider the feelings of others.
- **Honesty** - is a fundamental value for the human being and can influence every aspect of a person's life. With honesty, there is no hypocrisy or artificiality that creates confusion and mistrust in the minds and lives of others. Honesty contributes to a life of integrity because the inner self and the outer self are an image in the mirror.
- **Humility** - virtue characterized by awareness of one's own limitations, modesty, simplicity.
- Empathy - Empathy is the intention to understand feelings and emotions, trying to experience objectively and rationally what another individual feels. The word empathy is of Greek origin "*empátheia*" meaning "animated".
- **Sense of justice** - There is still what is called a "sense of justice" that translates into a moral virtue present in each individual, which **is the actor of practicing justice** according to some principles, rights, honor, duties and freedom imposed on him.
- **Education** - means the medium in which the knowledge, habits, customs, and values of a community are transferred from one generation to the next generation.
- **Solidarity** - is the noun that indicates the **quality of solidarity and a sense of identification in relation to the suffering of others**. The word solidarity originates in *the French solidarité* which can also refer to a reciprocal responsibility.
- **Ethics** – is the part of philosophy responsible for the investigation of the principles that motivate, distort, discipline or guide human behavior, reflecting respect for the essence of norms, values, prescriptions and exhortations present in any social reality, that is, set of rules and precepts of a value and moral order of an individual, a social group or a society. An example in medicine, it is the set of rules of moral, deontological, and scientific conduct of health professionals in relation to patients.

Equality

Equality is an essential value for the progress and advancement of society as a whole, because it offers the possibility that every human being has the same rights and opportunities and, consequently, that each person can contribute to the whole from his freedom, that he can contribute to his work, his effort, their knowledge and solidarity.

Equality is **the same treatment,** with no difference in race, sex, social or economic condition, physical, mental, intellectual, or sensory condition or of any nature, where all people have the same rights and opportunities.

Equality must **exist for persons before the law to** achieve equality or equitable treatment that seeks to observe the social sphere and the existential conditions of everyone. Equality is **now an essential value for the real progress** of society.

Inclusion

Citizenship presupposes giving everyone equal treatment. It is a way of opening equal opportunities, even for those who seem "different". Citizenship is forged in the consciousness of the EU, is based on inherited duties and values, is strengthened in the exercise of conquered rights, expands in the insertion of the individual in the social space that belongs to him. A full citizen is one who recognizes himself, as an entire being, as a capable being, despite the possible "failure" or "deficit" that carries, are in the physical, intellectual, social, cultural, or economic sphere.

Human Dignity

Human dignity is the right **of every** human being to be respected and valued, as an individual and social, with its characteristics and conditions, simply because it is a person. History shows many cases where human dignity has been subdued. Therefore, it is a fact that the dignity of the human person is not limited to having access to education,health and housing/housing, for example. It also includes the most diverse faces of freedom, work, politics, integrity, among others, and how these values relate.

The principle of human dignity is the basis of virtually every right of democratic countries, since it is the realization that the fullness of the human being must be respected and preserved by the figure of the State, that is, a set of principles and values that has the function of ensuring that every citizen has his rights **respected by the State**. The main objective is to ensure the well-being of all citizens.

The principle is linked to rights and duties, involves the necessary conditions for a person to have a dignified life, with respect to those rights and duties. It also relates to moral values, because it aims to ensure that thecitizen is respected in his questions and personal values.

Many basic rights of the citizen (fundamental rights) are related to the principle of the dignity of the human person, especially **individuals and collectives and social rights.** Respect for fundamental rights is essential to ensure the existence of dignity. It is precisely for this reason that the dignity of the human person is recognized as fundamental by the Constitution.

Individual and collective rights are the basic rights that guarantee equality for all citizens. Some ofthemostimportant are:

- right to life.
- right to security.,
- equal rights and obligations between men and women.
- freedom to manifestation of thought.

- freedomofreligiousbelief.

They are also individual and collective rights: the protection of intimacy, freedom of work, freedom of movement andfreedom to engage in artistic or intellectual activities. Social rights**, on** the other, are rights related to the well-being of the citizen. There are a fewexamples:

- right to education and work.
- ensuring access to health, transportation, housing, security, social security.
- protection of the rights of the work.
- protection for children, maternity, and those most in need.

The dignity of the human **person is a principle of the Democratic Rule of Law**, which is the State that respects and guarantees the human rights and fundamental rights of its citizens. Thus, it can be understood as a principle that places limits on the actions of the State. Thus, the dignity of the human person should be used to base decisions taken by the State, always considering the interests and well-being of citizens.

This means that, in addition to guaranteeing people the exercise of their fundamental rights, the State must also act with sufficient care so that these rights are not disrespected. It is an obligation of the State, through governments, to take measures to ensure the rights and well-being of citizens. Similarly, it is also the state's task to ensure that **fundamental rights are not violated**.

Ethics

According to Du Mont (1991), ethics aims to establish principles of human behavior that help people choose alternative forms of action. These considerations lead to the definitions of ethics and morals, instigating us to refer to deontology as the study of codes or ethics of professions. Targino (2006, p. 135), states that the definitions of ethics originate from the "Greek term ethos, as etymology suggests, is the part of philosophy that deals with reflection on customs, encompassing the guidelines". While the moral "term of Latin mores concerns the acts and customs per se, that is, the set of objective norms of conduct, changeable in time and space".
According to Sá (2007), the word ethics is sometimes associated with the sense of morals, but not always properly. It has also been understood as the science of human conduct before the being and its fellowmen, to study the action of men and their considerations of value. In this research, we emphasize its importance for justice professionals, highlighting ethical performance in the context of today's society and, mainly, about their social responsibility.
In view of the theoretical foundation of the study, we approach the theme of professional ethics linked to the code of ethics, studied by deontology that, according to Targino (2006, p.135) "comes from the Greek deontos, duty; logos, speech or treatise, etymologically equivalent to treatise or science of duty."

Privacy

The origin of the concept of human rights originated in the seventeenth century and is the product of the theory of "natural rights" (Natural rights were established by God and reason, to all men, because they are all equal – Principle of Equality between Men), by John Locke, defender of religious freedom and tolerance. However, in the era before Christ, there was already an embryonic perception of the concept and human specificity:

- Ciro's cylinder decree of 539 BC, - protects the right to equality and religious freedom.
- Pact of the Virtuous (Half-al-foul) – drawn up by Arab tribes around 590 A.D. is considered one of the first human rights alliances.
- No tax may be imposed without the consent of Parliament,
- No subject may be incarcerated for no reason demonstrated (the reaffirmation of the right to habeas corpus),
- No soldier can be quartered in the homes of citizens
- Magna Carta - establishes equality before the law and the right to property.

After King John of England violated several ancient laws and customs, by which England had been ruled, in 1215 his subjects forced – in signing the Magna Carta, which lists what later came to be regarded as human rights. Amongthemwas:

- The church's right to be free from government interference,
- The right of all free citizens to possess, inherit property (s), and be protected from excessive taxes.
- The right of widows to own property and to decide not to remarry,
- Establish the principles of equality before the law. This also contains provisions prohibiting bribery and official misconduct. (A BriefHistoryofHumanRights - The Magna Carta (1215);
- The Petition of Law (1628), - the English Parliament approved a declaration of civil liberties, which safeguards civil liberties, such as the right to *habeas corpus*;
- The Constitution of the United States of America (1787) - defines the basic rights of citizens.

The Declaration of Independence of the United States of America "was the document in which the Thirteen Colonies of North America declared their independence from Great Britain, came to inspire documents of human rights, all over the world". (Declaration of Independence of the United States (1776).
The Constitution of the United States of America (1787) "is the oldest National Constitution, and it defines the main governing bodies, their jurisdictions and the basic rights of citizens." (A Brief History of Human Rights - The Constitution of the United States of America (1787) and the Declaration of Rights (1791).
The Declaration of Human and Citizen Rights (1789) - comes to mark more broadly and significantly the historical process of Western awareness, of the intrinsic value of man. The French Declaration of Human Rights emerged in the context of great political and social under the Enlightenment influence of natural rights and Renaissance ideas that evoked equality among all human beings, calling the ancient ideals into question
The Declaration of Rights (1791) - "... it protects freedom of expression, freedom of religion, the right to keep and use weapons, freedom of assembly and freedom of petition.' (A Brief History of Human Rights - The Constitution of the United States of America (1787) and the Declaration of Rights (1791).
Only in the 19th and 20th centuries, initiatives of some significance were put in place, in the international protection of the human being, namely in the eradication of the slave trade; treaties aimed at improving the conditions of the sick and wounded in the War; the protection of minorities; the creation of the Leagues of Nations; concern for the fair treatment of refugees; the legal status of women, and the establishment of the International LaborOrganization (ILO), with the humanitarian mission to eradicate poverty and social inequalities, alongside concerns of equal opportunities among men.
On 24 October 1945, the United Nations (UN) was established. It had as its founding principle the search for and maintenance of peace, to lift the world on the pillars of freedom and justice, through cooperation between peoples, to strengthen human rights and to seek solutions

to the economic, social, cultural or humanitarian problems that took place after the end of World War II. A war where many atrocities were committed, 6 million lives were lost among soldiers and civilians, entire cities in ruins and flames in which the Holocaust is an example.
The UN Charter itself proclaims in Article 55 that the United Nations must promote "respect for human rights and fundamental freedoms ***for all without distinction as to race, sex language, or religion."*** Art. 55 of the Charter to the UN. In Article 56, member states express a willingness to develop cooperation actions with the UN, both jointly and individually, with a view to achieving those objectives (States with different legal and cultural backgrounds, from all regions of the world).
The Universal Declaration of Human Rights (UDHR), signed on 10 December 1948 by the United Nations General Assembly in Paris, emerges as a landmark document in the history of human rights. In the desire to regulate international relations, in the repudiation of violence and barbarism among peoples, in the maintenance of peace, in opposition to discrimination and exploitation of peoples, the UDHR has established for the first time in history the universal protection of human rights, as an ideal to be attained by all peoples and all nations, in promoting respect for these rights and freedoms. The 14 States that subscribe to this Declaration were bound by the acceptance of precepts that, despite not having coercive value or legal imposition, have ethical and moral value, with the commitment made, making them responsible for developing the appropriate legislation in their countries, so that these rights could be implemented.
The United Nations Universal Declaration of Human Rights marked the 20th century, bringing legal and global recognition of human rights, innovating civil and political rights, namely the right to life, the right not to be subjected to torture or slavery, the right to freedom of thought, conscience, religion and particular to inspire the constitutions of states and recent democracies. Two decades later, given that the 1948 UDHR had only the quality of recommendation (resolution), so without binding character, states needed to create other instruments.
At the United Nations Assembly of 16 December 1966, two multilateral treaties were concluded that recognized and strengthened the rights and duties of the UDHR; more articles were added extending the number of rights, giving them greater protection, surpassing the Fundamental Declaration itself. These Treaties are the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR), which have made human rights, precepts binding and binding on signatory States.
The ICCPR is a pact that strengthens civil (individual) and political (access to justice and political participation) rights. The ICESCR has established human rights - economic, social and cultural rights that must be achieved in the long term, in a progressive and programmatic way, the duty of which is addressed to the States themselves.
The principles of the UDHR are present in almost all humanitarian documents, such as the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination Against Women, the International Convention on the Rights of the Child, the Convention against Torture and Other Cruel Treatment or Punishment, Inmanous or Degrading, among many others." (Universal Declaration of Human Rights). It was up to the signatory States to transpose into the internal legal order of these States, producing new legislation, adapting the existing one and giving it effective application in the sense of these standards to be respected. Failure to comply with the rules, whether by acts or omissions, puts States in a position to have to justify themselves before the International Court of Justice (ICJ).

Internet privacy

The problem between the right to privacy and new Information and Communication technologies is a reality these days. Warren and Brandeis (1890) wrote their article "*The Right to Privacy*", the concern about the new technologies of the time, such as the machines of photography and the major newspapers. The Constitution of the United States of America (1787) "is the oldest written National Constitution that is in use and defines the main governing bodies, their jurisdictions and the basic rights of citizens." (A Brief History of Human Rights - The Constitution of the United States of America (1787) and the Declaration of Rights (1791) .
The French Declaration of Human Rights emerged in the context of great political and social unrest, under the Enlightenment influence of natural rights and Renaissance ideas that evoked equality between all human beings, calling the ancient ideals into question. The Bill of Rights (1791) "... it protects freedom of expression, freedom of religion, the right to keep and use weapons, freedom of assembly and freedom of petition.' (A Brief History of Human Rights Human Beings - The Constitution of the United States of America (1787).
According to Brandão, (2013), in 1974 *federal privacy was published*, a federal legislation that began to govern, within the restricted scope of federal government agencies, the management activities of stored personal data, allowing the disclosure of individual information with some restrictions and expanding the access of the interested party to personal data (right of access), the purpose of requesting their amendment (right of rectification). Agencies are obliged to follow, among others, the principles of collecting, only information essential to their activities, of publishing news about the nature and structure of the database, *in the Federal Register* and, not to maintain information on how the person exercises his individual rights.
According to Camara, (2014), in U.S. law, the problem of potential violation of the provisions of the law on the protection of privacy, *in electronic media, the Electronic Communications Privacy Act* of 1986 ("ECPA"), has been the subject of intense debate. In Google's case, The AdSense technology associated with Gmail e-mail messages would not be compliant with the law's rules, related to the crimes of electronic interception and unauthorized access, to content stored on the Internet. Jurisprudence, however, seems to have little deepened the theme, supporting the non-application of ECPA standards to data storage services in electronic communication. Thus, the argument was taken to the extreme, the messages received and sent and temporarily stored, on gmail servers would be excluded from the scope of protection of the law, especially for the privacy of users located in different U.S. federal states.
According to Lucca, (2008), in March 2004, Google began testing its e-mail service, "G-Mail" becoming the center of controversies in the debate about privacy and protection of internet users' data and personal information. This contributed to the first lines of state laws in the United States on "online privacy," the California online *Privacy Protection Act* of 2003.
According to Lucca, (2008) Today the United States has state laws, such as the Law of Oblivion, in which the posting must be removed from the air, if required, but it is not all states that adhered to this law. In April 2014, the U.S. House of Representatives passed the information-sharing bill, the *controversial Cyber and Protection Act (Cispa) or HS-35*. Cispa*will* allow companies, if president Barack Obama's approval, to hand over confidential data to the government without a warrant, without anonymity, without judicial review. And this law not only binds U.S. citizens, but all countries, because all computer users who have any relationshipwith U.S. companies, using their services, free or paid, may have their private data collected, subject to the validity of Cispa.

Freedom

Freedom originates in latinlibertas and means the condition of the individual who has the right to make the choices autonomously, according to his own will. In Christian tradition, freedom is often identified as free will. In law, freedom is also related to the rights of each citizen, i.e.:

- The condition of the being that can act according to the laws of its nature.
- The right that any citizen must act without coerce or impediment, according to his will, provided that within the limits of the law.
- The human being's own ability to choose autonomously, according to reasons defined by his conscience.
- Free will.

It is a concept that assumes a wide variety of meanings among the various authors who have taken care of the theme, and it is difficult to attribute a consensual meaning, even in its fundamental elements. Analyzing its origin, in Greek, "*eleutheria*" meant **freedom** of movement. It concerned the possibility of the body moving without any external restriction. Thus, the **Greek** meaning was related to the absence of physical limitations.

The degree of legitimate independence that a citizen, a people or a nation elects as a supreme value as ideal. the set of rights recognized to the individual, alone or in groups, in the face of political authority and before the State; power that the citizen has to exercise his will within the limits that the law provides:

1. **Law** - measure applied to minor offender so that consists of appointing a supervisor to monitor the case, with a minimum duration of six months
2. **Right** - grant made to the condemned, subject to requirements and conditions provided for in the Law of Criminal Executions, giving him provisional freedom before the end of the sentence, for having served a certain time in prison, conditional release.
3. **Right** - that has the press to issue opinions and thoughts without prior censorship butgouging by ethical criterions.
4. **Right** – not to obey the rules that guide grammar, syntax, or formal literary schemes to "freedom of poetic language"
5. **Right** - freedom granted by the judge, temporarily, allowing the accused to defend himself loose, with or without bail
6. **Law** - permission that is granted to a minor offender, living in boarding school in reform schools, and which gives him the right to be with his parents or a guardian, or in the care of a patronage, with the supervision of the judge.

Being **free means** taking risks, and freedom requires carrying the burden of decisions. Freedom **is** not just about doing what you want at the moment; it is planning and building the "path" (future) by deciding how, where and with whom you travel. To **be** free is to be autonomous to decide for ourselves.

Democracy

According to Plato (in:WernerJäeger, 1979 (1936), the essence of democracy, as he saw it in his hometown, is that "all citizens attain equal rights and public office be filled by lot. He appreciated the knowledge of the experts, but democracy as a symbol of a regime gave the judgment of each one an equal participation in the resolution of the supreme problems of the State."

Plato viewed the ideal society as a society stratified by merit, incompatible with the proposals of equality, and the resentment of what affected it in the face of the circumstance that led to Socrates' death could not be lessened. In this context Plato's criticism, the essence of the Greek concept of democracy is extracted: "*the idea of absolute equality, the apex of which was manifested in the provision of public office by lot"*.

According to Plato, "*The city exudes freedom and within it everyone can do what it gives them in the greed*." The freedom it is about is to feel free from all the class of duties, to organize life as it best comes. It's the triumph of the individual. The Greek democratic man criticized in Plato would correspond to *the contemporary individualistic* type, ambitious, able to become miserly and tortuous; thus a risk for democracy to degenerate in its impure form.

Equal rights for the filling of public offices, so that everyone is guaranteed to participate in the government. This is the essence that was bequeathed to us by Greek antiquity to guide the evolution of the concept of democracy. Since that date, the dilemma of how to achieve equality has been discussed without stifling the difference; how to include the individual as a social unit, without denying the person, as a universe of aspirations.

The concept of democracy as conceived by the Greeks, in their transition to modern democracy, maintains in its entire the titration of the power of the people, but alters the way or the procedure of how that right is exercised. From direct democracy to representative democracy.

Madison, (1791-1795), *defends representative democracy in texts such as: "The scheme of representation as a substitute for a meeting of citizens in person being at most but very imperfectly known to ancient polity, it is in more modern times only that we are to expect instructive examples*"

This shows the imperfections of direct democracy for the exercise of government (elitist view), poorly disguised under logical arguments, such as the territorial dimension and professional specialization. The territorial dimension constitutes a physical obstacle to the exercise of direct democracy. Likewise, participation in government business is not harmonizable with the individual concern of the citizen to resolve their private affairs that take him most of the time.

Democracy is the political regime in which sovereignty is exercised by the people. The word Democracy originates from the *Greek demokratía which* is composed of *demos* (meaning people) and *kratos* (meaning power). In this political system, power is exercised by the people through universal suffrage, i.e.:

1. Government in which the people exercise sovereignty.
2. A political system in which citizens elect their leaders through periodic elections.
3. Regime in which there is freedom of association, of expression and in which there are no distinctions or privileges of hereditary or arbitrary class.
4. Forma of political organization in which the people directly control the management of society, through referendums, plebiscites, and other legal instruments.
5. Thesocialorganization in which the people, through elections, grant mandates to representatives who will exercise authority on their behalf.

Thus, democracy is a series of principles that guide the actions of governments so that they guarantee respect for freedoms and comply with the general will of the population. In democracy, all political decisions must conform to the wishes of the people. Currently, most countries have models of representative democracy.

There is no consensus on the right way to define democracy, but equality, freedom and the rule of law have been identified as important characteristics since ancient times. These principles are reflected when all eligible citizens are equal before the law and have equal access to legislative procedures.

Right

Defining the right is an arduous task, since such a concept implies a choice of that concept, based on several relevant factors to give meaning to the term. In the field of the meaning of law in its legal-political context, the concepts jus naturalist and jus positivist of law are opposed.

Second, Bedin, (2014, p. 245), aJu naturalist optics there is a natural right, whose disposition is inherent to the human being. This natural right is earlier than and superior to the positive right, which must be harmonized with the natural right to be read and efficient, so that, in the event of a conflict between natural and positive law, natural law must always overlap.

The doctrine of Natural Law (or jus naturalism) is the oldest attempt at comprehensive theoretical understanding of the legal phenomenon. In fact, concerns about the doctrine of natural law have a long historical journey and are characterized by being one of the

recurrent theoretical postures in the trajectory of human thought. Thus, it is possible to affirm that, despite all the objections made to it, the doctrine of Natural Law remained for a long period,asone of the fundamental problems of legal cognition.
In this condition, the doctrine of Natural Law was largely confused with the very path of the Philosophy of Law and its most important problems. Hence the discipline of Philosophy of Law is designated, for many centuries, of *jus naturae* or *jus naturale*. In other words, it can be said that the Philosophy of Law expressed from its beginnings until the end of the eighteenth century, the doctrine of Natural Law.
In antiquity its main foundation was man as part of nature, already in the Middle Ages, the foundation of this natural right became God (Theory of Theologies, with Gcio as one of its greatest indoctrinators), and in the Modern Age natural law is based on reason (jus rationalist naturalism, having as its greatest exponents Spinoza, Wolff and Kant); that is, even when considering the existence of a natural right, intrinsic to the human being and his social coexistence, the basis of what underlies that rightis closely related to the historical and social context.

Justice

Second, Ross (2000, p. 313-314), the concept of justice seems a clear and simple concept, endorsed with a powerful motivating force and whose concept permeates a judgment of historical, political, social, and cultural values. Everywhere there seems to be an instinctive understanding of the demands of justice. Young children already appeal to justice if one of them receives a good tin than the other's canisters. Animals possess the germ of a sense of justice.
Fighting for a "just" cause strengthens and excites a person. All wars have been fought in the name of justice and the same can be said of political conflicts between social classes. On the other hand, the very fact of the applicability almost the omnipresence of the principle of justice arouses the suspicion that something "does not go well", with an idea that can be invoked in support of any cause.
Second, Plato, in classical antiquity, justice was the supreme virtue, that is, that which brings together all other virtues. Aristotle proposes several forms of justice as a means of generating equality, to be understood in its distributive and corrective aspect. Thus distributive justice consists of geometricequality, that is, to treat equally the equal and unequal the unequal; in turn corrective justice consists of anarc hematic equality, that is, justice to achieve *reparation and to achieve the previous status quo* and not based on mere retribution.
Rawls, (2002), proposes an original definition, in which people must choose under what conditions they would like to live, without having all the necessary information in the society in which they live, where there would be in this society a "veil of ignorance", which is a necessary instrument for the individual not to make considerations arbitrarily. There must be a principle d and freedom, d and equal opportunities and treatment for all citizens.
The concept of justice has its origin in the Latin term "*iustitua"* and refers to one of the four cardinal (or cardinal) virtues, that which is a constant and firm will to give others what is owed to them. Justice is what it must do according to law, reason and fairness. On the other hand, justice refers to power.
It should be worth noting that the concept of social justice is used to refer to the set of decisions, norms and principles considered reasonable, according to a given social collective. It can be said that justice has a cultural basis (based on a social consensus on good and evil) and a formal foundation (one which is codified in written provisions, applied by judges and persons specially appointed and empowered to do so).
Justice is what must be done in accordance with law, reason and fairness. On the other hand, justice refers to the judiciary and public punishment or punishment. Thus, when society "asks for justice" in the face of a crime, what it does is ask the State to ensure that the crime istried and punished, with the penalty deserved.

Lawsuit

Judicial proceedings are a systematic way of organizing judicial proceedings, necessary for the valid exercise of power, in which a judge of natural law or court, with regular jurisdiction, makes decisions about the law about a person or company.

The process is thus the set of documents and procedural documents that, following a pre-established legal rite and a predetermined bureaucracy, enable the competent judge to deliver a judgment. The proceedings are handled between the stages in the form of filedocuments, which informally are also sometimes referred to as "proceedings". The documents are the set of documents that are ordered chronologically to materialize the acts of the procedure. The process, in turn, is characterized by its purpose, whatever jurisdiction; is the "instrument for the legitimate exercise of power".

The judicial process is the instrument by which the jurisdiction operates, whose objectives are to eliminate conflicts and to do justice through the application of the Law to the specific case. It can therefore be understood as the instrument, created and regulated by law, for the exercise of one of the state's own functions, in this case the judicial. These are general preconditions for the constitution of the procedural relationship.

- A formalcomplaint.
- Capacity of those who make the complaint.
- Pressure of a judge duly vested with powers by the State.

If such conditions are present, the procedural relationship shall be duly established, isandtheout of the law. This characterizes the autonomy of the procedural relationship in relation to the subtour law at issue.

There are three main subjects of the case: the judge, the complainant and the defendant.

The judge composes the procedural relationship as a **representative of**the State, managing the procedural relationship between the parties impartially and with the function of resolving theconflictand generating social pacification. Accordingly, the judge should be a third party who has no interest in the conflict, conducts the proceedings in accordance with the rules and principles laid down by the legal order and which allows the parties to participate widely and not to resolve the dispute.

Plaintiff and the defendant are subject to the procedural relationship and will have their sphere of rights reached by the result reached at the end of the proceedings. The plaintiff is the one who initiates the procedural relationship, and the defendant is the one against whom the case is promoted. The positions in the process are guided less by three basic principles:

(1) There is no need to have at least two parties involved in opposing positions in the procedural relationship.
(2) Equality of procedural treatment between the parties.

(3) Contradictory, which guarantees the parties the possibility of acting in the process in defense of their interests.

Judicial Decision

According to Ingrid Novais, (2020), the terminology judicial decision is used to express the closure of a judicial process. It happens that, to understand the judicial decision as the end of the process, is to restrict its meaning, because the decisions go beyond those that contain the merits. A second, less restrictive interpretation, in the broad sense, the expression judicial decision is not restricted only to the resolution of conflicts, but to all decisions given throughout the proceedings, the purpose of which are not to close the judicial proceedings.

Other authors define the concept of judicial decision. One of them is SérgioNojiri who states:

"It should be emphasized, however, that the analysis of the judicial decision that concludes the process can involve at least two distinct (albeit related) decision-making processes: 1) aimed at solving quaestio iuris, verification and choice of the applicable legal standard, validity of standards, problems generated by gaps and antinomies, etc.; 2) related to quaestio facti, especially regarding the reconstruction of the facts through the admission and evaluation of evidence.

In order to be able to, in this respect, the judicial decisions, it is necessary that there is a relationship between the rules applied and the facts reported. It is necessary that the general rules be applied to the specific case, and the purpose is to resolve the case. Therefore, by applying the rules of right to the individual case, the conclusion of the dispute is possible by complying with more than one decision.

By accepting what the judicial decisions involve more than one decision, where we seek to apply the general rules to the description of the facts, it is accepted that there are already pre-existing parameters of the judicial decision, which must be applied so that it is as close to the reality of the facts, the real truth."

In this sense, it is understood that there is limitation for the judge at the time of making the judicial decisions, which must be in line with existing rules and parameters, which requires that there be reasoning through the judge, and that this reasoning exceeds its own designs. What is expected is that the judge impartially judges the controversies presented to him, always seeking a rational and justified decision of the case.

When applying the rules to the specific case the legislator uses pre-existing rules and standards, however there is the possibility of not correctly identifying the right to be applied. Furthermore, it may occur that for certain facts there is more than one correct decision, which apply and do not hurt the general rules of law, and when this occurs, we enter the field of judicial discretion.

It happens that the evolution of law was from legal formalism to law described as indeterminable, a right formed by exceptions and gaps. Legal realism questioned formalism, intuiting that the judges first formed their decision, the one of a personal nature, and then used a legal argument to validate that decision.

Not only the realist, but also the positivists understood the right as indeterminate, but with different ramifications. The realist believed that the judge's decision was first formed by his personal convictions and later framed in norms that could support his beliefs.

In decision-making, there is discretion is denied by some scholars. Ronald Dworkin, for example, denies any possibility of the judge interfering in the decisions, and the right is the provider of the "correct answer" to the solution of the case. Dworkin refers to the right that can solve any kind of controversy, which is easy or difficult to understand, denying the possibility of gaps in law.

Dworkin proposes that the objective of constructive interpretation of law is to limit or prove the performance of government power.

In this aspect SérgioNojiri explains about Dworkin that:

"Dworkin's proposal is known as law as integrity: the belief that judges must decide in a way that make the right more coherent, preferring interpretations that make the law look like a product of a single moral vision. Thus, the interpretation of law must, as far as possible, express a coherent conception of justice and equity. The development of the theory of interpretation around the concept of integrity can be understood as a sophisticated version of the way common law is thought: a way of deciding based, in part, on consistent susceptibility to principles and, elsewhere, on the belief that past decisions are approximate intuitions of justice and equity."

It is possible to understand then that for Dworkin the right must be presented by the judges fairly, from a moral point of view.

There should therefore be integration between judges, lawyers, legal scholars so that the law can be applied responsibly and in unanimous understanding, aiming at an interpretation constructed in the best possible way.

In this sense Nojiri explains that:

In this process, in which both theorists and judges participate, evaluative judgments of a moral nature are made about the characteristics of law. This allows, according to Dworkin, that the right can be identified and understood.

Dworkin's proposal, where judges or theorists must decide the right under the moral aspect, at its best run away from the principles of legal realism. The realist does not idealize the right, run away from the moralism of judges and understand that the law should be applied without illusions.

For realities like Jerome Frank, before checking the legislation appropriate to the specific case, the judge has already pre-conceived which decision path will follow, and only after that decision is that it seeks legal precedents applicable to the case, which suit its decision. The legal basis only arises later the decision-making, by verifying the logical sequence for decision-making.

Following the same line of thought, Joseph Hutcheson, who was a magistrate, believes that judges do not decide by reasoning, but by instincts. The reasoning only arises later when the written reasoning of the decision, when they seek the rule or principle of law that should be applied to the facts. The first step is to reach the decision instinctively and sentimentally.

And corroborates Hutcheson's thesis, the fact that there are conflicting court decisions on the same subject. Even with judged, they insist judges on judging in a divergent way, proving a load of subjectivity in their decisions. Even if judges use extralegal bases, it is not always that it is possible to perceive this choice, because the judge takes advantage of the complexity of the legal system to deceive their actions.

Actors

Judge

The institutionalized figure of the judge is related to the birth of civilizations: since conflicts arise naturally, the idea of a third party, considered neutral, is essential to constitute a vision free of partiality. The senators in Rome, for example, were a group dedicated exclusively to the judgment of issues, acting as magistrate in ancient Greece and Rome.

The **concept** evolved concomitantly with society, so that Enlightenment thought, and the legacy of the French Revolution contributed to a paradigm shift: by putting the citizen at the center, the **judge, who** was part of the privileged class (the Second State in the French Revolution), becomes an elected citizen for his ability and ability to judge cases.

The judge (*from Latin iudex*, "judge", "he who judges", of *ius*, "right" / "law", and *dicere*, "say") is a citizen vested in public authority with the power-duty to exercise judicial activity, judging, as a rule, the conflicts of interest that are submitted to his assessment. The Judge acts with the decision-making in judicial cases, while the prosecutor oversees the application of the law, defending the collective interests of society. The legal environment has its own terms that configure understanding in legal processes and situations.

Constitutionally provided for and applied by jurisprudence, the principle of the Natural Judge aims to prevent citizens from being judged arbitrarily, as occurs in an exception court, so that only those judges, courts and courts laid down in the Constitution are given that power.

Because of **this responsibility, the judge must listen to the parties, assess the evidence presented and resolve the conflict in the light of the law, in a totally impartial manner**. **The judge is considered administrator of justice**. In addition, a judge can also have a proactive function, collaborating with the Legislative Branch.

In law is the one who administers justice, applying the law, the one who judges and who has the power to judge to solve a question or judge about something. For this it is invested with public authority, has the power to judge, as administrator of the state's justice. It is part of the power or judicial system of a country whose main and exclusive function is to judge a person and according to its conclusion about what happened. sentence of acquittal or conviction. In the latter case, the opinion will indicate the punishment for the guilty.

Lawyer

The word "lawyer" comes from the Latin *advocātus*. A lawyer is **a PhD or law degree who is in charge of the defense and guidance of the parties involved in judicial or administrative proceedings**. You can also provide legal advice and advice.

According to Ada Pellegrino Grinover, (2012) the lawyer is included in the category of jurists, having a specific role in society and participating in the work of promoting compliance with the legal order and access to a fair legal order for his clients.

Lawyers are called doctors, regardless of whether they have attended the doctor's degree and defended a doctoral thesis. The academic title is not confused with the "honorary title" of the Lawyers. The professional practice of this profession requires, in most countries, that the lawyer has a state authorization or that he is registered with the Bar Association or a similar institution.

The lawyer is indispensable to the administration of justice, is a defender of the Democratic State of law, citizenship, public morality, justice and social peace, subordinating the activity of his private ministry to the high public function he exercises; for this reason, there is no hierarchy or subordination **between lawyers,** magistrates and members of power.

A lawyer is a liberal professional, graduated in law and authorized by the competent institutions of each country to exercise *the jus postulandi*, that is, the representation of the legitimate interests of individuals or legal entities in court or outside it, either among themselves or before the State.

Defendant

A **defendant is** someone suspected of having participated in, or participated in, the commission of one or more crimes, offenses, or offenses. The constitution of someone as a **defendant** is always a formal act and, in criminal proceedings, is usually accompanied by the duty to provide a term of identity and residence (IRR). About obligations, the accused has the duty to appear before the judge, public prosecutor or police, whenever the law so requiresand, to do so, be duly summoned; to be subject to all evidence and measures of coercion and guarantee of assets that are ordered.

Criminal law states that the accused is entitled toand present in the procedural acts (e.g., trial); before making statements, be informed of the facts that he is suspected of having committed. The accused is the person who, in criminal proceedings, is constituted as such, in order to be investigated and/or accused of the commission of a crime. The accused is the subject of criminal proceedings, while the defendant is the subject of a non-criminal procedure (the commission of a crime is not concerned). The suspect is the person on whom there are indications that he has committed or prepares to commit a crime or who has participated in or prepares to participate in it.

Under the Portuguese, a person is constituted as an accused, a legal term that does not exist in many foreign jurisdictions, when evidence of having committed an offence is falling on him. Without a defendant, there is no trial. The defendant is found not guilty until the sentence is held in court, and only at that moment is he sentenced or is confirmed his innocence.

According to the Dictionary of the Portuguese Language, the word accused means accused, censored, exprobrate, alleged in the Portuguese language. The attribution of the **status of** accused to someone, is an act of high importance, because it means that the State intends to investigate and, eventually, judge a crime, with the inherent compression of some rights of a particular person.

Execution Agent

The enforcement agent is, as a rule, a solicitor, a lawyer, or a law graduate, registered as an agent in the Order of Solicitors and Enforcement Agents. It is up to the enforcement officer to direct the executive proceedings and carry out all enforcement proceedings, including citations, notifications, and publications, pledges, sales and settlement of claims.

Crime

It is a human, typical, illicit, culpable and punishable action. In the letter of criminal law, it is defined as a set of assumptions on which the application to the agent of a penalty or a security measure depends.

Cybercrime

It is defined generically as the crime that is committed, facilitated, allowed, or amplified by the Internet. This definition includes crimes that already existed in the physical world, and new crimes specific to the use of computers and the Internet.

Denunciation

It is a communication made by a person to the police authority or to the public prosecutor's office knowing that another person has committed a crime.

Inquiry

The criminal proceedings, is the phase directed by the Public Prosecutor (MP) that comprises the set of steps aimed at investigating the existence of a crime, determining its agents and their responsibility, discovering and collecting the evidence for decision-making on the charge. The public prosecutor in the investigation in criminal proceedings is assisted by the organs of the criminal police.

Instruction

Set of formalities, inquiries and information that put a case on condition that it can be tried. In criminal proceedings, the Investigation is an optional procedural stage, which aims at judicial proof of the decision to dismiss the complaint or to dismiss the investigation, or to submit or not the case, to trial.

Criminal complaint

A complaint is translated into a manifestation of the right holder's will of the complaint to the offended, which aims to initiate proceedings, for semi-public or private crime. It is a*sine qua non* condition without which the Public Prosecutor (holder of the criminal proceedings) cannot pursue this action. That is, when crimes are semi-public or private, the exercise of criminal prosecution by the public prosecutor is dependent on complaint.

It is, therefore, the act by which the offended gives knowledge to the holder of the exercise of criminal proceedings, the Public Prosecutor's Office, of the existence of a crime so that it triggers the criminal investigation process and begins the investigation phase.

Sentence

In procedural language, judgment is understood as the act by which the judge decides the main case (thus the decision of the incident presenting the configuration of a cause is also called).

A judgment includes a report (intended to briefly make the history of the case from the time of the action to the conclusion of the oral discussion at the final hearing), the pleas (legal assessment of the case), the decision (supported by the findings of the founding party of the judgment) and consists of the court's direct response to the parties' claims.

Witness

By witness, the person who is called to testify on something he has seen or heard and who may prove to be important for the clearance of truth is understood. Whether in civil procedural law or in criminal procedural law (in which, one of the most important means of proof is witness evidence, the definition of this term is the same, that is, the person who is called to testify in court, under oath, about facts of which he may be aware.

Court

Under the Constitution of the Portuguese Republic, courts are the organs of sovereignty with jurisdiction to administer justice on behalf of the people.

The administration of justice is the responsibility of the courtsto ensure the defense of legally protected rights and interests, to suppress the violation of democratic legality and to resolve conflicts of public and private interests.

III. COMMUNICATION SCIENCES

TheInformationSocietyandICT's

The notion of information is polysemic. It is, according to the case, simple sign or already knowledge. She answers codes and signs up for a social relationship. It not only makes sense in relation to this social relationship, but also the exchange of information is itself a major component of this relationship. Of course, the perspectives that the social sciences can take to analyze the notion of information are multiple. The economy, in addition to the diversity of approximations, can never reduce this plurality. The information marks at various levels the individual and collective components of the agents. Each school of thought makes a different point about this or that aspect, but it cannot therefore pretend to take care of the set of situations where, in production, consumption or exchange activities, the notion of information is involved.

This finding is based on the start of the contemporary debate on informing or misreporting, with the information highways, virtual enterprises and their teleworkers exploring the various facets, relying on how the different theoretical approaches deal with information. Somewhat paradoxically the bet is to make the diversity of approximations of informing or misreporting allow to clarify an important but delicate debate about the digital society, better than could do it a specific theoretical construction, too *spontaneously ad hoc*. In order to understand the nature and breadth of the transformations of our society that are aware of our ways of treating, storing and circulating information, it is useful to resort to relevant theoretical research tools, although the field to which they are addressed is partial.

This need for theoretical tools is all the clearer as the phenomena in question are, at first glance, perceived as brutal and contradictory. And so it is with telework, for example, often presented as a threat of massive job destruction as a result of the displacement of strictly codified tasks thanks to new information and communication technologies, but also as a new opportunity to better apde and adjust working times by developing other socio-professional, family and civic benefits. Another reason for debate, the accelerated and broad functioning of markets on a global scale and, first, financial markets where transactions are of increased effectiveness, are mixed with fears that brutal adjustments in development will generate financial crises.

It is by no means the resumption of the eternal debate on the advantages and disadvantages of technological progress. The evolution of information and communication technologies has been spectacular in the continuous increase in the capacity to store, treat and transmit information, so the number of issues that arise are inherent in the development of markets, the growth of the division of labour and the accumulation of knowledge. The multiple aspects of contemporary economic transformations concern the production, transmission, treatment and use of information, as well as the theoretical problems that these changes cause.

With the complexity of the digital economy, information is being a determining factor. In order to understand the economic transformations, some relevant questions raised by some economic theories and the contribution of some experts with complementary approximations in the field of information or knowledge to better contribute to the debate on the impact of information on the digital economy are presented.

The aim is to introduce some issues related to the analysis of the digital economy, but also to the implications of economic policy, in an economy where information and knowledge represent an added value, even strategic. These issues start from severalstylized facts, with regard to the use of new information and communication technologies or in the mobilization of knowledge both in production processes and in the functioning of the digital market and labor. But this pragmatic approach can only be read by considering the great structural transformations that mark the contemporary period.

The Evolution of Technologies

Information and Communication Technologies (ICT's) were an important instrument for the transformation of industrial society in the information and knowledge society. It is a networked society, emerging a new social morphology, and gains economic, social, political and cultural primacy. According to Orth, (2002, p. 22), one lives in a culture and a society that is constantly changing, either because the economic, social, political and cultural contexts are increasingly massified, internationalized and globalized, or because the relations of life, study, work and capital are changing rapidly and constantly.

According to Santos, (2013), it is possible to prescribe that from the technical uniqueness (unique technical model), based on the capitalist system and the way, as the process of globalization is configured, there is an expressive transformation of consumption into ideology of life, making citizens consumers, massifying and standardizing culture, and form that often contributes, concentration of wealth, in the hands of the few. According to Ney Jr, (2002), "the current information revolution is based on the rapid technological advances of the computer, communications and software, which in turn led to extraordinary reductions in the cost of processing and transmitting information", as well as "in ideal terms, the Information Revolution will repeat the successes of the Industrial Revolution. Only this time, part of the brain's work, not the muscles, will be transferred to the machines." For Cardoso, (2007, p. 102), information seems to have replaced energy as a central element of economic life, first of the most developed countries and then for all areas of the planet and subject to market rules.

It is observed in this panorama that the Internet was the apex of the Information and Knowledge Society, since it allowed the free movement of information throughout the globe. Furthermore, "the first stages of ***Internet use*** in the 1980s were announced, such as the arrival of a new era of free communication and personal fulfillment in virtual communities, formed around communication, mediated by the computer", Castells, (2003, p. 100). According to Lojkine, (1995), "the transfer to machines of a new type of abstract brain functions is at the heart of the informational Revolution", emerging the need for restructuring capitalism that drives the adoption, diversification of media and the development of information and communication technologies and their networking.

ICT provides the great legitimacy of the expansive political power, which assumes all spheres of culture. In this Universe, ICT also provides great rationalization of man's lack of freedom and demonstrate the "technical" impossibility of being autonomous, of determining people's lives. This lack of freedom does not arise, either irrationally, or as politics, but rather as work. Technological rationality protects, the legality of domination, rather than eliminating it, and the instrumentalist horizon of reason opens up to a ***rational totalitarian society.***

According to Gonçalves, (2003, p. 138), *cyberspace* is the main vector of the Internet, and its striking characteristics are invisibility, intangibility and intercommunicability. The processing of information by computer gave rise to legislative and judicial movements to protect rights over information and the regulation of access and use. The Internet is characterized by being a communication space without mediator, structured according to an "all-all relationship". Thus, relationships between people are given and interaction with the worldwide ***network of computers, which*** *stores the most diverse types of content, whether they are made available by the users themselves about their*

preferences and their private life or by the servers themselves. ***It turns out that by the interaction generated on the network, its storage and the distribution of content, it becomes a task practically impossible to remove information once posted online***.
According to Nissenbaum, (2010, p. 21), the great difficulty faced in this context is to separate the public and private spheres from each individual from what should or should not be available, and available to all, in a virtual environment. Therefore, "information technology considers itself a major threat to privacy, because it allows ubiquitous surveillance, gigantic databases and a rapid distribution of information, all over the world".
For Habermas, (1997, p. 92), the public sphere can be "described as an appropriate network for content communication, decision-making and opinion; in it the communication flows are filtered and synthesized, to the point of condensing into public opinions encased at specific times." It is in this sense that the aspirations of the next design of the text are given, aiming to provide a debate between the right to privacy and intimate life, of what may or may not be, linked to the existence of each person, characterizing what is of private interest or what can generate, ***a right to*** forgetfulness.

The Light News VS Serious News

Almost all people find that the news is, today, substantially different from what it was a decade or two ago. As competition between news organizations intensified, news has changed, in form, content and technology support. Digital market-centric journalism is a variant of this trend. Some critics say that the news is increasingly oriented to what matters to the audience, rather than, to what the audience needs to know.
Former PBS (public television service) pivot Robert MacNeil says the trends "go towards the values of ***sensationalism***, exaggeration, ***hyperactive***, tabloid, which replaced serious values" (quoted in McCartney, 1997). Others use stronger language. Matthew Carleton Ehrlich describes today's news as "shocking journalism" (Ehrlich, 1996). But critics of the light news were not left unanswered. Its supporters claim that the hearings are the "blood" of the news and that without economic security a free press would exist only theoretically. They claim that news that is not seen or read has no value.
And they argue that lightweight content is not, by definition, despicable, because it provides information that can guide people's attitudes and behaviors as citizens. On the other hand, the light news conquers some people for the news that would not otherwise pay attention to them, being even less informed. And there is no doubt that some light news contains useful elements, and has a cost to democracy (Graber, 1988; Patterson, 1980; Iyengar, 1991).
News that highlights incidents and issues that have little to do with public issues and that are selected for their ability to shock, or entertain, can distort people's perception of reality. In the 1990s, for example, news of crime "skyrocketed" and people believed that the crime rate was increasing when in reality it was decreasing (Patterson, 2001; Lichter and Noyes, 1994). Light news also decreases the quality of information and public discourse (Auletta, 1991; Diamond, 1991). According to Neil Postman, we risk "grinding ourselves to death" (Postman, 1985: 107).
If during this time, we are "immersed" in entertainment and distracted by marginal incidents, the contribution that news can make to the quality of life in society ***is*** diminished. The light news may in fact be diluting people's interest in the news.

Do light news and fake news sell or not?

Light news and fake news can attract and retain audiences. Television stations have shot their audiences through light news formats, having managed to impose themselves on the front pages and in the opening of news (Prato, 1993: 46-52). Crime dominates the news on television stations, providing most of the main stories and filling the largest share of airtime (Kerbel; 2000).
NBC altered its evening news block in 1997, adding light pieces and reducing serious news, especially from abroad (McCartney, 1997). One reviewer described the new format (Kurtz, 1997) as "nbc's animated news", stating that they may have helped this station be audience leader. In any case, the choice of light news option has not always been successful and seems to be becoming increasingly fallible. The audience of news blocks on television stations seemed, for some time, untouched by the decline of audiences in general, holding firm while lowering the circulation of newspapers and news audiences in large seasons.
In recent years, however, television news has lost viewership, a decline that has surpassed that of any other medium. This paper does not state that the market studies on which light news is based are not rigorous. The results of these studies have helped some organizations successfully market their product. They do, however, have a substantial limitation: they concentrate in the short term. This prospect is an inevitable consequence of a very competitive industry, where reputations and jobs are maintained and lost, according to the latest levels of audience or circulation figures. But the short- and long-term effects of light news can be quite different. In fact, sensationalism attracts people's attention in the first instant, but endless sensationalism can ultimately upset them. The history of the commodification of information suggests that, in the long run, quality prevails over the least good. The data obtained in this study suggest that this is maintained.

Freedom of Expression

Communication is a fundamental process for human interaction. At the time it is to the day, there is no certainty about, how primitive men began to communicate with each other, whether by shouting, whether by grunts, if by gestures, or whether by the combination of these elements. It is also through it that the human being acquires the consciousness of himself and others, internalizes, produces, reproduces and transmits to others, through language , behaviors, values, norms, and their meanings, in society and culture, in which he is part.
The communication process takes place through language, namely through expression, oral and written. It has been diversifying, over time and space, inventing new channels, from rock paintings, drum sound, smoke signals, paper, telegraph, telephone, radio, television, and today with the Internet, allows men to communicate with each other, in a faster and easier way.
Communication is the basis of the interaction of human relationship, and it is also the foundation of the right to free thought and free expression of man. Freedom of thought and freedom of expression are two associated rights, since the two are completed. Yet, both have freedom, with nature something different. Freedom is a concept that encloses in itself, an option or will of its own and an embarrassment, the conflict with the freedom of another person. **One person's freedom ends when the other's freedom begins.**
Thought can be defined, as the act of thinking, of being aware, of reflecting ormeditating, of the faculty of conceiving, of combining and comparing ideas; a particular act of the mind, whose result is reflection; way of thinking; opinion, point of view; act of meditating and fantasizing. Thought, given its rational and exclusive nature of man, is a manifestation of human subjectivity, a phenomenon reserved for the mind of the individual himself. Thus, it can be considered or represented, as a non-action in the sense that it does not directly affect others, except, when manifested or expressed, by a communication action (speaking, writing, acting, etc.).
Expression is a concrete action, a communication, an objective manifestation of thought, since the nature of interaction is always in relation to the other, that is, the expression is the external and objective manifestation of our thought, about others. Freedom of expression is not absolute, because it may be limited in its action, when in its full exercise it runs the risk of colliding with other individual freedoms, namely the right to honor, moral integrity, image, good name and reputation.
Freedom of expression "is the right of anyone to freely express personal opinions, ideas and thoughts, without fear of retaliation or censorship by the government or other members of society. It is a fundamental concept in modern democracies, in which censorship has no existence (Cabral, 2010). Freedom of thought and expression are the two main vectors of representative democracies, which are in

harmonized with other rights: the right to information, the right to challenge to the extent that, for citizens to participate in the choice of a government, they must be able to access information or ideas, expressed publicly - public opinion, challenge them, if that is their will and make their judgment, on them in such a way as to be able to make a choice, namely a choice, in the context of elections.
Freedom of expression is a legally protected right in democratic societies, and it is the rightful right, and is set out in Article 19 of the Universal Declaration of Human Rights of 1948. Every individual has the right to freedom of opinion and expression, which implies the right not to be disturbed by his opinions and to seek, receive and disseminate, without consideration of borders, information and ideas by any means of expression. (Universal Declaration of Human Rights). Everyone has the right to express and spread their thoughts freely by word, image or any other means, as well as the right to inform, inform and be informed, without impediments or discrimination.

Journalism and Politics

We live in a turbulent, uncertain and insecure society that is experiencing a deep crisis, perhaps the most it would be. The main cause is the revolution that new information and communication technologies are provoking in the living modus of society, with the transition from a local/regional society to a global society, causing a progressive loss of importance of Parliaments and the shift of the centrality of debates, from major political issues, from Parliaments to the media, conditioning in this way the most serious decisions of the Rulers.
It is a situation that helps to discredit politics and politicians, trivializing debates and necessarily forcing them to step down. The lowering of the level of debates, the confusion that provokes politics, when seen and known through the media, in a hasty, often deformed way, by the hypertrophy of petty and personalized issues. It is a situation that manifestly affects the prestige of the political class, invading the very right to privacy of politicians and exposing them to permanent visibility.
Not to mention another very worrying problem, such as the rapid concentration we are seeing everywhere in the media (daily newspapers, weekly, magazines, radios and televisions, electronic platforms, etc.) concentrated in the hands of fewer and fewer media groups – two or three, per country – usually intercrossed, if not dependent on the great international economic power. It is a phenomenon resulting from the globalization of economies that is dangerous and conditioning not only for freedom of the press and citizens, but also for the proper functioning of democracies.
The globalization of society is an insightful phenomenon of our time, with obviously positive and other negative aspects, which considerably affects the functioning of democracies. The point that matters to understand is that society, as we know it, is changing its nature. It has evolved from an industrial society to a financial society and today to a speculative society, faceless, without ethical principles, with tenuous national ties and without accountability, with no democratic instance. Many respectable economists and political logits have been underlining this immense change in recent years.
The so-called dirty money from drugs, the illegal arms trade, prostitution, the infamous trafficking of human organs, etc., it has infiltrated the capital flows that today move speculatively, from stock exchange, all over the world, at the speed of light. Its purpose is profit for profit, without any obedience to legal, political, or ethical rules. Globalization, as we know it, is an unsittablephenomenon at the stage of human and civilizational development in which we find ourselves. We can't cancel it or ignore it. But we can perhaps impose ethical rules on it, as the former High Commissioner for Human Rights Mary Robinson put it.
In today's society, of great social imbalance, in which the gap between poor and rich (people and states) is increasingly deepening, of great international crime, in which economic power – without any democratic legitimacy – overlaps with the political power legitimized by the vote and conditions it, with some lack of control in the level of justice, the struggle for democracy acquires, international dimension and is inseparable from the struggle for international law and peace.

Narcissistic Culture in the Digital Society

According to Primo (2009, 8): [...] the Web enhances narcissistic culture, typical of our time, by expanding the forms of self-celebration and self-promotion. Relationship sites, in turn, end up encouraging vanity and competition. [...]. Young people strive to show in their profiles photos and texts that value them and promote the increase in the number of people who add themselves to them as "friends". [...] This type of behavior is justified by a constant search for attention and recognition. In other words, the ease of access to information about themselves generated by third parties, fostering self-understanding from others (social self), constitutes a scenario in which individuals, especially those corresponding to Generation Z, feed the network with personal information intensely.
This generation was born in the middle of the infosphere and does not have a critical view of ICTs in its performance in the world. Thus, asking a Generation Z individual about the dangers of his privacy when he inserts personal information, photos and videos into social networks becomes irrelevant, because for him this way of acting in the world is "natural". Thus, one of the reasons for the problem of tacit acceptance of ICT is highlighted, which constitutes the problem of informational privacy (Moraes, 2014).
Floridi (2014, p. 60-1) clarifies the relationship between the three self-sections presented in the following passage: the liter the social conditions in which he lives, modify the networks of relationships and the flows of information he enjoys, remodels the nature and scope of the delimitations and possibilities that regulate the presentation of himself in the world and, indirectly to yourself, your social self can be radically updated, refeeding your self-conception, which will ultimately reformulate your personal identity.
The three self-conceptions are closely related, and the change in one of them can also affect the others. The alteration of the social self can culminate in the alteration of personal identity. It is also for this reason that understanding the role of ICTs in the constitution of the social self is important. Through social networks, the stability of the social self is weakened, and can be analyzed by a phenomenon called gauze (a term that, in English, means to look, contemplate). According to Floridi, gauze is a compound phenomenon, which can be expressed as follows: looking at yourself the way one is seen by other individuals. The question that arises in the context of gauze for an individual is: "what do people see when they look at me?". In the context of ICT's, the gauze is presented as follows: [...] the self tries to see, as others see it, by being guided by ICT's that substantially facilitate this experience. In the end, the self uses the digital representation of oneself by others, so as to build a virtual identity through which it captures its own personal identity [...] in recursive feedback loop of adjustments and modifications that lead to a balance between offline and online self's(s).
According to Floridi (2005, 2009, 2014), the individual active in the infosphere, surrounded and familiar with ICT's, presents a search for the balance between his online and offline understanding, conceiving himself as an informational agent situated in an informational medium. We understand that, over time, this search for balance culminates in the constitution of what we call hybrid. Moraes and Andrade (2015) explain that the ways individuals interact in the offline environment constitute well-established social habits that can be reproduced, at least partially, in an online environment. However, new online social habits may arise. These new habits, in turn, can offer second-order feedback, which can change habits in offline environments. Over time, feedback processes between human/human, human/machine and machine/machine/machine/machine communications, offline and online, can promote the emergence of hybrid beings that interact in both environments in a fluid, "natural" way, through ICT's.

IV. LEGAL SCIENCES

Introduction

The Legal Sciences, also called legal **sciences, are** those that carry out the complex and constant study of the legal order and its application in society. The Legal **Sciences** interpret the rules on social phenomena. **The basis** of these sciences is conflicts between humans. In a community of people, the rules set the parameters on which these relationships are based on this law and this law must be fully complied with, otherwise those who advocate justice must act with discipline to enforce it.

The Legal Sciences as society progresses, it always seeks to take a step forward with the aim of controlling the relationship between the people of the community and foreigners with the inhabitants of the population. **The history** of Roman law shows us what life is like for that individual who wanted to conquer, dominate and expand his power throughout a region. The different phases of **Roman government (monarchy, republic and empire)** show us an interesting characteristic of the legal sciences in ancient times and compare them with what is now understood by law gives us an understanding of the relevance of the facts that were generated at that time.

The greatest responsibility of the sciences of law is to integrate all human beings into a rational system of laws that, although true, is rooted in the usual law, must be maintained in conjunction with a standard of principles and **values such as morality, equity and justice.** Maintaining in society a balance between objective **law (the established norm)** and subjective **law (man's** ability to decide his destiny) can be called art, a profession that is studied every day as new situations are faced by man. The legal sciences are studied by man in various ways, in fact, what gives so many nuances to the study of law, **are the cultures, customs** and traditions that man carries with him in community.

The science of law cannot be studied only under the abstract aspect of the norm, but with all its correlations with the world of social experience. Aduz, Reale (1986, p. 62): *The science of law or jurisprudence means, the system of rules or legal rules that traces to men certain forms of behavior, giving them possibilities to act.*

The term "science" means knowledge, since it derives from the *Latin word scientia*, derived from *scire*, that is, knowledge. For Tércio Sampaio Ferraz Junior (1986, p. 9), "the term science is not univocal, if it is true that with it we designate a specific type of knowledge."

It is not possible to confuse legal technique with the science of law. Of the most complex and fascinating is, of course, the part of the legal technique that deals with the interpretation/application of legal models. This is because, the doctrine understands that, if the law is expressed through the law, expression of the sovereign will of the nation, for the law to fulfill its purpose of harmonizing lids and disputes, it is essential a specific technique, the legal technique.

The Legal Technique is the set of skills that must be observed in order to achieve ends or perform practical tasks in the different spheres of law. It is, therefore, an eminently practical or instrumental knowledge. The research of modern technique in the face of law is motivated by an ethical concern that is no stranger to any philosophical current of the last two hundred years. It is, in fact, the culmination of a Western metaphysical tradition that, in the context of scientific thought, sought to increasingly purge the world's explanation of the theological and supernatural elements.

Physis and *technéoppose*each other in that the latter limits the first second a man-made determination. However, they are also in a complementary relationship, since *physis* is a presupposition for *techné.* Thus, it is observed that there is no relationship between *physisandtechné* that points to an overcoming of the former by the last.

Let us remember, however, that technical knowledge does not equate to technique. The technique of law is an instrument of our time, but it is our time that feels the need to base legal technique on scientific knowledge that can follow in many ways the way of understanding, thus the task of investigating law as a legal technique, and the relations of modern technique such as law, is imposed as a way of dealing with perplexity created by living with new forms of technologies and their applications.

In Fredie Didier's thinking, the General Theory of the Process fits through logical-legal concepts that determines the object of legal science. Teaches the author (2012, p.65):

(...) the science of procedural law is also a system of concepts. Most of the concepts with which proceduralists (process scientists) work are the product of the General Process Theory. These concepts are the fundamental procedural legal concepts (logical-procedural legal). In addition to these fundamental concepts, Process Science also operates with the legal-positive procedural concepts.

In this sense, science is shown as the rationalization of the technique, which will produce reasoned clarification of knowledge, based on theorized and testified hypotheses. Procedural Law, therefore, as a propaedeutic and pragmatic teaching, must avail itself of epistemology (procedural technique – procedural science - procedural theory - scientific legal criticism) so that it can remove the ideologies imposed pragmatically, seeking, through criticism and the clash between theories, to eliminate errors and approach an episteme, which will guarantee a legitimate scientific production.

Centralized Databases

Although new biometric techniques may, in certain circumstances, be legitimate tools for identifying suspects, the issue of storing biometric data outside an identity document, such as a passport, but in a centralized database, is a cause for concern. This practice increases the risks of information insecurity by leaving individuals vulnerable to the State. For this reason, in 2009, the United Nations was requested by several Commissioners for data protection and privacy to prepare a legally binding instrument to establish clearly and in detail the rights to data protection and privacy, as human rights to be endman.

Since then, governments have been invited to adopt legal instruments in these terms, as has the Council of Europe, in accordance with Article 23 of the Council of Europe Convention on Data Protection. However, they must make a serious attempt to make progress at international level in improving universal standards of privacy protection, not only in the interests of protecting individual rights, but also, although not fairly, in the interest of lowering barriers to data flow across borders. On the other hand, there have been some developments at national level that have led to increased concerns, even in some of the most liberal societies. For example, the Special Committee on the Constitution of the House of Lords in the United Kingdom said: "Surveillance is an unavoidable part of life" in the Uk.

Every time we make a phone call, send an e-mail, surf the Internet, or even walk on our avenue, our acts can be monitored and recorded. To respond to crime, combat the threat of terrorism and improve administrative efficiency, governments in the UK have gradually built one of the world's most comprehensive and technologically advanced surveillance systems. At the same time, the private sector has undergone similar developments that have contributed to a profound change in the way of life in this country.

The development of electronic surveillance and the collection and processing of personal information have become invasive, routine and almost given, as guaranteed. Many of these surveillance practices are unknown to most people and their potential consequences are not fully known." (Sources: Peter Malanczuk. 2009. Data, Trans boundary Flow, International Protection; 31st International Conference of Data Protection and Privacy Commissioners. 2009. Standards onPrivacyandPersonal Data.).

Internet PrivacyandJurisprudence

According to Schreiber, (2013, p. 134), the evolution of the right to privacy is more recent than that of some other personality rights, such as honor, for example, and informs that the initial milestone for its emergence would have been the publication in the Harvard Law Review in 1890 *of the articlesThe Right to Privacy*, which demonstrates the relevance in the configuration of this right. It also states that "in its initial formulation, the right to privacy was identified with the protection of the intimate, family, personal life of every human being. It was, in

essence, a right to intimacy." However, the concern for the privacy and intimacy of the human person is much older, because it would date back to the beginnings of Judeo-Christian culture.

According to Leonardi, (2012, p. 46), the lack of uniformity in the use, as well as the lack of a specific definition for the term, gives discretion to the use and infringement of that right. The "lack of clarity about what privacy is, creates complications, to define public policies and to solve practical cases, because it becomes very complex, to identify the damage that occurred in a given situation". Reinaldo Filho, (2002, p. 28-29), states that: [...] since there is no constitutional or legal definition of the extension of this right, there may be a differentiated treatment by the judicial means, varying according to the social and political context, in which issues related to privacy are discussed; as the circumstances in which this subject is involved, it is difficult to predict the outcome of judicial proceedings, in each specific case, and it is, on the contrary, easy to predict a tendency to the mismatch of judicial decisions, an obstacle to the harmonization of case-law.

At international level there is also no exact and unambiguous definition for the *term "privacy"*or privacy, since "even the European Court of Human Rights has stated that it does not consider it possible or necessary to seek an exhaustive definition for the notion of privacy". Thus, the main problem encountered in the definition is the production of concepts, which sometimes end up becoming excessively restrictive or overly comprehensive, that is, "the insistence on isolating the essential characteristics of privacy and reuniting them in a unitary concept, applicable indistinctly, in any situation, is a task that tends to fail",

Combating Terrorism and Erosion of the Right to Privacy

States, when dealing with current policies to combat terrorism, often place emphasis on the existence of two new dynamics that need to be considered together with the protection of the right to privacy. Firstly, states argue that their ability to prevent and investigate acts of terrorism is strongly related, almost solely to increased surveillance powers.

For this reason, most counter-terrorism legislation, following the terrorist attacks of 11 September 2001, has focused on increasing government surveillance powers. Secondly, states consider that, because terrorism is a global issue, the demand for terrorists cannot be limited by national borders. The assistance of third parties, potentially in possession of extensive amounts of information about individuals, is a rich resource for identifying and monitoring suspected terrorists.

As a result of these perspectives, states that do not have constitutional or legal safeguards have been able to radically transform and expand their surveillance laws, with only a few restrictions. In countries that have these constitutional and legal safeguards, governments have questioned the protection of the right to privacy by not enforcing and transforming existing safeguards, by force of cooperation with third countries or private countries, or by replacing domestic surveillance systems with other extraterritorial ones.

The rule of law requires that there be a factual basis, related to an individual's behavior, that justifies the suspicion that he is involved in criminal activities. Developments in recent years have shown that there has been a disproportionate increase in surveillance of communications, intelligence services and law enforcement agencies around the world. There is an undeniable importance to new technologies (e.g. "eavesof" and surveillance technologies that can access the geographical position of mobile phones, technology that informs governments about the content of private text conversations, of Voice over Internet Protocol (VoIP) users, or that installs spy programmers on suspects' computers, remote access to computers). In some countries, encryption technologies have even been banned, which make communications more secure, but more difficult to intercept. (Source: United Nations. 2009. Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism).

Countries have increased their activities of identifying, examining, and labeling the general public under the apology of "counter-terrorism measures". To do this, they use various techniques that can violate people's right to privacy: when surveillance takes place in public places and, referring to wider groups of people, surveillance measures are typically subject to weaker regimes of judicial authorization and supervision. The existing human rights standards were relaxed, twisted, and broken, through the use of interceptions and searches, through the expansion of surveillance of finances, communications and travel data, through the use of profiles for the identification of potential suspects, through the compilation of various lists and databases, to calculate the probability of suspicious activities and identify individuals considered likely to be subject to greater surveillance. Over the past few years, even more innovative techniques have been applied, such as collecting biometric data or using body examiners that they can see through clothes.

The general alarming trend is for countries to increase their powers to intercept, question, inspect and identify individuals and at the same time reduce internal legal controls to prevent the misuse of these powers. These powers have given rise to concerns about ethnic profiles and discrimination in several countries and concerns that these new powers will cause serious tensions between citizens and the state. (Source: United Nations. 2009. Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism).

The use of biometric techniques, such as facial recognition, fingerprintsand iris examination, is a key component of new identity policies. Due to the increased collection of biometric information, the percentage of errors and failures can increase significantly. This can result in the wrong criminalization of individuals, as well as social exclusion. Moreover, unlike other identifications, biometrics cannot be repealed. Once miscopied and used by one party, it is not possible to give an individual a new biometric signature. Also related to this issue is to mention that contrary to its scientific objectivity, in evidence can also be falsification. Centralized collection of biometrics presents the risk of multiplying judicial errors.

Surveillance

When can personal data question people's privacy? Privacy is called into question (or violated) when someone or public or private institutions obtain and use such data, without their knowledge and consent, in particular for criminal, economic purposes, but also for the purposes of state surveillance (police, finance, etc.).

Edward Snowden in June 2013 made a revelation about the violation of people's privacy, "in the form of Global Surveillance of Communications and Information Traffic executed through various Programs, including the PRISM surveillance program of the United States". It is one of the programs of the NSA's global surveillance system that has been kept secret since 2007, until its release in the press on 7 June 2013. Its existence was made public through publications made by the British newspaper The Guardian, based on documents provided by Edward Snowden.

We must keep in mind that it is in the USA that are located the great giants of the Internet (Google, Facebook, Amazon, Apple, etc.), who serve the rest of the world. Europe has realized that the US data protection system was not as efficient as that desired for the protection of individual rights, namely the privacy of European citizens and governments themselves. The processes of legislative changes have begun more intensively, especially at the level of international data-sharing agreements between the US and the European Union. Data collected legally by private agents may also be used by States for public purposes, such as security policies, cybercrime protection, terrorism and surveillance.

Surveillance of people is also a situation that is due to the practices of our digital society – being always online, and particularly through the use of electronic devices with gps connection (see the case of routine applications on mobile phones - Foursquare, Google Maps, Nintendo's

Pokémon Games, etc.) and any other that allows the user to locate, permanently, and consciously, make physical location data available. In this case the permanent surveillance of people will not be violating their right to privacy.
Meanwhile, the US has decided that the Internet would be neutral, i.e. it is the principle that it ensures that telecommunications operators providing internet access services cannot discriminate against access to content. That is, they should treat all online traffic as equal. These are the rules that make the Internet not like television, which delimits access to some channels depending on the package you pay for. Currently, content on the network is accessible to anyone, but in the future, U.S. internet operators (Verizon, Comcast, AT&T, Cablevision, and Time Warner) will be able to charge different amounts for access and content on the network. This amendment that removes neutrality from the internet brings a step backwards towards the effect that a global communication area, which is now free for all, will be accessible only to some, namely those with the most economic power. Are the rights to freedom of expression, information, and free access to the internet to be constrained? are we giving up freedom in favor of privacy and security?

Civil Law

Law - is the set of legal norms and principles that dictate the rules that must be applied in judicial and extrajudicial procedures for the resolution of civil disputes.
When a material right (or substantial right) is contested by one party in the face of another, the so-called legal debate is formed, which must be conducted through a system of previously defined rules. This system is precisely civil procedural law, which dictates all the rules of jurisdiction, action and process necessary to resolve this conflict of interest.
Because it is extremely comprehensive, civil procedural law is also applied in a subsidiary way in procedures of other natures (such as tax, administrative or even criminal) supplementing any absences of regulatory standard.

Principles of civil procedural law

The principles are principles that guide the application of law asawhole. They are present in the legal system implicitly or explicitly and represent the values that must be observed by the legal operators of lawin the application of the rules. The principles of civil procedural law may be constitutional if they run directly from the Constitution, in all other cases, infra-constitutional.
Principles to be applied in the processes:

I. **Legal process**
   It is the principle that guarantees everyone the right to a fair trial, with all the stages provided for by law, including obligations and guarantees. It establishes the rules and procedures for a procedural act to be considered valid, effective, and perfect.
II. **ContradictoryandDefense**
   The adversarial is the right of reply guaranteed to the defendant at all stages of the proceedings. The broad defense ensures that, in the presentation of the response, the defendant can use all the appropriate procedural tools.
III. **Isonomy**
   Isonomy is the principle that all people are governed by the same rules, of the condition of equality. As a legal principle, it is equality between all citizens, regardless of class or gender.

Natural Judge
The principle and that no one shall be prosecuted or sentenced only by the competent authority. This principle has repercussions on the rules of jurisdiction, as well as determines the **impartiality of the judge**.

Advertising
The principle of publicity to meet the public interest and ensure the supervision of justice, procedural acts must be public (except those that require secrecy of justice), under penalty of nullity.

Sources of civil procedural law

The sources of law are the ways in which a standard is generated and introduced into the legal system. As in most branches, the sources of civil procedural law are:**law**, customs, doctrineand**jurisprudence**.
The law as a source of law must be understood in a broad sense. Thus, in addition to ordinary, complementary laws and other types of laws in the strict sense, the internal rules of the courts and the codes of judicial organization of the states are also sources of civil procedural law.

The Right to Oblivion

With information as the driving force of contemporary society, the essential concern is that globalized societies should not lose sight of intrinsic and fundamental values, such as the dignity of the human person, as the supreme value of democratic society. **The man of the 21st century has, as one of the biggest problems the breakdown of his privacy.** Today it's hard to have privacy. Because modern society imposes constant vigilance on us. This is part of modern life. The 21st century works and has difficulty in establishing the limits of privacy. Even when you can keep your privacy about our action, on our data, and to what extent, that privacy ends up harming the collective.
The right to oblivion has historical origin in the field of criminal convictions. It emerges as an important **part of the ex-detainee's right to resocialisation, that is, to start over**. It does not give anyone the right to erase facts or rewrite history itself, but only ensures the possibility of discussing the use that is given to the previous facts, more specifically the way and purpose with which they are remembered. The right to forget is fundamentally related to the right to information, as a fundamental right of the human person. In this case, the information to be disclosed should be weighed with the right to forgetfulness, including when talking about the processing of data on the Internet. In ruling on the matter, the **Court of Justice of the**European Union delivered a decision in 2014 (2,140) indicating its position of guaranteeing the right to forget, based on the fundamental right of private life, prevailing over the right of access to information.
fundamental rights require that the information in question is no more available to the public, due to its inclusion in the list of results; these rights prevail, in principle, not only over the economic interest of the search engine operator, but also over the interest of that public in accessing information in a search on the name of that person. The right to forget is solidified in the premise that it is not authorized that a certain event, even true, occurred in a certain period of an individual's life, be disclosed to the population, since it would generate the person, hisfamily and his friends suffering and disorders. It is important to emphasize that the right to forget fulness can also be treated as "the right to be left alone" or the "right to be alone". Likewise, this right is consistent with other precepts solidified in the **Magna Carta, such as the right to private life, honour, image and intimacy.**

The Judicialization of Politics

The judicialization of politics and popular sovereignty concerns us with the reduction of democracy to the rule of law. It means that popular sovereignty is now being protected by the judiciary, crystallizing the idea that the legitimacy of democracy is subject to the decisions of constitutional courts. Citizens are irresponsible for greater participation in the political life of the country; in this context, the imbalance between competences and a negative policy of general perception and even their criminalization is established.

The Constitution is a political charter of the nation, which is a purely legal charter. This means that popular sovereignty is now being protected by the judiciary, crystallizing the idea that the legitimacy of any democracy comes from constitutional courts. Judicial decisions and political decisions are distinct forms of conflict resolution.

The theme of the judicialization of politics leads us to the tension between democracy and the rule of law. The judicialization of politics reduces democracy to the rule of law, and we are the director who has reached unimaginable levels. In this context, where the conservative idea of democracy emanates from law and not from popular sovereignty, the criminalization of politics is a consequence of judicialization. This is extremely worrying because it generalizes a negative idea of politics.

The judicialization of politics is not a legal problem, it is political. It has several causes, but it is in the social sphere that this phenomenon meets the conditions favorable to its occurrence. Living hierarchical and, in many ways, authoritarian society. Our political culture still has remnants of conservatism. In society that does not know the idea of respect for human rights it is easy to convince people that the solution to social and political problems is much more in the courts than in politics. This affects popular sovereignty as it repudiates citizens of greater participation in the political life of the country.

Judicialization favors the removal of politics in democracies and affects the balance of powers, since it provides for the invasion of law in politics. It is dispossessed popular sovereignty that plays its leading role in democracy, giving way to judicial hegemony. The depoliticization of democracy will give way to ***juristocracy.***

The problem of the defense of ethics in politics, evaluated with purely moral criteria. There's a difference between morals and ethics. Acting strictly morally requires only a certain degree of obedience; ethical action requires critical thinking and responsibility. Obviously, politics must be evaluated by moral criteria; It is not independent of men's morals and public ethics, but there are criteria that are purely political.

Moral values prevent in the name of a ban. The policy is intended for the common good, the public interest. That is why the criterion of morality cannot be the only one, because morality tells us what not to do, not what to do. Therefore, morale can be used by conservative sectors and the Media to paralyze politics, both to prevent the debate of controversial issues in Parliament, and to satanize the adversary, turning him into an enemy to be eliminated.

The debate on politics, reduced to the problem of corruption, as a purely moral and non-political issue, gives way to demagogic discourses and hypocrisy. This has more to do with moralism than morality or ethics. When everything is moral, one thinks more of the virtue of individual men than on the value of a political project or the importance of some public policies, which substantially affect the notion of democracy.

Judicialization takes place to protect the fundamental rights (freedom and equality) of citizens, directly influencing management procedures, also seeking assurance, in relation to public policies, fair procedure, equal opportunities, transparency, etc. This type of judicialization is perhaps the most evident, as part of society, that Hirschl, Thurin (2006, p. 725) *calls "Judicialization from below*".

Judicialization is a polysemic term, assuming close but different concepts, depending on the political and legal culture of the population of each country and society in general. Judicialization occurs when a judicial decision interferes with issues whose decision-making would, in principle, fall within the political representation bodies (legislative and executive powers).

V. HUMAN RIGHTS

Concept

Human rights are inherent rights of all human beings, regardless of race, sex, nationality, ethnicity, language, religion or any other condition. As such, rights mean that they are not merely privileges, granted by other human beings, but qualities inherent in the status of human beings and for this reason cannot be disrespected at the whim of one. Human rights, which are an integral part of the essence of man, and fundamentally, as a social and gregarious being, play a decisive role in maintaining, harmony and safeguarding freedom, peace and justice among individuals, so that they feel protected from abuses, such as discrimination, intolerance, injustice, oppression and slavery that may arise in this coexistence, as well as, to feel the will and freedom to assume themselves with the dignity of what they are – human **beings**.

Human rights are based on the basic principle of **human dignity**, which according to Kant "is the value of all that is priceless, that is, it cannot be replaced by another equivalent. Dignity is an inherent quality of human beings as moral entities (...)". According to Kant., (2005), human dignity is much more than a moral conception, it is an anthropic principle, in which any valid theory about the universe has to be consistent with the existence of the human being, that is, the only universe we can see, is the universe that human beings possess.

At the legal level, dignity is also a principle of the democratic state of law and a prerequisite for the full exercise of democracy, since the promotion of the individual as a being-social extends in that of the individual with rights. Human rights have a universal and human vocation, as a basis for the new universal order. This free, just and solidary society legitimizes the interference of states in the internal politics of other States; the legitimacy of a humanitarian or humanist military war, when human rights are being "vandalized". Human rights do not crystallize in time and space, since man is "adaptable", human rights also change, adapt and perfect.

The History of Human Rights

The origin of the concept of human rights originated in the seventeenth century and is the product of the theory of "natural rights" (Natural rights were established by God and reason, to all men, because they are all equal to each other – Principle of Equality between Men), by John Locke, defender of freedom and religious tolerance. However, in the era before Christ, there was already an embryonic perception of the concept and human specificity:

- Ciro's cylinder decree of 539 BC, - protects the right to equality and religious freedom.
- Pact of the Virtuous (Hifl-al-fudul) – drawn up by Arab tribes around 590 A.D. is considered one of the first human rights alliances.
- No tax may be imposed without the consent of Parliament,
- No subject may be incarcerated for no reason demonstrated (the reaffirmation of the right to habeas corpus),
- No soldier can be quartered in the homes of citizens
- Magna Carta - establishes equality before the law and the right to property;

After King John of England violated several ancient laws and customs, by which England had been ruled, in 1215 his subjects forced him – to sign the Magna Carta, which lists what later came to be regarded as human rights. Amongthemwas:

- The church's right to be free from government interference,
- The right of all free citizens to possess, inherit property(s), and be protected from excessive taxes.
- The right of widows to own property and to decide not to remarry,
- Establish the principles of equality before the law. This also contains provisions **prohibiting bribery and official misconduct**. (A BriefHistoryofHumanRights - The Magna Carta (1215);
- The Petition of Law (1628), - the English Parliament approved a declaration of civil liberties, which safeguards civil liberties, such as the right *to habeas corpus*.
- The Constitution of the United States of America (1787) - defines the basic rights of citizens.

The Declaration of Independence of the United States of America "was the document in which the Thirteen Colonies of North America declared their independence from Great Britain, inspired human rights documents around the world." (Declaration of Independence of the United States (1776).

The Constitution of the United States of America (1787) "is the oldest National Constitution, and it defines the main governing bodies, their jurisdictions and the basic rights of citizens." (A Brief History of Human Rights - The Constitution of the United States of America (1787) and the Declaration of Rights (1791).

The Declaration of Human and Citizen Rights (1789) - comes to mark more broadly and significantly the historical process of Western awareness, of the intrinsic value of man. The French Declaration of Human Rights emerged in the context of great political and social achievement, under the Enlightenment influence of natural rights and Renaissance ideas that evoked equality among all human beings, calling the ancient ideals into question

The Declaration of Rights (1791) - "... it protects freedom of expression, freedom of religion, the right to keep and use weapons, freedom of assembly and freedom of petition.' (A Brief History of Human Rights - The Constitution of the United States of America (1787) and the Declaration of Rights (1791).

Only in the 19th and 20th centuries, initiatives of some significance were put in place, in the international protection of the human being, namely in the eradication of the slave trade; treaties aimed at improving the conditions of the sick and wounded in the War; the protection of minorities; the creation of the Leagues of Nations; concern for the fair treatment of refugees; the legal status of women, and the creation of the International LabourOrganisation (ILO), with the humanitarian mission of eradicating poverty and social inequalities, alongside concerns of equal opportunities among men.

On 24 October 1945, the United Nations (UN) was established. It had as its founding principle the search for and maintenance of peace, to lift the world on the pillars of freedom and justice, through cooperation between peoples, to strengthen human rights and to seek solutions to the economic, social, cultural or humanitarian problems that took place after the end of World War II. A war where many atrocities were committed, 6 million lives were lost among soldiers and civilians, entire cities in ruins and flames in which the Holocaust is an example.

The UN Charter itself proclaims in Article 55 that the United Nations must promote "respect ***for human rights and fundamental freedoms for all without distinction as to race, sex language, or religion."*** Art. 55 of the UN Charter. In Article 56, member states express a willingness to develop cooperation actions with the UN, both jointly and individually, with a view to achieving those objectives (States with different legal and cultural backgrounds, from all regions of the world).

The Universal Declaration of Human Rights (UDHR), signed on 10 December 1948 by the United Nations General Assembly in Paris, emerges as a landmark document in the history of human rights. In the desire to regulate international relations, in the repudiation of violence and barbarism among peoples, in the maintenance of peace, in opposition to discrimination and exploitation of peoples, the UDHR has established for the first time in history the universal protection of human rights as an ideal to be attained by all peoples and all nations, in promoting respect for these rights and freedoms. The 14 States that subscribe to this Declaration were bound by the acceptance of precepts that, despite not having coercive value or legal imposition, have ethical and moral value, with the commitment made, making them responsible for developing the appropriate legislation in their countries, so that these rights could be implemented.

The United Nations Universal Declaration of Human Rights marked the 20th century, bringing legal and global recognition of human rights, innovating civil and political rights, namely the right to life, the right not to be subjected to torture or slavery, the right to freedom of thought, conscience, religion and expression, and particularly inspire the constitutions of states and recent democracies. Two decades later, given that the 1948 UDHR had only the quality of recommendation (resolution), so without binding character, states needed to create other instruments.

At the United Nations Assembly of 16 December 1966, two multilateral treaties were concluded that recognized and strengthened the rights and duties of the UDHR; more articles were added extending the number of rights, giving them greater protection, surpassing the Fundamental Declaration itself. These Treaties are the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR), which have made human rights, precepts binding and binding on signatory States.

The ICCPR is a pact that strengthens civil (individual) and political (access to justice and political participation) rights. The ICESCR has established human rights - economic, social and cultural rights that must be achieved in the long term, in a progressive and programmatic way, the duty of which is addressed to the States themselves.

The principles of the UDHR are present in almost all humanitarian documents, such as the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination Against Women, the International Convention on the Rights of the Child, the Convention against Torture and Other Cruel Treatment or Punishment, Inmanous or Degrading, among many others." (Universal Declaration of Human Rights). It was up to the signatory States to transpose into the internal legal order of these States, producing new legislation, adapting the existing one and giving it effective application in the sense of these standards to be respected. Failure to comply with the rules, whether by acts or omissions, puts States in a position to have to justify themselves before the International Court of Justice (ICJ).

Rights of EU Citizens

Protection, Rights and Justice for EU citizens

European citizens enjoy a high number of rights, freedoms, and protections, including personal, civil, political, economic and social rights, the protection of their personal data, protection against discrimination and the freedom to travel without border controls in most EU countries.

All European citizens enjoy the same fundamental rights, based on the values of equality, non-discrimination, inclusion, human dignity, freedom, and democracy. These values, reinforced and protected by the rule of law, are enshrined in the EU Treaties and the Charter of Fundamental Rights of the European Union. Every European citizen has the right to live, work, study and marry in another EU country. The EU ensures the security of european citizens' personal data and gives them certain rights as consumers.

- Justice and fundamental rights
- Schengen areawithoutborders
- Data protection - Informationsheets

Citizens enjoy legal protection in any EU country and, thanks to the European arrest warrant, criminals can be prosecuted in other EU countries and repatriated. Judicial authorities cooperate with each other through the European Judicial Cooperation Unit (Eurojust) to ensure that judicial decisions made in one EU country are recognised and enforced in any other EU country.

- Summaries of EU legislation on justice and home affairs

The Court of Justice of the European Union guarantees uniform application of EU law in all EU countries and deliberates on legal disputes between national governments and the European institutions. In certain circumstances, citizens, businesses or other organizations may also take legal action before the Court of Justice against an EU institution they consider to have infringed their rights.

The EU seeks to improve internal security through cooperation on law enforcement, border management, civil protection and disaster management. In particular, the EU takes action against organized crime and helps national police forces work together through the European Police Office (EUROPOL).

EU countries also make efforts to define a coherent European immigration policy that takes advantage of the opportunities offered by legal immigration while addressing the challenges of illegal immigration. Work is underway to improve security through more effective control of external borders and, at the same time, to facilitate procedures for persons entitled to enter the EU.

- European Agenda onMigration - Factsheets
- EuropeanSafety Agenda - Informationsheets

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HumanRightsandDemocracy

The complexity of the theme Democracy and Human Rights in the 21st century – turbulent, complex, uncertain and uncertain time in which we live is perhaps the most serious and intricate crisis that has been experienced since the democratic transitions made in the eighties of the last century, influenced by the peaceful end of the two Iberian dictatorships, which occurred in the second half of the seventies. The crisis of democracy is today – contrary to what was thought after the collapse of communism, when it was admitted that liberal democracy was going to be the common rule of all the countries of the world – a situation that does not escape any democratic society of our time, however consolidated it seems to be. But, of course, it is felt with greater acuity in developing countries, crushed by external debts and speculative attacks on their national currencies. The explanation of this crisis of democracy – and a certain addition to the theory and international importance of human rights, which also has to do with the attempt to marginalize the UNITED NATIONS system.

Digital capitalism and the corrosion of audiovisual media are provoking in classical representative democracies, as we know them in the last century, the progressive loss of importance of Parliaments and the shift Ing of the centrality of debates, from major political issues, from Parliaments to the media and social networks, thus conditioning the most serious decisions of states and governments. It is a situation that helps to discredit politics and politicians, trivializing debates and forcing them to step down.

Some think that so-called media democracies, extending the political debate to wide audiences, are a beneficial way of democratizing politics, making citizen participation more effective. However, it is also necessary to consider its perverse and serious aspects: the lowering of the level of debates, the confusion – and even nausea – that provokes politics, when seen and known through the media and social networks, in a hasty, often deformed way, by the hypertrophy of petty and personalized issues.

It is a situation that manifestly affects the prestige of the political class, invading the very right to privacy of politicians and exposing them to permanent visibility. Not to mention another very worrying problem, such as the rapid concentration we are seeing everywhere in the media (daily newspapers, weekly, magazines, radio and television) concentrated in the hands of fewer and fewer media groups – two or three, per country – usually crisscrossedif not dependent on the great international economic power. It is a phenomenon, resulting from the globalization of economies, which – i do not want to stress – is extremely dangerous and conditioning not only for the freedom of the press and citizens, but also for the proper functioning of democracies.

The globalization of economies, Digital Capitalism, information and knowledge – is another unreducible phenomenon of our time, with obviously positive and other very negative aspects, which considerably affects the functioning of democracies, internationalizing it. The point of understanding is that liberal capitalism, as we know it, is changing in nature. **It has evolved from an essentially industrial and then financial phase, and today, today, increasingly, it is becoming a speculative capitalism, faceless, without ethical principles, with tenuous national ties and without accountability, with no democratic body.**

Many respectable economists and politicalologistshave been underlining this immense change in recent years. Extremely harmful to the functioning of democratic institutions. Through pension funds and the actions of multinationals, so-called dirty money – from drugs, the illegal arms trade, prostitution, the infamous trafficking of human organs, etc. – has infiltrated the flows of capital that are moving speculatively today, from stock markets, all over the world, at the speed of light. **Its purpose is profit for profit, without any obedience to legal, political or ethical rules**. It is what some call the capital empire, which should not be confused with today's dominant hyperpower, the United States, which largely gave rise to it.

It is a monster that is escaping the creator, as understood best, when the world's media raised the well-founded suspicion that financial companies controlled by terrorist groups, close to al-Qaeda, speculated with the actions of companies linked to tourism, civil aviation and insurance, selling them high, before the terrorist acts of 9/11, and then buy them, down, after the attacks, making fabulous profits ... At the time, the Us administration announced that it would conduct a rigorous and in-depth investigation into the issue investigating so-called "tax havens" and speculative offshores, but nothing else was known. The scandal of so-called "creative accounting", discovered in multinationals as important as Enron, will have contributed to advise some prudence in these kinds of investigations, were not to suddenly open the "pandora's box".

Globalization, as we know it, is an unsittable phenomenon at the stage of human and civilizational development in which we find ourselves. We can't cancel it or ignore it. But we can **perhaps impose ethical rules on it**, as the former High Commissioner for Human Rights Mary Robinson put it. How? I see only one way: through pressure from global public opinion – so-called global citizenship, another aspect, this positive, globalization – and international legal means, where the Ombudsman certainly has an important say in order to radically change the behavior and action of international financial bodies (B.M and IMF, but also the O.M.C.), who should speak clearly and condemn the very serious problem of deregulated globalization, provoking a debate at the United Nations in order to impose ethical rules on it in accordance with the principles underlying the Charter of the United Nations itself.

Deregulated globalisation is causing a huge erosion in the national states themselves and, consequently, in the democratic systems that still govern them. The speculative attacks directed against national currencies, with the aim of making kneel before the impositions of the capital empire, their leaders, however democratically legitimate, independent and honest they are, the asphyxiating problem of external debts – and their interest – the unfair pricing of raw materials and agricultural products, without hearing or agreement of the main stakeholders, the producing countries, the attempt to destroy Mercosur, without the European Union having interfered in its favor in the least – as was in their interest, and in particular Spain and Portugal – are some clear and irrefutable examples of the tremendous "globalizing" devastation that states and their democracies are suffering.

Deregulated globalization has hit Africa, a drifting continent, and Asia, not to mention the Middle East, where the dangers of a new map design of the Region – especially of the areas where oil is or passes – are in sight. And it will not be the "escape forward" of a war against Iraq that will solve them. On the contrary: the unpredictable consequences of such an action, to be taken, will surely be terrible for everyone. We cannot ignore the that the world is in the face of a pandemic and therefore an economic recession for which there is no way out of sight. It could even get worse, in my humble opinion, if rules are not imposed on globalization and Digital Capitalism by the world's major economic and technological decision-making centers.

It is in this very complex economic, technological and political context that it recalls the 1930s – although historical parallels are always dangerous – that we must face and try to solve the crisis of democracies and the relative slowdown, which has been felt at the global level, in the defense of human rights that are universal and inseparable and cannot be evaluated, using the criterion of double weights and two measures, as politically appropriate or not.

Democracy is a fragile flower that must be permanently cared for, to deepen and adapt to the new times. It is a system of good governance, which rests on the separation of powers, respect for the rules of the Law, the timely functioning and exemption from justice, transparency, the transience of power, the sustained development of the economy and the social balance, obtained by concertation and dialogue. In times of great social imbalance, when the gap between poor and rich (people and states) is increasingly deepening, of great international crime, in which economic power – without any democratic legitimacy – overlaps with the political power legitimized by the vote and conditions it, with some lack of control in the level of justice, the struggle for democracy acquires, international dimension and is inseparable from the struggle for international law and peace.

Human Privacy

The concept of privacy was born in the ancient philosophy, with the distinctions between the domains of the public and the private. In ancient Greece, the interest of the State was greater than the particular interest. With the decline of Greek political life, after the Macedonian invasion, the philosophical interest moved from public life to private life, thus valuing the intimacy of the citizen. With the decline of feudal society, in which isolation was the privilege of the few, privacy is now extended to all, as an element of promoting equal treatment, between citizens and social parity. In America and Europe, until the first half of the 19th century, the defense of the right to privacy was confused with that of private property and honor, but from the second half of the 19th century the protection of privacy received new contours.

In the 20th century, technological innovations caused sudden changes in the concept of privacy, raising the risk of violation. The desire to get information about people has become growing. (Navarro, 2014) In 1948 came the American Declaration of the Rights and Duties of Man, international protection of the right to privacy, which in Article 5 provides the following: "every person has the right to the protection of the law against abusive attacks on his honor, his reputation and his private and family life". Second, Sampaio(1998), in the same year, was approved by the United Nations General Assembly on December 10, the Universal Declaration of Human Rights, which stated in its article 12, that "no one shall be the object of arbitrary interference in his private life, in his family, in his home or in his correspondence, nor of attacks on his honor or reputation. Everyone has the right to the protection of the law, against such interference or attacks."

Privacy and Human Security

A person whose privacy is significantly affected cannot live a life without fear and without deprivation. It is assumed that basic protection of privacy rights is guaranteed so that a life can be lived with human safety. Privacy is protected at international level through two key instruments, the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR). Article 12 of the UDHR states: "No one will suffer arbitrary intrusions into your private life, your family, your home or correspondence, or attacks on your honor and reputation. Against such intrusions or attacks everyone is entitled to the protection of the law."

Art. 17 of the ICCPR is the most important international provision with regard to Privacy. Itstatesthefollowing:

1. No one will be subjected to arbitrary or illegal interventions in their private life, in their family, in their home or in their correspondence, nor of illegal attacks on their honour and reputation.
2. Every person has the right to the protection of the law against such interventions or such attacks." The Human Rights Committee is tasked with monitoring the implementation of the ICCPR. It also presents General Comments on specific matters relating to the Pact. General Comment No. 16 on the right to respect for privacy, family, domicile and correspondence and protection of honor and reputation (Art. 17), 1988, and General Comment No. 19, on the protection of the family, the right to marriage and marriage equality (Art. 23), 1990, are especially relevant for the area of privacy protection.

As mentioned in General Comment No. 16, Article 17 protects everyone's right from interference in their privacy, arbitrary or illegal. According to the Human Rights Committee, these rights must be protected from state interference, but also against violations by other persons, natural or legal. The Committee establishes a broad understanding of the term 'family' to cover not only the 'typical' family, a married couple with children, but also other types of family.

Art. 17 of the ICCPR does not contain a specific limitation clause.

According to Manfred Nowak., ((2005), CCPR Commentary, art. 17 CCPR.), the right to privacy can be divided into several subgroups, pursuant to Article 17 of the ICCPR, that is, the right to privacy, identity, integrity, intimacy, autonomy, communication and sexuality.

- **Privacy** - in the strict sense, as adopted in Article 12 of the UDHR, protects the specific field of individual existence that does not touch the sphere of privacy of others. It can also be understood as the element that does not fall into any of the following categories.
- **Identity** - includes personal 'characteristics' such as the name, appearance, clothing, hair, gender, genetic code, as well as the religious confession or belief of each.
- **Integrity** - personnel is also protected by Art. 17 of the ICCPR. This means that, for example, medical treatment without consent or even against the patient's will should be considered as an infringement of the right to privacy.
- **Intimacy** - is first and foremost ensured by the protection of home and correspondence, as well as through data protection. A person is protected against publication, without prior consent, of his personal specificities.
- Autonomy - covers the area of personal realization of human beings. It is the right to your own body that also gives you the right to act against your own body, including the right to commit suicide.
- **Communication** - area covers interaction with other people and confers, in addition to the special protection of the family, a right to develop relationships with other people.
- **Sexuality** - Sexual autonomy is a special and particularly important part of the right to privacy. Any regulation of sexual behavior constitutes an interference with the right to privacy. Interference is only allowed if it is absolutely necessary to protect those affected (e.g. children).

EspeciallyVulnerableGroups:

- **People with** disabilities - who require special care and help are often likely to suffer interference with their rights to privacy, for example if they are in closed facilities.
- **People affected by illness and the elderly** - living in hospitals, clinics or nursing homes face a particular risk of affecting their right to privacy.
- **Children** - with regard to new means of information, children are likely to suffer violations of their privacy rights if they reveal personal information on social networks or on the internet in general.

The Right to Human Privacy

Privacy is the subjective feeling of human beings about their personal space that is dimensional – territorial, physical, mental or psychological and should be considered a mechanism developed throughout life in the context of social interaction and coexistence with other human beings In this way, if we consider that all cultures have their particularities and differences, in particular, in the communication processes obtained by education and socialization, also privacy, the way it is understood by each person and collectively varies according to time and cultures.

In the individualistic view of the State, privacy is taken as a reserved area of the individual without any ethical or solidary requirement in its exercise, therefore a privacy with selfish and antisocial accent; privacy in the European matrix, on the other hand, occupies a high place in human rights, coexisting with several others of the same nature, such as the rights to the inviolability of the domicile, to the secrecy of correspondence, in the image, unfolding in various restrictions and prohibitions, being therefore a fundamentally defensive right.

Privacy can be understood, such as the ability or ability of any human being to manage his physical and mental space of well-being, in a balance between what he wants to expose of himself (his identity) and the invasion of what he does not want. The feeling of privacy is somehow linked to the feelings of comfort and trust that you have towards others, and it is in these two measures that the management of the

same is made, on a basis of choosing the permanence or absence of these same people, as Friedrich Nietzsche tells us: "My loneliness has nothing to do with the presence, or absence, of people. [...] In fact; I hate those who steal my loneliness, without in return offering me truly company." Yalom, (2015).

Certainly, privacy go hand in hand with values such as the reservation of the intimacy of private life, in any domain, be it, the intimate and personal sphere (family, affective and sexual life, health status, religious and political beliefs). At present, the privacy of individuals / citizens and organizations as a consequence, since they are holders of "private" information of these same citizens, is a very present concern of democratic states, particularly public authorities, to be able to manage this information, for specific purposes, namely for the construction of public policies, and at the same time to protect the protection of people's privacy.

Indeed, because in the last sixty years new mechanisms and information and communication technologies (ICT's) have been developed, in particular wireless technologies (computers, mobile phones) with internet access, new forms of interaction without constraints of space and time, various forms of individuals' exposure and information sharing have been provided to men, organizations and States, however, in the face of this increased exposure, the territory of privacy has become more vulnerable.

In other words, this amplification of communication, exposed by the Internet promoted new forms of freedom, with emphasis on the freedom of expression of individuals, but similarly, it has put many risks in the exercise of the right to privacy, which in its traditional form is broad and vague, when it is addressed to ICT's and this territory that is nobody's (network), opens up a new range of questions about these two fundamental rights, namely what is internet privacy? what is its nature and limits? How is privacy protected in this exhibition area, how to minimize the damage caused by new forms of crime (*cybercrime*), how to protect information? How is the right to privacy of citizens guaranteed by the full exercise of their freedom of expression? And how should users act in this digital world, where their private sphere is more diverse?

Human Privacy on the Internet

The problem between the right to privacy and new Information and Communication technologies is a reality these days. Warren and Brandeis (1890) wrote their article "*The Right to Privacy*", the concern about the new technologies of the time, such as the machines of photography and the major newspapers. The Constitution of the United States of America (1787) "is the oldest written National Constitution that is in use and defines the main governing bodies, their jurisdictions and the basic rights of citizens." (A Brief History of Human Rights - The Constitution of the United States of America (1787) and the Declaration of Rights (1791).

The French Declaration of Human Rights emerged in the context of great political and social unrest, under the Enlightenment influence of natural rights and Renaissance ideas that evoked equality between all human beings, calling the ancient ideals into question. The Bill of Rights (1791) "... it protects freedom of expression, freedom of religion, the right to keep and use weapons, freedom of assembly and freedom of petition.' (A Brief History of Human Rights - The Constitution of the United States of America (1787).

According to Brandão, (2013), in 1974 *federal privacy was published*, a federal legislation that began to govern, within the restricted scope of federal government agencies, the activities of management of stored personal data, allowing the disclosure of individual information with some restrictions and expanding the access of the interested party to personal data (right of access), including for the purpose of requesting the change of them (right of rectification). Agencies are obliged to follow, among others, the principles of collecting, only the information essential to their activities, of publishing news about the nature and structure of the database, in the *Federal Register* and, not to keep information on how the person exercises his individual rights.

According to Camara, (2014), in U.S. law, the problem of potential violation of the provisions of the privacy protection law in electronic media, the *Electronic Communications Privacy Act* of 1986 ("ECPA"), has been the subject of intense debate. In Google's case, The AdSense technology associated with Gmail e-mail messages would not be compliant with the law's rules, related to the crimes of electronic interception and unauthorized access, to content stored on the Internet. Jurisprudence, however, seems to have little deepened the theme, supporting the non-application of ECPA standards to data storage services in electronic communication. Thus, the argument was taken to the extreme, the messages received and sent and temporarily stored, on gmail servers would be excluded from the scope of protection of the law, especially for the privacy of users located in different U.S. federal states.

According to Lucca, (2008), in March 2004, Google began testing its e-mail service, "G-Mail" becoming the center of controversies in the debate about privacy and protection of internet users' data and personal information. This contributed to the first lines of state laws in the United States on "online privacy," the California online *Privacy Protection Act* of 2003.

According to Lucca, (2008) Today the United States has state laws, such as the Law of Oblivion, in which the posting must be removed from the air, if required, but it is not all states that adhered to this law. In April 2014, the U.S. House of Representatives passed the information-sharing bill, the *controversial Cyber and Protection Act (Cispa) or HS-35*. Cispa*will* allow, if the approval of the President of the United States, companies to hand over confidential data to the government, without a warrant, without anonymity, without judicial review. This law not only binds U.S. citizens, but all countries, because all computer users who have any relationship with U.S. companies, using their services, free or paid, may have their private data collected, subject to the validity of Cispa.

Human Privacy in Digital Environments

In digital environments, private data is provided to a system that records and stores the data. The data provider will have little or no control over how, and for how long, the recorded and stored data will be used, leading to the asymmetries of the information flows. In many cases, the data provider is obliged to agree to assign the data, otherwise it will not have access to the services offered. In this context, the violation of privacy derives, in most cases, from the asymmetric flow of information between the company that records and stores the data and the data provider, Jiang; Hong; Landay, (2002).

This issue is compounded as there is increased data flows, system speed, and low data maintenance costs over time. Many companies design and employ their own regulatory policies with regard to the use and privacy of their users's/customers' data and make public those policies to detail how the data is recorded and stored and what their use will be before they are required by law.

However, data is often recorded and stored before users have access to privacy policies or have the means to follow up, if companies comply with what they promise in their control policies, data confidentiality. The dynamics of the Internet itself and the constant updates of computer programs expose the system to risks that compromise privacy (Pollach, 2007, p. 188).

The streams of data recorded and stored on the Internet brings many benefits to consumers and citizens, but also increases the risk of abuse through discrimination, manipulation and/or cybercrime. Digital privacy laws should provide users with control and co-ownership of their data, as well as facilitate their deletion when claimed. Although it has advanced in the regulation of the right to forget over digital networks, in practice, the lack of supervision allows companies to carry out manipulations, with the data of their users, which have not been previously agreed, such as the sale to third parties.

Human Privacy on Social Networks

With the rapid development of information and communication technologies and the expansion of social networks such as Facebook, Messenger, WhatsApp, Twitter, etc., the proper international regulation of data circulation in international terms and the harmonization of

internal laws of countries, will remain, as priorities on legislative agendas, in the coming years. There are multiple legal issues linked to the issue of the rapid growth of social networking sites, one of which is the protection of personal data and the issue of privacy in general. Social networking sites offer their users an easy way to share information about themselves and others.

However**, many users quickly realise that information they want to share only with their friends can end up in the hands of the authorities, strangers, the media and the general public**. For example, companies for recruitment of their own work or for third parties consult these sites for the purpose of accessing the origins of potential employees, and which can bring them a substantial amount of personal information about a person. The policy of some sites, imposed vigorously, on the use of the real name, in certain social networks, worsens the problem. Related to this issue is the possibility that anyone, from the hundreds of "friends" of a user, can download the information they want and use it wherever and, as you wish (for example, images).

Reality shows that access covers more than friends and members. Users must understand that anyone, such as potential employers, law enforcement authorities, etc., can access photos, comments and information posted on the profile pages. However, this information refers to the image that a person wants to convey to the world, outside the network. Users who **expect their information to be seen only by people they know are often surprised at how their personal data is disseminated**. The main problem is that once published on the Internet, they have little or no control over them. The privacy terms set by default, in individual accounts, allow you to show a lot of information, to those who see the profile.

Personal features, such as those shared on blogs and comments, can be accessed by anyone who sees the page, from your profile. If social network operators put privacy settings by default at a higher level of protection, users would immediately gain more control over their personal data. **Privacy policies, such as contracts, emails, messages, etc., must be clear and easily accessible so that users have a clear understanding of the content in question. Unfortunately, privacy policies, sites and terms of use often appear with an excess of cross-references and are unnecessarily complicated. This makes the task of reading information more difficult than it would have to be.**

In April 2012, the Committee of Ministers of the Council of Europe adopted a recommendation on the protection of human rights in relation to search engines, establishing that Member States should ensure transparency in the way information is collected through search engines, increase transparency in the collection of personal data, etc. (Sources: Council of Europe. Recommendation on the protection of human rights about search engines; Peter Malanczuk. 2009. Data, TransboundaryFlow, InternationalProtection).

Human Privacy and Consumer Culture

According to Briggs and Burke (2006, p.86) "technology can never be separated from the economy and the concept of the industrial revolution is preceded by a communication revolution - long, continuous and unfinished." The technological revolution driven by Gutenberg allowed much more than the creation of new communication spaces that, among other social and cultural changes, helped, decisively, in the impetus to the first and second industrial revolutions. The idea of freedom of expression, which was already being conquered, gradually reached a new level with the entry of technologies into the digital press; and, next, the defense of new political rights, such as freedoms of the press, information, assembly, association, among others, in the face of new sociability, based on the relations between technologies, communication and the economy.

According to Habermas (2002), public opinion emerged, between the eighteenth and nineteenth centuries, from a set of economic and sociocultural factors, and consolidated itself in the public sphere mediating the relations between the State and society, from which the manifestations of individual opinions, free and rational, guided by the civic ideal, from the access to information that gave it form and content. Public opinion has become the engine of liberal bourgeois democracy representative of the construction of a public sphere free from the power or political interest of the State and private (private) interests. More than a political change, for the author, this transformation has the meaning of a structural cultural change. The public sphere described by Habermas (2002) is an eminently communicative space, in which discourse, rational debate and argumentation between equals constitute the principles that guide human action

In fact, the private sphere constituted in modernity from the structural changes of the public sphere is now understood as the impenetrable domain of life, in which it has the mastery of itself, with a greater degree of autonomy. If, on the one hand, a menu of social rights and guarantees offered by the State begin to govern a part of people's lives (for example, from the universalization of education), on the other hand, intimate life gains a new cultural coating, to the extent that it weakens community social ties, allowing privacy to represent an impenetrable space, in the public eye.

The ethics of modern privacy is one that allows the separation of values proper to public life, those circumscribed to private life. Bradeis and Warren (1890) theorized the classic definition of privacy, such as, "the right to be left alone", responded, in part, to the anxieties and longings of modern life. The idea of a "right to be alone" responds to the fears inserted by journalism and photography that, in the passage from the 19th to the 20th century, transformed the private life of those characters, whose public performance fell in the public interest, into an object of surveillance and persecution.

This definition leads us, first of all, to the finding of the moral assumptions of liberalism and in utilitarian ethics. The notion that the right to privacy would be one that would allow individuals to be alone, clearly recovers the political and moral foundations of the utilitarian ethics of authors such as John Stuart Mill and, in particular, John Locke, for whom freedom is related not only to the ontological dimension that underlies us, as well as the management of assets and property belonging to ourselves. To be free is to be able to dispose of what we have/ have. The utilitarian ethical proposal, also known as "ethics of consequences", is part of the idea that all individuals are free and rational and are therefore able to morally arbitrate a conduct, based on a calculation made about its consequences.

For Warren and Brandeis (1890), ethics began to coat and substantiate almost all privacy policies, since it presents an apparent solution to moral conflicts, underlying the very idea of privacy. Warren and Brandeis set the limits for the exercise of freedom of expression, with the thesis that privacy is a good that can be managed by its holder. According to Veblen, (2004), the transition between the 19th and 20th centuries in the United States saw the emergence of an "idle class", an expressive part of the capitalist bourgeoisie that consolidated and embraced the communication of consumption, as an instrument for marking its condition and social class. In this context **, seeing and being seen, from the consumption of certain goods or services, functioned as a very important social brand**.

Some newspapers of daily circulation in the USA began to publish **"social columns"**. These columns began to "commercialize" the intimacy of certain characters, whose private life had (or did not) have a certain public interest. Quickly, these social columns began to "commercialize" the intimacy of certain characters, whose private life had (or did not) have a certain public interest. If the commercialization of the intimacy of other people served to increase the sale of newspapers, it also served for Joseph Pulitzer, then editor of "New York World" to propose the separation of the concept of information with public interest, from the private, what would be termed as **brown *journalism***. Although it is not free of conflicts and contradictions, the consolidation of the notion of privacy, as an individual good, was essential for the development of the mass cultural industry and the establishment of possible boundaries between the public and private spheres.

The rationality imposed by ethics within the concept of privacy made, however, the main assumptions implied in the debate on privacy, become the combination of the binomial control (of information about itself) and freedom, opposing a private world, to another, exercised in the public sphere. Around privacy there came to be an intimate sphere (right to be left alone) and another public sphere, which would be in the hands of consumers. According to Solove (2008), from the idea that privacy would be a kind of right to solitude, we can observe that

some limits have been respected, whether in terms of guarantees for the exercise of freedom of expression or for the observation of the right to privacy. The transgression of that right would be justified only when invoked for the sake of the public interest.
Castells (2009) indicates that there is a much greater complexity than a clear boundary between the public and private spheres. Thus, the ethics for privacy based on rationality and the binomial information-consent, is not able to account, of the multitude of problems that derives from the new context of life, in network. Nissenbaum (2011) argues that one cannot assume the binomial information-control, that it can guarantee the right to privacy, since we are not able to control the information (data, meta data or information) about us, even if we can partially exercise certain freedom or veto in the use of it.
By accepting the terms proposed by one of the parties (the most powerful part of the relationship) and whose points are non-negotiable, he read and consented rationally to all that is proposed, it is of an unmatched moral ingenuity or an endless ethical channel. Not accepting, currently, a certain privacy policy is to assume a veto of participation, the culture of consumption. If organizations and institutions do not accept that they will need to give in to the privacy model they use, from the point of view of ethics, they will only have a sinister path ahead, modifiable only from scandals (increasingly frequent).

The Competencies of Justice Professionals

Nordhaug (1998, p. 10), classifies skills into: technical, interpersonal and conceptual. The technical skills of legal professionals (judges, lawyers, etc.) are related to the methods and processes designed to conduct a specific activity and the skills to use tools and operate equipment related to the activity. Interpersonal skills are human behaviors and interpersonal processes, empathy, social sensitivity, communication skills and the ability to cooperate. Conceptual skills are analytical skills, creativity, problem-solving efficiency, and the ability to recognize potential opportunities or problems. Fourcategoriesofkeycompetences can beidentified:

- **Relational skills -** work productively with others.
- **Problem solving skills - identify**,formulate and execute creative solutions to problems.
- **Training skills - recognize** the need to change and undertake change.
- **Communication skills -** communicate effectively and efficiently.

Problem-solving skills are perception skills, planning and organization skills, and decision-making capabilities. These competencies include the selection of relevant and information, in judicial proceedings, the mastery of appropriate methodologies and tools for the treatment of this information, with a view to generating appropriate results, **effectively and efficiently**. Communication competence involves oral and written communication, focusing on the mastery of communication processes, which involves language, the ability to understand and transmit ideas.
To deal with the competencies in judicial proceedings, the following concepts were chosen:

- **Competence** - is "... a responsible and recognized know-how, which implies mobilizing, integrating, transferring knowledge, resources, skills, which add recognition / credibility to the justice and social value of the individual" (Fleury & Fleury, 2001, p. 21). The main attributes of competence are initiative, responsibility, practical intelligence, acquired knowledge, transformation, diversity, mobilization of "actors of justice" and sharing (Zarifian, 2001 and 2003).
- **Professional competence** - is the one that is related to people or work teams, integrating technical, cognitive, social and affective aspects, related to work (Brandão, 1999, p. 28). It comprises knowledge, skills and attitudes or behaviors that will allow the development of justice in the fulfillment of its mission (Dutra, 2001);
- **Organizational competence** - is ***the savoir-faire*** of legal professionals in a particular domain, which originates and is sustained by professional competencies, combined with organizational processes and other resources, or the ability to combine, mix and integrate resources in processes and / or services (Fleury & Fleury, 2001, p. 23). They include competences on the organization of justice and its processes, skills in techniques and forms of work, service skills and social skills.
- **Key** competencies - is the set of skills and technologies whose mark of authenticity is integration. They represent a value perceived by citizens, a differentiation between the courts, a capacity for expansion (Hamel & Prahalad, 1995, p. 233-241). They are above all a distinctive and unique factor that marks justice or a particular activity.

Based on the previous concepts, judicial competence can be defined, such as the set of professional, organizational and key competencies that may be linked to the profile of a legal professional. These competencies can be *expressed by* expertise in dealing with the procedural cycle, information technologies and social contexts.

VI LAWSUIT

Judicial Processes

For those who are not in the legal area, understanding the step-by-step sequence of a judicial process with so many appeals, judges and courts is not a simple thing. The step-by-step judicial process may vary according to the matter involved (civil law, criminal law, tax law, etc.).
A judicial process can be divided into three phases:

- **Knowledge Phase involving the following:**
  The proceedings start from the protocol of a petition to the judge of first instance (first degree of the judiciary). This petition shall contain the reasons why the plaintiff is filing the action and what rights he seeks to achieve.
  The Judge will examine the application and the conditions under which the case was filed in order to eliminate defects, irregularities or procedural nullities that may exist, and prepare the process to receive the Judgment. It is at this time that he analyzes the jurisdiction of the Judge to prosecute and judge the action, the preliminary of the application, and in particular the request for Free Justice, granting or not the benefit to the author.
  Then, the judge determines the summons of the opposing party, that is, the defendant, to contest the action, exposing his defense against the arguments of the plaintiff. If the challenge is filed, the judge orders the complainant to file a reply, stating his reasons of law.
  The judge summons the parties by questioning them if they wish to present new evidence. If evidence is to be produced, the judge shall summon the parties to comment on them and to present their final considerations. If there is no, he will proceed with the proceedings by giving the Judgment (first-degree decision).
  After that decision, the party which feels harmed may refer it to the Court of Justice, where the first-degree decision will be reviewed and may be amended or maintained.

- **Phase dand Execution/Trial involves the following:**
  This is the time at which it is for the courts to ensure the defense of legally protected rights and interests, in which witnesses of the parties to the conflict are heard, under oath, about the facts which they may be aware of, in order to find out the truth, together with documentary evidence.

Rto suppress the violation of democratic legality and resolve conflicts of public and private interests. This procedural phase is quite complex and requires special care on the part of the author's lawyer andthe accused in defending his "protégés" in the discharge of the truth.

- **Phase dthe Sentence and serving the sentence involves the following:**

It is the act by which the judge decides the main cause. It draws up a report (intended to briefly make the history of the case from the time of the action to the conclusion of the oral discussion at the final hearing), the grounds for thelegal assessment of the case, the decision, supported by the findings of the party on which the judgment is based and consists of the direct response of the court to the parties' claims.

Second, Dias Pereira, (2019), the estimated time **for completion of each phase is:**

- Trial in 1st. Instance → **4 to 6 months.**
- Trial on Monday. Instance → **6 to 8 months.**
- Compliance with the → **6 to 8 months.**

Quality of judicial decision

Concept of Quality of Judicial Decision

In 2008 the Advisory Council of European Judges (JeCC) made a recommendation on the quality of the judicial decision. Within the Framework of the European Commission for the Effectiveness of Justice (CEPEJ) a group on quality assessment in the decision area was also set up. This is defined as a triangle whose vertices are effectiveness, legitimacy and ethics. Effectiveness leads us to the issues of optimal processing time and good use of means. The issue of ethics is based on the fundamental values of independence, impartiality, contradictory and moderation in the use of the power of magistrates. Legitimacy translates into the citizens' adhering to the values incarnated by the institution, its functioning and its social utility. More generally the approach to the quality of justice covers a very wide field of issues, with diverse views according to countries.

Reliable Decision

Several studies have been carried out to analyses so-called highly reliable organizations. An essential factor that researchers identified is the ability to question evaluation and reflection on experience, acceptance of criticism, clarity of the objectives sought. The culture of systemic evaluation is little developed in the judicial system. The evaluation is centered on the individual, the magistrate: it remains easier to make the responsibility on an individual than on the system.

In this context, a method of overall evaluation of the service provided by judicial bodies can be a first response, with transparent assessment methods and criteria. The dissemination of information on good practices is another interesting answer, that is, dissemination of a reflection on the respect of those who are subject to justice from experience on the good judicial practices of civil judicial evaluation. Consideration of these good practices may also be part of a collective and regular reflection of judges within the courts.

The importance of the actors' criticism of the institution they serve and where they act should be accepted. But the judicial institution rejects the expression of ideas that shock, hurt or unsettle. A report on the ethics of justice should strengthen the obligation of reservation as an element of the oath of the magistrates, thus the possible criticism of police practice.

However, freedom from criticism is a first condition of a debate about how the system works and how it produces decisions. Criticism should also be part of the system. The prosecutor should be free to use the floor at the hearing to adjust and defend his statements. Similarly, the issue of winning votes is also important: in certain legal systems, dissenting opinions are accepted. Not being very common in the continental legal tradition, this right exists within the Framework of the European Court of Human Rights.

The defense must also participate in the criticism of the system. That is why defense should not just be a liberal activity: it must be organized as a public service. The development of sound or audiovisual records of all stages of the process (from police interrogation to trial) may also be an element of assessing the conduct of actors. Certain police officers or magistrates would find advantages in a better knowledge of the image they give of themselves if they look at these records.

Finally, appeals and cassation are, in addition to the classical functions of control and unification of law, an element of criticism. The way this criticism is constructed is an important challenge. Is it necessary to accept an appeal in all cases or only in the most important cases? Should the appeal give a new trial to the whole case, or should it focus on points where the dispute lies? What can be done about the non-admissibility of appeals?

The quality of justice depends on your ability to question yourself. The judicial institution must apply to itself a culture of methodological doubt, collective reflection, evaluation of practices. For this, the institution must accept the criticism and the contradictory, from the outside and the interior. You must learn to take advantage of freedom of the word and pluralism of points of view. International exchanges are situated in this perspective, relativizing certainties, and giving rise to new ideas. Finally, the quality of justice is based on its ability to defend the values inscribed at the heart of fundamental laws and in particular the European Convention on Human Rights. Without this justice will be neither legitimate nor ethical, nor effective.

Quality of Information of the Judicial Decision-Taker

According to Saracevic (1996, p. 46) in the 1970s, the paradigm of information retrieval shifted towards contextualization, turning to legal decision-makers and their interactions, reflecting a deeper understanding of the problem. Dervin and Nilan (1986) made a census of the issues that were being discussed and that pointed to various paths, but all focused on the legal decision-makers. The authors confirmed the existence of a visible tension existing in the literature between research in forensic sciences and practice. The different authors called for research on the needs and use of information by legal decision-makers on the grounds that it was necessary to reorient research, since current ones were not promoting the basis for this reorientation.

Among the topics for which researchers were asked for more attention were: the need to give greater attention to legal decision-makers and the centrality of the needs and use of information defined from legal decision-makers. Nehmy and Paim (1998, p. 42) associate objective relevance to the quality of information, since it works from hypotheses of adequacy of indexing and classification of documents to questions of bibliographic research, where research is defined by the representation of a need for information.

Features that quality information has:

- ✓ In the time dimension:
  - Readiness - be available when it is needed.
  - Acceptance - be up to date when provided.
  - Frequency - be available as many times as necessary and not be lost after use;
  - Period - reveal its evolution - historical vision.

- ✓ In thecontentdimension:
  - Accuracy - does not contain errors.
  - Relevance - to have a purpose.
  - Integrity - all components be present.
  - Conciseness - contain only what is necessary.
  - Amplitude - refers to the reach of the content.
  - Performance - evaluation of the impact of information on the desired results.
- ✓ In theformdimension:
  - Clarity - easeofunderstanding.
  - Detail - degree of detail required.
  - Order - be organized in the necessary sequence.
  - Presentation - have the appropriate format.
- ✓ Other features that quality information has:
  - Accessible - accessible to authorized users.
  - Secure - Only authorized users can access.
  - Economic - the value of the information compensates for the cost of producing it.
  - Flexible - be used for more than one purpose or by more than one type of citizens / users.
  - Reliable - the reliability of the information depends on the method, how it is acquired and its origin.

In this perspective, relevance is associated with the suitability between a source and a recipient. Paim, Nehmy and Guimarães (1996, p. 116) associate efficacy with the adequacy of information in solving the accused-accused problem. The effectiveness results from the use of information, that is, the information is effective if it contributes to some positive result for the subject of the action, such as decision making. From the review of the existing literature, it was found that several authors present different attributes / criteria to evaluate the quality of information. According to the literature review, a table with the attributes / synthesis criteria of the different authors is presented below:

Table # 1 Attributes and criteria of the Quality of Information of the Judicial Decision-Taker

Dimension	Attributes / qualitycriteria	Definition
Time	Attheright time	The information should be provided at the right time when necessary.
	Update	The information should be up-to-date when it is provided
	Frequency	The information must be provided as many times as necessary
	Opportunity	The information should be available to the right person at the right time.
	Reduceduncertainty	Good information reduces uncertainty. Good information involves differences that *makes a difference;*
	Accessibility	Information is only useful if people have access to it; *accessibility* is within reach of those who can obtain information in time to be used efficiently and in the format that makes it useful. Electronic storage makes information more easily accessible than pencil and paper technology
	Period	Information should be provided on past, present and future periods
Context	Accuracy / correction	The information must be error-free
	Relevance	The information should relate to the information needs of a specific receiver for a specific situation. Therelevantexceptionsshouldbehighlightedandthe
	Pertinence	The information must relate to the facts, be available and be important to the person who requires it. Informationwillhelppeoplemakedecisions
	Integrity	All information that is required should be provided
	Completeness	The full information contains all the important facts
	Brevity	Only the information that is required should be provided
	Breadth / flexibility	The information may have a broad or narrow reach or an internal or external focus
	Performance	The information may reveal performance by the extent of the completed activities, progress made or accumulated resources. Assessmentoftheimpactofinformationondesiredresults
	Simplicity	Information should be simple, not overly complex
	Checklon	The information must be verified, and its correction can be ensured
	Reliability	The information depends on some other factor, such as the method of data collection and the source of information. The legal decision-makers need to believe in the information to feel safe when making decisions.
	Accuracy	The information must be *accurate*, this means that if the information is not accurate, it loses interest
	Comparison	The information should reflect the comparison of the running plans (planned vs real vs deviation) and trends (above or below or within the expectations)
Form	Clarityin interpretation	The information should be provided in a way that is easy to understand
	Detail	The information shall be provided in detail, in summary or in summary. The information shall appear at an appropriate level of synthesis at the level of the legal decision-making person, without presenting anything irrelevant and also in a degree of excessive synthesis in relation to his interest.
	Order	The information should be organized in a predetermined sequence
	Presentation	The information must be presented in narrative, numerical, graphic or other form
	Media / support	The information can be provided in the form of printed paper documents, video monitors or other media

Source: Adapted from Bio (1996); Stair & Reynolds (2011) and O'Brien (2004)

Quality Assessment Model of Information Judicial

According to Parasuraman et al. (1985), the evaluation of the quality of information can be measured through two indicators and moments:

- The expected quality (E) of the information - based on the needs of the use of
- The perceived quality (P) of the information – based on the use of information in decision making.

Table 2 - Dimensions and attributes of the Quality of Legal Information (expected and perceived)

	Expectations (E)	Perceptions (P)
Time	**Readiness** - information should **be** provided when needed.	**Readiness** - information is **provided** when needed
	Punctuality - the information should **be** close to the fact.	**Punctuality** - the information is close to the fact.
	Update - information should be **up** to date when provided	**Update** - the information is up to date when provided.
	Frequency – information should be provided as often as it is needed.	**Frequency** – information is **provided** as many times as it is needed.
	Period – information **should** be provided on past, present and future periods.	**Period** - information **is** provided on past, present and future periods
Context	**Accuracy/correction** - information should **be** error-free.	**Accuracy/correction** - information is error-free.
	Relevance/exception – information **should be** related to the information needs of a specific receiver for a specific situation; what is relevant and the exceptions should be highlighted.	**Relevance/exception** – information **is** related to the information needs of a specific receiver; what is relevant and exceptions are highlighted
	Integrity – all necessary information **should** be provided.	**Integrity** - all necessary information **is** provided.
	Completeness – the complete information **should** contain all the important facts.	**Completeness** - the complete information **contains** all the important facts
	Conciseness - only the necessary information should be provided.	**Conciseness** - only the necessary information **is** provided.
	Breadth/ flexibility – **information should** have a broad or narrow reach, or an internal or external focus.	**Breadth/** flexibility – information **has** a broad or narrow reach, or an internal or external focus.
	Performance – the information **should** reveal performance by measuring completed activities, progress or accumulated resources.	**Performance** – the information **shows** performance by measuring completed activities, progress or accumulated resources.
	Simplicity – information should **be** simple, not overly complex.	**Simplicity** – information is **simple** , not overly complex.
	Verifiability - it should be possible to verify the information and ensure its correctness.	Verifiability - it is possible to verify the information and ensure its correction.
	Reliability – information **should** be reliable and can be used without risk for decision making.	**Reliability** – information **is** reliable and can be used without risk to decision making.
	Comparison – the information **should** reflect the comparison of the planned with the realized, as well as the trends.	**Comparison** – the information **reflects** the comparison of the planned with the realized, as well as the trends.
Form	**Clarity** – information should be provided in a way that is easy to understand.	**Clarity** – information is **provided in** a way that is easy to understand.
	Detail – the information **should appear** at a level of synthesis appropriate to the level of the legal decision-making, without presenting anything irrelevant or in a degree of excessive synthesis in relation to its interest.	**Detail** – the information **appears at** a level of synthesis appropriate to the level of the legal decision-making officer, without presenting anything irrelevant or in a degree of excessive synthesis in relation to its interest.
	Order - the information **should be** presented, organized in a predetermined sequence.	**Order** - the information **is** displayed, organized in a predetermined sequence.
	Presentation – the information should **be** presented in narrative, numerical, graphic or other form.	**Presentation** - the information is **presented** in narrative, numerical, graphic or other form.
	Media – information should **be** provided in the form of printed paper documents, video monitors, or other media.	**Media** – information is provided in the form of printed paper documents, video monitors, or other media.
	(1) (2) (3) (4)	**(5) (6) (7)**

I strongly disagree. I strongly agree

Source: Adapted from Bio (1996), Stair & Reynolds (2011), O'Brien (2004) and Salomi et al. (2005)

According to Parasuraman et al. (1985), the quality of information (Q) results from the difference between the perception (P) and the expectation (E) of the quality of information, that is, (Q = P - E). Thus, if the *resulting gap* is negative, then the quality level falls short of what was expected, resulting in unacceptable quality. These indicators can help identify gaps *between* expectations and the perception of the quality of legal information.

The *Gap Model* (Parasuraman et al., 1985) can be adapted from the perspective of the Quality of Legal Information:

- Gap 1 – The difference between information users ' expectations and decision-makers' perception of those expectations.
- Gap 2 – The difference between the perception of the decision-taker (s) in relation to the user's **expectations of the** information and the **specifications of the information**.
- Gap 3 – The difference **between the specifications of the** information and **the information offered**.
- Gap 4 – The difference **between the information** offered and what is communicated to legal decision-makers.
- Gap 5 – The difference between the information that the legal **decision-taker (s) expects** (m) to receive and the perception that he(s) has (have) of the **information offered**.

The gap model *was* adapted to the Quality of Legal Information, showing that the expectation of legal decision makers can be a confluence of information needs:

- For performance measurements (*ad hoc* or not; cross-references and indicators);
- For evaluation of decision scenarios (simulations), and
- For historical information queries (reports and charts).

According to Jiang et al. (2003), questions related to the quality of legal information are presented in order to identify *existing gaps:*

- **The *expectation gap*** - What are the expectations of legal decision makers about the information provided? Do those involved in justice proceedings understand the expectations of legal decision-makers? Ifnot, where are the*gaps*?
- **The *perception gap*** - What are the perceptions of legal decision-makers about the information given to them? What are the perceptions of the actors in the judicial proceedings on the performance of the information? Do they accept? If not, are legal decision-makers very or unsatisfied with the information provided to them?
- **The *performance gap*** - represents an inability to meet expectations. Information and legal decision-makers: What are the perceptions of legal decision-makers on the Quality of Procedural Information? Are they satisfied with the information provided? If not, what information needs to be improved? These measures represent *the gap* (G) between the perspectives of legal decision-makers and those of those involved in legal proceedings (information providers).
- **The *satisfaction gap*** - Is there a*gap*in the Quality of Information measured between legal decision-makers and stakeholders in judicial proceedings (information providers)? If so, what are the dimensions and attributes that contribute to this *gap*? These are independent for the two groups (users and managers) and the expectations and perceptions of each group are uniquely identified.

According to Jiang et al. (2003), it is believed that the answers to these questions enable a rich diagnosis on the Quality of Legal Information provided and provide a measure to promote better management of information quality. Large *gaps* indicate that information providers have not understood the information needs of legal decision-makers; a misunderstanding can cause poor quality information to be offered to legal decision makers, resulting in dissatisfaction, and seriously affecting the decision-making process.

Justice Performance Indicators (KPI's)

Second (Goldsby &Martichenko, 2005) measurement is central to the success of justice, as it is only possible to improve if measured. To evaluate the judicial system it is necessary to select the most relevant indicators, attributing weighting factors to each indicator, to allow obtaining an overall *performance value*, in order to be able to compare the results of the judicial system with the results of European and/or global best practices (Carvalho & Carvalho et al., 2001). Justice is a complex system, since there is a relationship of dependence between the different procedural phases, and the relationships between the different stages of the judicial system (police service, prosecution lawyers' service, defense and courts) can be analyzed through Key Performance Indicators (*KPIs*).

According to (Carvalho & Carvalho et al., 2001) and (Martins & Carvalho, 2012) the use of a panel of indicators aims to quantitatively show the impact of actions on the improvement of indicators at the global level, judicial units and or areas of responsibility / functions. Organizations use an appropriate set of Performance Indicators, at all levels (financial, productive, time and quality) will be able to achieve an optimization of information flows, both physical and financial, between the prosecution and the accused and possibly at the level of the Judicial Value Chain.

The groups of Performance Indicators evaluated simultaneously, alone and in a complementary way, allow analyzing the performance of the judicial system as a whole and with the objective of improving the indicators. For specific sectors in a volatile environment, the most appropriate set of Performance Indicators includes cost, time, productivity and service quality indicators, with the aim of measuring the speed and flexibility of the judicial system in responding to the real needs of citizens (customers / taxpayers). These indicators can be *compared later with the industry's standard indicators* (determined from the best practices of judicial systems), in order to *verify the performance of the* country's judicial system vis-à-vis other European or global judicial systems (Carvalho & Carvalho et al., 2001; Martins & Carvalho, 2012; Goldsby &Martichenko, 2005).

Thus, briefly, and as an example, the main Performance Indicators are presented:

- Financial Indicators measure the total cost of the judicial system. These indicators include two types of costs: operating and capital. While the former includes the rental of spaces, labor, equipment rental, maintenance, transportation fleet, among others, the latter include the opportunity cost of the State to invest in assets (Carvalho & Carvalho et al., 2001).

Table 3 - CostIndicators

Cost	Government	Managers of the Judicial System	Operational Managers of the Judicial System
Staff	Annualevolution	Quarterlyevolution	Monthlyevolution
BuildingRents	Annualevolution	Quarterlyevolution	Monthlyevolution
Infrastructuremaintenance	Annualevolution	Monthlyevolution	Monthlyevolution
Subcontractingservices	Annualevolution	Quarterlyevolution	Monthlyevolution
Communication	Annualevolution	Quarterlyevolution	Monthlyevolution
Cost of the Automotive Fleet	Annualevolution	Quarterlyevolution	Monthlyevolution
Vehicledepreciationcosts	Annual	Quarterlyevolution	Monthlyevolution
Average cost per legal process	Annual evolution (number and value)	Quarterly evolution (number and value)	Monthly evolution (number and value)

a) Ifapplicable.

- Productivity Indicators reflect the degree of capacity of **the judicial system in the efficient and effective use of resources related to the various activities**. The objective of judicial appeals is to meet the needs of the "actors" of the judicial system (customers / users), where the profit will have to be equal to or greater than the cost of resources, thus resulting in a favorable productivity to the organization (Carvalho & Carvalho et al., 2001).

Table 4 - ProductivityIndicators

Productivity	Government	Managers of the Judicial System	Operational Managers of the Judicial System
Numberofcompleted processes	Averageannualevolution	Quarterlyevolution	Monthlyevolution
Numberofongoing processes	Averageannualevolution	Quarterlyevolution	Monthlyevolution
Numberof processes entered	Averageannualevolution	Quarterlyevolution	Monthlyevolution
Number of cases delayed compared to the expected	Averageannualevolution	Quarterlyevolution	Monthlyevolution
Number of working working days	Averageannualevolution	Quarterlyevolution	Monthlyevolution
Number of "actors" per court case	Averageannualevolution	Quarterlyevolution	Monthlyevolution

- Time Indicators are a critical variable for the judicial system (police and courts), as they will have to ensure an effective and efficient response to the government and citizens/users of the judicial system), i.e. in a timely manner (shorter possible period), (Carvalho & Carvalho et al., 2001; Oak & Ramos, 2009; Days, 2005; Goldsby &Martichenko, 2005).

Table 5 - Time Indicators

Time / deadline	Government	Managers of the Judicial System	Operational Managers of the Judicial System
Number of days of duration of judicial proceedings concluded	Annualevolution	Quarterly evolution by geographic area / area of responsibility	Monthlyevolutionbylocation
Number of days of ongoing legal proceedings	Annualevolution	Quarterly evolution by geographic area / area of responsibility	Monthlyevolutionbylocation
Number of days of delay in ongoing legal proceedings	Annualevolution	Quarterly evolution by geographic area / area of responsibility	Monthlyevolutionbylocation
Time spent per employee in each court case	Annualevolution	Quarterly evolution by geographic area / area of responsibility	Monthlyevolutionbylocation
Frequency of entry of judicial proceedings	Annualevolution	Quarterly evolution by geographic area / area of responsibility	Monthlyevolutionbylocation

- Service Quality Indicators measure the probability of a lawsuit being handled within the expected time frame, at the lowest cost. An indicator of excellence in this category is the degree of satisfaction of citizens (customers / users of the *judicial system*) (Carvalho & Carvalho et al., 2001; Goldsby &Martichenko, 2005).

Table 6 - ServiceQualityIndicators

Service	Government	Managers of the Judicial System	Operational Managers of the Judicial System
Degree of satisfaction of citizens users of the judicial system (customers)	Annualevolution	Quarterly evolution by geographic area / area of responsibility	Monthlyevolutionbylocation
% of completed processes in a timely manner	Annualevolution	Quarterly evolution by geographic area / area of responsibility	Monthlyevolutionbylocation
% of judicial proceedings concluded without appeal to higher level	Annualevolution	Quarterly evolution by geographic area / area of responsibility	Monthlyevolutionbylocation
% of judicial proceedings concluded with appeal to higher level	Annualevolution	Quarterly evolution by geographic area / area of responsibility	Monthlyevolutionbylocation
% of higher-level legal proceedings whose decision is equal to that of the lower level	Annualevolution	Quarterly evolution by geographic area / area of responsibility	Monthlyevolutionbylocation
Number of legal proceedings with appeal to higher level	Annualevolution	Quarterly evolution by geographic area / area of responsibility	Monthlyevolutionbylocation
Number of judicial proceedings refused by the higher level	Annualevolution	Quarterly evolution by geographic area / area of responsibility	Monthlyevolutionbylocation

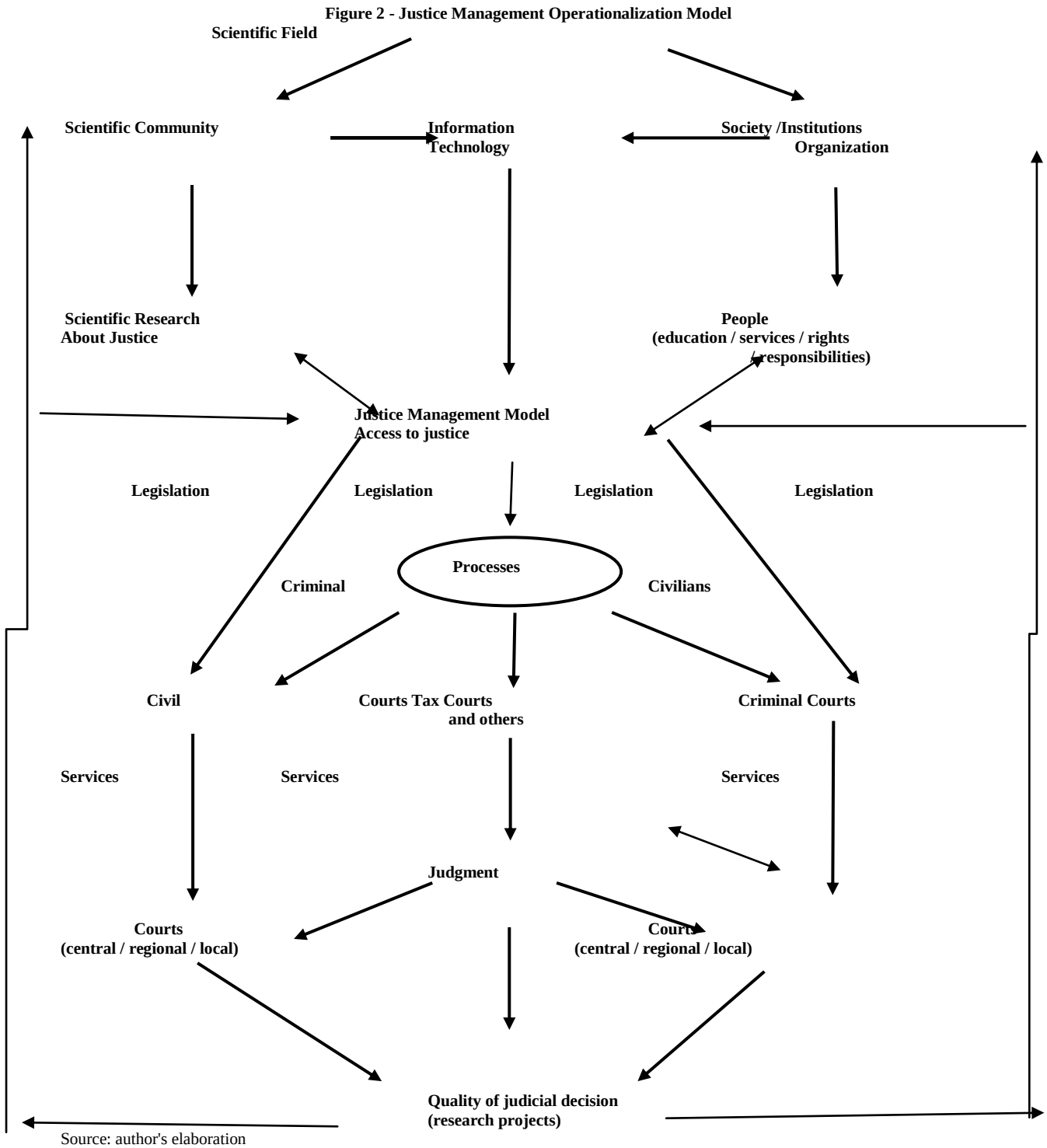
IntegratedModelof Justice Management

The definition of health-disease policy tends to take the form of a perspective rooted in collective intentions and reflects patterns of the use of resources and capacities. Gouvernantes tend to consider information as a "resource" that can be acquired, stored and possessed.

The information provides stability and comfort, and the gouvernantes to internalize it, transform it into knowledge, about health-disease and or about the world. However, there are limitations in the foresight models used since no non-quantifiable information (weak or strong signs of changes) has been considered. Thisgouvernantes actively exploit the imperfections of political information, through political activities, as a way of obtaining advantages.

The sources of information that "political analysts" and "political strategists" often use are predictions made by credible institutions, national, European, and global, about the evolution and trends of viruses and viruses.

Figure 2 - Justice Management Operationalization Model



Source: author's elaboration

The Justice Management Modelis presented for intervention in debate actions in the political , academic and governmental space, with the purpose of production and partilha d information and knowledge, among the participants, in addition to the promote the development of search, recovery, organization, appropriation, production and dissemination skills of relevant information to scientific researchers, policy makers and other interest groups in society.

VII DISCUSSION, CONCLUSIONS AND CLUES FOR FURTHER INVESTIGATIONS

General Considerations

The various developments in the human rights situation since 11 September 2001 have been well documented. The attacks were followed by a wave of racist attacks against Muslims and Arabs, only because of their appearance around the world. Governments also responded with comprehensive legislative measures. Many states have adopted laws criminalizing conduct, banning certain organizations, freezing values, restricting civil liberties, and reducing safeguards against human rights violations. This has led to a dangerous trend towards the legitimacy of human rights violations, under the pretext of combating corruption and crime.

The states that have reacted with exaggeration to the threat posed by the phenomenon of corruption have risked the violation of human rights, not only of the alleged corrupt, but also of their own citizens, whose rights and freedoms may therefore have been diminished. Despite all that the law establishes, the secrecy of justice is often violated, regarding the criminal proceedings, both at the stage of the investigation and in the investigation phase.

The Culture of the Media

Currently, the culture is being created that the media solves almost all the problems, referring to the most diverse social quadrants. Hence, those offendedbyopenjustice often choose to denounce the facts to journalists who will exploit toexhaustion the information about the processes, relevant or not to them, seeking through television debates, "hiring various panelists" debarment the lives of people, without limits in the right to inform and seeking to do justice through the media.

Others times, is the journalistic investigation that anticipates the criminal investigation and journalists end up accessing asset of information that, in the context of the judicial proceedings and the criminal investigation, should be protected by the secrecy of justice, so as not to allow the accused and other persons seeking to prove their innocence, important elements that may constitute evidence.

Also, the public likes scandals and police officers like to show /publicize the success of their investigations. These two realities, together with the other two situations we have just set out above, increasingly undermine the secrecy of justice. All this ends up making it even more complicated if we have disregardthat, deontologically, journalists are covered by professional secrecy, where, if applicable, they are not obliged to disclose their sources of information.

The Role of Journalism

Undoubtedly, journalism plays an extremely important role in **reporting news about illegal and/or criminal activities,** so it is not possible to limit the activity of journalists, except in the cases expressly enshrined in the PRC, **but it cannot want to do social justice through the media.** Hence, it is often difficult to know where the violation of the secrecy of justice originates.

Human rights in various historical documents are the landmark of human civilization and democracy. In view of the dynamics of contemporary and globalized life, where the Internet plays a crucial role in the exercise of human rights, particularly freedom of expression and the right to privacy, these remain a challenge to public authorities and citizens themselves. Traditional problems of fundamental rights violations still need to be regulated and protected in the digital environment.

Freedom

Freedoms that merge, intersect and conflict on the **Internet, that is,** the freedom of one to speak, the freedom of others not to be spoken of; the collection, sharing and manipulation of personal data – without authorization or the knowledge of their owners, for non-democratic purposes; social engineering at the service of governments and power, control of minds , control of people and opinions in elections; The charm of social networks and the disenchantment of what they can show of the human nature.

The Legislation

Legislation as part of the solution tries to meet these old problems, now reviewed by the clothing of technology; Technology as part of the solution, which does not stop innovating in order to find new ways of protecting users; people... to whom part of the solution should also be addressed. Ethics, balance and care because in no man's land everyone commands and does not send anyone, re-educate is necessary ...

Privacy

Privacy is the subjective feeling of human beings about their personal space that is territorial, physical, mental, or psychological and should be considered a mechanism developed throughout life in the context of social interaction and coexistence with other human beings. Privacy must occupy a high place in human rights, coexisting with several others of the same nature, such as the rights to the inviolability of the domicile, the secrecy of correspondence, to the image, unfolding in various restrictions and prohibitions, being, therefore, a fundamentally defensive right.

Privacy is related to the feelings of comfort and trust that you have in relation to others, and it is in these two measures that the management of the same is made, on a basis of choosing the permanence or absence of these same people, "My loneliness has nothing to do with the presence, or absence, of people. [...] In fact; I hate those who steal my loneliness, without in return offering me truly company." Yalom, (2015).

Privacy go hand in hand with values such as the reservation of the intimacy of private life, in any domain, be it, the intimate and personal sphere (family, affective and sexual life, health status, religious and political beliefs). The privacy of individuals/citizens and organizations should be a very present concern of democratic states, particularly public authorities, to be able to manage this information for specific purposes, in particular, for the construction of public policies, and at the same time to protect the protection of people's privacy.

The amplification of communication, exposed by the Internet promoted new forms of freedom, with emphasis on the freedom of expression of individuals, but likewise, has put many risks in the exercise of the right to privacy, since the digital universe is a territory that is nobody's (network), opens up a range of questions about these two fundamental rights, what is internet privacy? what is its nature and limits? How is privacy protected in this exhibition area, how to minimize the damage caused by new forms of crime (*cybercrime*), how to protect information? How is the right to privacy of citizens guaranteed by the full exercise of their freedom of expression? And how should users act in this digital world, where their private sphere is more diverse?

The Secret of Justice

The **Legal Sciences** interpret the rules on social phenomena. **The basis** of these sciences are conflicts between human beings. In a community of people, standards set the parameters on which these relationships are based. The law must be fully enforced, otherwise those who defend justice must act with discipline to enforce it.

The role of legal professionals is to integrate all human beings **into the same rational system of laws** (system of norms or legal rules that traces to men certain forms of behavior, giving them possibilities to act) that must define a standard of principles and **values,** such **as morality,equity, ethics and justice, in order to m enter** the equality of all human beings before the law, that is, a balance between the objective law **(the established norm)** and the subjective **law (man's** ability to decide his destiny), as a way to ensure a **serious, rigorous, transparent and ethical interpretation/application of legal norms and laws**.

Related rights: freedom of expression and freedom of the media, the rule of law and fair trial, in order to eliminate hot areas of small crime, easier resolution of crimes, prevention for potential crime officers, detection and the fight against threats to public security, contributing to greater effectiveness of police work, strengthening people's sense of security, improving the reconstruction of events, identifying criminal agents, gradually eroding the presumption of innocence, systematic desensitization of society, maintaining a homogeneous society, losing diversity through the effect of the observer, the gradual erosion of the rule of law, proximity to a surveillance state, strengthening people's sense of insecurity, high costs, monitoring and insufficient supervision , etc.

The right to privacy and the right to forgetfulness, about its applicability in virtual environments (digital systems) it is observed that the guarantees provided, from the internal or external perspective, about personality rights, have gained new designs and postures, in view of the apex of the information revolution, provided by information and communication technologies.
The protection of privacy finds fulcrum in the system of protection of the dignity of the human person and represents the apex of the protection of the intimate life of the individual that must be preserved and not broken by the action of the State, the media and other agents of society, with some exceptions.
On the other hand, the right to forgetfulness, as mentioned, represents a new field of action of the right, permeated by the right to information and the right to freedom of expression, in the worldwide network of computers (Internet), allows an alternative regulation of cyberspace, since the individual becomes active in determining which contents can be linked to its characteristics. It should be noted that the right to privacy and, especially to oblivion, when linked and debated, still represent great discussion in the sphere of law, which is moving slowly towards the due regulation of the limits and extensions of their applicability.
European jurisprudence already seeks to address the theme in order to outline the parameters of applicability of such rights, imposing an analysis of the content and public relevance, in order to delimit their use. Therefore, when information is linked to the public interest, the right to forget, must be left aside, that is what the decisions given in the European courts point out.
What can be concluded more important in research, is that the right to forgetfulness, has already been protecting the private life of the population, but it cannot be applied in an unmeasured and pretentious way, especially when the goal is to hide facts of life that are already public and do not demonstrate vexatious situation that indulges the privacy or dignity of the human person.
The right to forgetfulness, through the research carried out and as demonstrated in the article, had already been recognized and applied in various instances in the legal system, making its dissemination and application in the information society are carried out effectively and that the judicial protection falls and accepted, in a total way, this subject, as a support, of the protection of personality rights, especially the right to privacy, so the boundaries of the right to privacy on the Internet are tenuous, and judicial decisions are various.
Thus, the rights to privacy and forgetfulness should be analyzed in detail, to avoid possible triggering of mistaken postures, that is, protecting information and informational content that does not require guardianship or that require public and notorious knowledge, or even cases of disclosure of information that does not taint the other rights of personality.

The Legal Technique of The Judicial Process

In a Democratic State of Law, the technical instrumentality of the judicial process does not reveal the extent of its social function. Social and legal pluralism, typical of complex societies, imposes a **normative and factual hermeneutics of the elements of the cause**. Before saying the law applicable to the specific case, the judge **must properly understand the facts of the case**. To this effect, the parties narrate the facts, argue and produce the evidence. The judge is responsible for directing the evidential instruction, through the participation of the plaintiff and the defendant (broad defense in contradictory), because **the evidential** activity is fundamental to convince **the judge about the veracity of the facts narrated by the parties.**
At first, the author narrates the facts and argues about the violation of the law, positing a favorable judicial decision. Soon after, the defendant narrates his version of the facts, exposing his arguments, calling for a court decision that acquits him. The judge, in turn, seeks to clarify the facts narrated, considering the arguments of the parties, interpreting the **relationship between the facts and the legal norms applicable to** the specific case and making its decision. With this, it is perceived that the acts of speech in the jurisdiction are reflexively involved and act in the knowledge and conviction of the judge about the facts of the case and on the applicable legal norm.
Certainly, the **chain of these acts demonstrates that there is a relationship of cause and effect between the acts performed by the author, defendant and judge, procedural subjects who participate in this legal community, legitimizing the democratic** process, because: it is intuitive that power is exercised through a procedure and, therefore, that the judicial power of it also depends. The jurisdiction needs a procedure that actually allows it to protect the material right. But this procedure, because it constitutes a means through which state power is exercised, must seek another source of legitimacy. It is known that the notion of democracy is closely linked to that of participation, since participation in power is of the essence of democracy (Marinoni; Arenhart; Mitidiero, 2017, p. 442).
As the authors explain, the democratic **process presents a structure open to dialogue between the parties and the judge, because the legitimacy of the process depends on their effective participation in the formation of the judicial decision**. In this legal community, it is the parties who, together with the judge, and in a balanced way with it, lead the process to the formation of a constitutionally legitimate sensible and coherent result. The parties and the judge are, all of them, equally important actors in the judicial process that has several control centers (hence the talk of the modern process, as a polycentric process). And they must participate together (hence the expression participatory process) in the construction of the result of the process. It then turns to a point that has been previously stated: the process can only be seen, in the Democratic State of Law, as a procedure in contradiction, in which the parties and the judge, in a participatory manner, and acting with balance of **forces, build together the outcome of the process** (Chamber, 2018, p. 63)

Judicial Decision Making

The judge in making the decision must be **aware of the factual evidence of the parties involved in the dispute, be independent, strict and transparent, in compliance with the law and legal rules, be consistent in decision-making, have common sense and be ethically correct, decide within a timely manner (shorter and lower cost term, i.e., justice cannot be a "business") and that satisfies the parties involved and that it is not necessary to appeal the sentence to the higher level, that is, to have a quality decision. Your decision/argument should be based on the facts of the facts.**

Limitations of the research study

We are aware of the limitations of the study, since many areas of knowledge of forensic sciences have not been studied. However, each country's judicial system is too expensive for taxpayers and as such has to be managed, as a **way for the country to have an efficientand effective legal**system **at the lowest cost to taxpayers and stakeholders (parties, witnesses, judges).**

Clues to New Investigations

The rules and laws are drawn up by forensic science experts and as such cannot be the same experts using the legal techniques of judicial systems, so it needs to be evaluated by citizens and or their legal representatives, actors thereof. Thuswe are askedthefollowingquestions:

1. What is the best model for the management of the judicial system of each country?
2. How much is the satisfaction of citizens with the country's judicial system?
3. How much does the country's judicial system cost?
4. What is the best model of organization of the judicial system in the country?
5. What is the role of defense and prosecution lawyers in court proceedings?

Key Terms and Definitions

Universal Declaration of Human Rights Preamble

Considering:

- That the recognition of the inherent dignity and equal and inalienable rights of all members of the human family is the basis of freedom, justice and peace in the world,
- That disrespect and contempt for human rights have resulted in barbaric acts that have outraged the conscience of humanity and the advent of a world in which human beings enjoy freedom of expression, belief and the will of fear and fear, has been proclaimed as the highest aspiration of the common people,
- That it is essential that man is not obliged to resort, as a last resort, to rebellion against tyranny and oppression, that human rights be protected by the rule of law,
- That it is essential to promote the development of amiable relations between nations,
- That the peoples of the United Nations reaffirmed in the Charter their faith in fundamental human rights, dignity and value of the human person and equal rights between men and women and which determined to promote social progress and better living standards in greater freedom,
- That the Member States have undertaken, in cooperation with the United Nations, to promote universal respect and respect for human rights and fundamental freedoms,
- That a common understanding of these rights and freedoms is of the utmost importance for the full realization of this promise,

The United Nations General Assembly (UN) on 10December 1948proclaimed the Universal Declaration of Human Rights as a common standard of achievement for all peoples and all nations, to the end that every individual and every body of society, keeping this Declaration constantly in mind, strives for education and education to promote respect for these rights and freedoms and through progressive measures, to ensure their universal and effective recognition and compliance. , both between the peoples of the Member States themselves and among the peoples of the territories under their jurisdiction.

Article I - All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and must act against each other in a spirit of brotherhood.

Article 2 - Everyone is entitled to all rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, judicial or international status of the country or territory to which a person belongs, whether independent, reliable, not self-governing or under any other limitation of sovereignty.

Article 3 - Everyone has the right to life, freedom and the safety of persons.

Article 4 - No one should be detained in slavery or servitude; slavery and the slave trade will be prohibited in all its forms.

Article 5 - No one shall be subjected to torture or cruel, inhuman, or degrading treatment or punishment.

Article 6 - Everyone has the right to recognize everywhere as a person before the law.

Article 7 - All are equal before the law and have the right, without any discrimination, to equal protection of the law. Everyone is entitled to equal protection against any discrimination that violates this Declaration and against any incitement to such discrimination.

Article 8 - Everyone is entitled to an effective solution by the competent national courts for acts that violate the fundamental rights granted to them by the Constitution or by law.

Article 9 - No one shall be subject to arbitrary imprisonment, detention or exile.

Article 10 - Everyone is entitled to a fair and public hearing by an independent and impartial tribunal in determining their rights and obligations and any criminal charge against it.

Article 11 - All those accused of a criminal crime have the right to be found not guilty, in accordance with the law, in a public trial in which he has had all the necessary guarantees for his defense.

1. No one shall be found guilty of any criminal offence by any act or omission which did not constitute a criminal offence, in accordance with national or international law, when it was committed. A heavier penalty will also not be imposed than that applicable when the criminal offence has been committed.

Article 12 - No one shall be subject ed to arbitrary interference with your privacy, family, home or correspondence, nor to attacks on your honor and reputation. Everyone has the right to protection of the law against such interference or attacks.

Article 13 - Everyone has the right to freedom of movement and residence within the borders of each State.

1. Everyone has the right to leave any country, including yourown, and to return to their country.

Article 14 - Everyone has the right to seek and enjoy persecution in other countries.

1. This right cannot be invoked in the case of proceedings genuinely arising from non-political crimes or acts contrary to the purposes and principles of the United Nations.

Article 15 - Everyone is entitled to a nationality.

1. No one will be arbitrarily deprived of their nationality or denied the right to change their nationality.

Article 16 -Men and women of complete age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights in marriage, during marriage and dissolution.

1. The marriage will only be concluded with the free and full consent of the spouses they wish to.
2. The family is the natural and fundamental group unit of society and has the right to the protection of society and the State.

Article 17 - Everyone has the right to own properties alone, as well as in association with others.

1. No one will be arbitrarily deprived of your property.

Article 18 - Everyone has the right to freedom of thought, conscience and religion; this right includes the freedom to change their religion or belief, and freedom, alone or in community with others and in public or private, to manifest their religion or belief in teaching, practice, worship and observance.

Article 19 - Everyone has the right to freedom of expression; this right includes the freedom to have opinions without interference and to seek, receive and transmit information and ideas through any media and regardless of borders.

Article 20- Everyone has the right to freedom of peaceful assembly and association.

1. No one can be required to belong to an association.

Article 21 - Everyone has the right to participate in the government of their country, directly or through freely chosen representatives.

1. Everyone has the right to match access to public service in their country.
2. The will of the people will be the basis of governmental authority; this will be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret ballot or equivalent free voting procedures.

Article 22 - Everyone, as a member of society, has the right to social security and are entitled to the realization, through national effort and international cooperation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable to their dignity and to the free development of their personality.

Article 23 - Everyone has the right to work, freedom of choice of employment, fair and favourable working conditions and protection from unemployment.

1. Everyone, without discrimination, has the right to equal pay for equal work.
2. All those who work have the right to fair and favourable remuneration by ensuring that they and their families have a life worthy of human dignity, and complemented, if necessary, by other means of social protection.
3. Everyone has the right to form and join the unions to protect their interests.

Article 24 - Everyone has the right to rest and leisure, including the reasonable limitation of working hours and periodic holidays with remuneration.

Article 25 - Everyone has the right to a standard of living appropriate to the health and well-being of himself and his family, including food, clothing, housing and medical care and necessary social services, as well as the right to security in the event of unemployment, illness, disability, widowing, old age or other lack of subsistence in circumstances outside their control.

1. Motherhood and childhood are entitled to special care and care. All children, born in or out of wedlock, enjoy the same social protection.

Article 26 - Everyone has the right to education. Education should be free of charge, at least in the elementary and fundamental phases. Elementary school is mandatory. Technical and vocational education will generally be made available and higher education will be equally accessible to all on the basis of merit.

1. Education must be oriented towards the full development of the human personality and the strengthening of respect for human rights and fundamental freedoms. It will promote understanding, tolerance, and friendship between all nations, racial or religious groups, and promote United Nations peacekeeping activities.
2. Parents have the right to choose the type of education that should be given to their children.

Article 27 - Everyone has the right to participate freely in the cultural life of the community, to enjoy the arts and to share scientific advances and benefits.

1. Everyone has the right to protect the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

Article 28 - Everyone has the right to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.

Article 29 - Everyone has duties to the community in which only the free and complete development of their personality is possible.

1. In the exercise of their rights and freedoms, everyone will be subject only to limitations determined by law so that they ensure due recognition and respect for the rights and freedoms of others and to satisfy the fair requirements of morality, public order and general well-being in a democratic society.
2. Under no circumstances can these rights and freedoms be exercised in a manner contrary to the objectives and principles of the United Nations.

Article 30 - Nothing in this Declaration may be construed as implying to any State, group or person any right to engage in any activity or to perform any act that aims at the destruction of any of the rights and freedoms set forth herein.

News

The concept of information is always present in journalistic products. The expressions informative journalism or informative content are linked to the news. When you talk about news, you automatically talk about information for journalism. The content of journalism, what is it? The news information, that is, the news is the theme, while the information describes the theme. For example: news – economic crisis in Europe – information is everything that characterizes / describes the economic crisis from its origin to its consequences. The media (printed or electronic) despite suffering strong competition from other means of communication, the newspaper / newsletter continues to assert its vocation to inform us of everything and all dimensions of our presence in the world.

The expression light news is often used to mean news that is not serious (Davis, 1996: 108-109). Serious news refers to coverage of events involving political leaders, substantive public issues, or significant disruptions in the routine of daily life, such as an earthquake or aviation disaster (Smith, 1985). It is assumed that information about these events is important for citizens to understand and respond to public issues (Donsbach, 1999; McCartney, 1997). News that is not of this type is, by definition, light.

Using this standard, it can be said that the weight of soft news in news coverage has grown significantly. News without a clear link to public policy (substance issues) decreases. News with a public policy component – serious news – declines by a corresponding degree. The degree of change differs between different media, but the trend is the same for all – local television news, national television news, leading newspapers, local dailies and weekly magazines. Each has less policy-related news coverage today than it did a decade or two ago.

Soft news is sensational news, more centered on a personality, less localized in time, more practical and more based on incidents (Spragens, 1995). These characteristics have, in fact, changed: in the early 1980s approximately 25 percent of the news had a moderate to high level of sensationalism, compared to almost 40 percent today.

Social Responsibility

For Du Mont (1991), social responsibility is an ethical concept that involves senses of change, of how human needs must be met. In addition, the author emphasizes the interest in the social dimensions of the information service, which has to do with improving the quality of life. Organizations around the world have been socially responsible for several decades. Social responsibility gained greater prominence since the 1990s, with a greater influence of society, the media and NGOs, that is, in the organizational world.

Apparently, there was a need to pass on a positive corporate image, in order to make up for lost time. Although the debates and the concept are widely used, social responsibility is still confused with assistance, which assumes a personal character represented by donations or by the creation of philanthropic foundations, as Cajazeiras (2006, p. 13), "another conception of social responsibility closely linked to the idea of donation – the philanthropic phase" is.

Social responsibility overcomes the paradigm of assistance, which in a way limits the performance, repercussion and monitoring, by society. This change stems from industrial advances, globalization and the intense flow of information and technologies, causing the degradation of

quality of life, the intensification of environmental problems and the precariousness of labor relations. As a whole, society has begun to develop attitudes to solve its problems and the upper echelons of adhering to social responsibility, often pressured by the consumer code.
Thus, the social responsibility of public or private institutions is directed to act in an ethical and transparent manner, with attitudes that revert to improving the quality of life of their employees and clients, in addition to advances for the local communities in which they are inserted, even mitigating environmental problems. Acting with social responsibility is not just acting in the marketing of the organization. It is to go beyond the interests that aim at profit, because any organization or institution that considers itself responsible, must have the capacity to meet the interests of the different parties – shareholders, employees, service providers, suppliers, consumers, community, government and environment.

Digital Capitalism

Technological changes are always accompanied by narratives in which optimistic interpretations predominate, whose function is essentially legitimizing, hiding the power relations that drive or that are underlying the processes of technological change, relationships with social consequences, based on the generalized digitization of processes, products and services.
The 1970s was lavish in diagnoses that pointed to the relevance of a series of technological developments and economic trends – then manifested mainly in the United States – on the basis of which it was argued that advanced industrial societies were undergoing a fundamental social transformation, equivalent in scale and importance to the transition to industrial society during the 18th and 19th centuries. The most diverse denominations then began to refer to this new society: an active society, a service society, a knowledge society, a technocratic society, an interconnected society, a telematic society, a leisure society, a post-capitalist society, an interactive society, a multimedia society, a post-industrial society. The most successful name was the information and knowledge society.
Most of the research was based on the consideration that new information and communication technologies, as "technologies open par excellence, regardless of economic, social and cultural weights", so that the evolution of everyday life was also open to a plurality of futures. Open future full of optimism, until one could conceive a whole saga of post-industrial utopias according to which, together with the hand of new information and communication technologies, the expected human liberation in the form of productivity and material abundance, communicative fluidity and personal self-realization, would arise.
Some went further in considering the revolutionary nature of the transformations that were being experienced by the more developed countries. The communicator of the new society, Alvin Toffler, expressed it in this way: It has become a cliché to say that we are living "a second industrial revolution". With this sentence, we intend to describe the speed and depth of change around us. But besides being vulgar, you can cheat. Because what is happening now is most likely bigger, deeper and more important, than the industrial revolution. In fact, a growing and trusted opinion group argues that the present moment represents nothing less than the second crucial milestone of the digital society.

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