

Balancing Constitutional Principles: An Analysis of Freedom of Expression in Light of Balancing Theory in The Context of Cybercrime and Digital Cancellation

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Abstract: Introduction: This scientific article examines the intersection between fundamental rights, balancing and cybercrime, in the context of constitutional law and freedom of expression in the digital age. Through a legal and theoretical approach, we seek to understand the challenges and implications of protecting fundamental rights in a complex and constantly evolving digital environment. **Methodology:** The study conducted a systematic review of the scientific literature, employing rigorous search and exclusion criteria to select 20 pertinent scholarly articles. The research sources covered Google Scholar, Periodic Capes, Planalto website and Scielo. **Results:** The results highlight the recurrence of conflicts between the right to freedom of expression, enshrined in the Federal Constitution, and other equally essential rights, such as the right to image and privacy. In these scenarios, the technique of weighing rights emerges as a fundamental instrument to resolve conflicts, guided by the principle of proportionality and constitutional precepts. Additionally, the study reveals a significant increase in cybercrime during the period of the COVID-19 pandemic, with emphasis on virtual larceny. Brazilian legislation has accompanied this evolution, typifying and aggravating the penalties for these crimes, exemplified by Law No. 14,155, which deals with virtual larceny and the invasion of electronic devices. **Discussion:** Privacy protection and challenges related to digital cancellation emerged as central themes. The preservation of privacy is the subject of constant discussion, while digital opt-out, a phenomenon that involves the exclusion of individuals from digital platforms due to behaviors considered inappropriate, raises concerns about the violation of freedom of expression. This study underscores the importance of legislation, regulation and ongoing research to address the growing challenges in an ever-changing digital environment. It presents itself as a solid foundation for future scientific investigations, providing insights significant in a complex scenario involving fundamental rights and cybercrime in the digital age.

Keywords: Fundamental rights, weighting, cybercrime, constitutional law, freedom of expression, digital age.

Date of Submission: 02-10-2023

Date of Acceptance: 12-10-2023

I. INTRODUCTION

The Federal Constitution of 1988 enshrines, by positioning Fundamental rights and guarantees, the legislator achieved the promotion and fulfillment of the basic rights of all individuals without any distinction. In addition, fundamental rights protect not only personality rights, but also include the right: to name, image, data, and rights related to honor, which are achieved by this same Constitutional protection (BITTAR, 2017).

The constitutionalizing of the rights of humans does not mean just the elaboration formal of principles, but the full affirmation of rights that any individual can claim the protection of the judiciary and to reach democracy. OK, emphasize that a protection jurisdictional is indispensable for the effective realization and respect to the rights of humans' fundamentals enshrined in the Constitution Federal is tall Ordering legal (MORAES, 2021).

The Human Rights Emergency

The concept of Human Rights emerged during the French Revolution, in 1789, resulting in the creation of the Universal Declaration of the Rights of Man and Citizen (NOVELINO, 2014.) While part of the doctrine considers Human Rights and Fundamental Rights as synonyms, most point to a distinction between the two. Human Rights have a comprehensive meaning, referring to the inherent rights of all human beings, regardless of

their nationality. On the other hand, Fundamental Rights are the internal rights established in each nation, applicable to its citizens (FERNANDES, 2020).

They are defined as the institutionalized set of rights and guarantees of the human person whose fundamental purpose is the respect for their dignity, through their protection against the will of the State power, and the establishment of minimum conditions of life and development of the human personality (MORAES, 2021. p 20).

Characteristics of Human and Fundamental Rights

They are rights inherent to human beings, they have different characteristics: they are inalienable, that is, they cannot be sold or assigned; they are individual, belonging to each individual in particular; and are unavailable and cannot be waived. These rights are essential to human existence and, therefore, non-transferable (FERNANDES, 2020).

Does not prescribe: the rights humans fundamental don't those with the time; inalienability: the rights humans fundamentals cannot be transferred which with pension or with compensation; inalienable (MORAES, 2021). The rights of human fundamentals cannot be renounced. Inviolability: the unconstitutional decisions or actions of the public have to be respected or enforced in civil, administrative and criminal responsibilities; universality: the reach of these rights encompasses all individuals, independently of nationality, gender, race, I believe, or political-philosophical convictions. Effectiveness: the performance of powers the public has no sense of to guarantee O greeting of rights and guarantees foreseen, it is being equipped with coercive mechanisms for so much, that the Constitution Federal, doesn't settle with recognition simple and abstract (MORAES, 2021).

The Positivation of Fundamental Rights in the 1988 Constitution

The 1988 Constitution calls these rights “fundamental rights and guarantees” and classifies them in Title II, covering individual and collective rights (art. of nationality (art. 12), political rights (art. 14 to art. 16) and the political rights posited in art. 17. Furthermore, when mentioning international treaties, the Magna Carta refers to them as “Human Rights”, as exemplified in article 5 § 3 of the CF. (“Constitution”, 1988).

The Magna Carta of 1988, denominates fundamental rights and guarantees and classifies the fundamental rights in its Title II, in individual and collective rights: article 5, social rights: art. Nationality, art.º 12, political rights: art. 14 to Art. (“Constitution”, 1988.)

The current Federal Constitution, protects the fundamental digital rights and guarantees, the data that reached, the condition of Fundamental Law with the Constitutional amendment.º 115 of 2022, as well as comprising rights related to honor and property, all are covered by the same Constitutional protection (“Constitutional Amendment N.º 115”, 2022).

The Challenges of Internet Crime

The growing presence of the internet in our lives, especially during the worldwide Covid-19 pandemic, has led to an increase in online crime. Many users use the right to freedom of expression to violate and offend other individuals on the internet, resulting in a conflict between the right to freedom of expression and the right to honor and image of victims (LOURENÇO; SANTOS, 2023).

Brazil is based on a system of reservations legal, or that is, there is no crime if not there is slaw anterior to what O defines. Mainly when we are dealing with the technology of the information, the technology that does the law has what to be different. That is why the legislator must be Careful not to conceive one order stillborn legal that enters the legislative framework outdated (JESUS, 2016).

Veiled Violence and the Need for Oversight and Accountability

These violations of rights can occur in a veiled, harmful, malicious and sneaky way, highlighting the practice of cybercrimes, which become persistent today. This reveals the urgent need for greater oversight, action, and civil and criminal accountability for the inappropriate use of digital systems (“Civil and criminal liability on the internet: the role of the Brazilian judiciary | France | REVISTA QUAESTIO IURIS”, 2023).

The Implementation of information security policies for private users If she has to be passed on by incentives. To develop, it is applying computer security legislation and awareness policies on the risks of coexistence social for perform. (CRESPO, 2011)

The Challenges in the Punishment of Online Offenses

The speed with which crimes are committed on the internet and the difficulty in proving the authorship and materiality of these crimes, combined with recent legislation that does not sufficiently inhibit their practice, result in difficulties in punishing criminals. Occurrences of statute of limitations for crimes reinforce the feeling of impunity among the population, giving the idea that the internet is a “no man’s land” (LOSSIO, 2021).

The new types of crimes perpetrated on the internet bring real harm to victims, and in an increasingly connected world, it is imperative to study this phenomenon. To effectively combat online crime, it is necessary to balance the protection of fundamental rights with the creation of effective mechanisms for enforcement and accountability of offenders. Only in this way can we build a safe and fair digital society, where the internet is a space for harmonious and respectful coexistence between individuals (LOSSIO, 2021).

II. Fundamental Rights in the Digital Age

Evolution of fundamental rights

Fundamental rights have a long historical evolution, accompanying the development of society and technologies. In the digital era, new challenges have emerged, requiring a reassessment and adaptation of these rights to ensure their effective protection. In this context, legislation has been constantly updated to cover specific issues such as privacy, freedom of expression, access to information and protection of personal data, considering the virtual environment and technological advances. (MENDES, 2020).

The historical evolution of the rights of humans fundamental in the constitution Brazilian he follows international trends, including important projections since the first imperial constitution. The Political Constitution of the Empire of Brazil of 1824, and your Chapter VIII - Provisions General and Guarantees Relating to the Civil and Political Rights of Brazilian Citizens — provide one extensive list of rights humans. (MORAES, 2021).

Protection challenges in the digital age

The digital age brought with it the expansion of the virtual world, enabling interactions and information exchange on a global scale. However, this connectivity presents challenges to the protection of fundamental rights. Privacy, for example, has become vulnerable in the face of massive data collection and online surveillance practices. Furthermore, the spread of hate speech and misinformation on the internet affects freedom of expression and access to reliable information. It is essential, therefore, to strike a balance between state regulation and individual freedom to ensure the full realization of rights in the digital sphere. (CAMILLOTO; URASHIMA, 2020).

Faced with persistent violations of basic rights in the virtual world environment, countries, private organizations, as well as social organizations, have been engaged to restore constitutional guarantees in cyberspace, trying to exercise the basic rights of Internet users through official laws, official declarations of organizations intergovernmental agreements, or even the use of conditions and regulations for the use of digital platforms (TRINDADE, 2020).

Limitations and conflicts of rights

In the context of the digital age, situations often arise in which fundamental rights come into conflict, requiring careful weighing between them. For example, in cases of online hate speech, it is necessary to balance freedom of expression with protection against incitement to hatred and violence. Likewise, the right to privacy may clash with the need to investigate and combat cybercrime. These situations require careful legal analysis and the application of well-defined criteria to resolve conflicts fairly and equitably. (NASCIMENTO, 2017.p 265;).

Fundamental rights are not unlimited and absolute, they have limitations on other fundamental rights, also positive in the Charter of 88, and may be restricted by the Constitution (ALVES, 2010).

III. Weighting of Rights in the Digital Age

Theoretical foundations of weighting

The balancing of fundamental rights is an essential legal technique to resolve conflicts between the collision of constitutional principles. Theory of fundamental rights developed by Robert Alex, among the theoretical foundations that support it, the principles of proportionality, reasonableness and practical agreement stand out. Proportionality requires that the restriction of a right be adequate, necessary and proportionate to the

objective pursued. Reasonability brings balance to the different perspectives and interests involved in the concrete case. The practical agreement finds solutions that best promote the harmonious coexistence of the rights in question (ALEXY, 1999a).

Weighting, also known as the theory of *Balancing* North America, is understood as a technique for legitimate resolving conflicts normative involving values or options restrict rights: weight is. AND important to emphasize that there is one difference between O's concept of "Weighing" of form general It is abstract, applied already life every day (Indeed, a law Always implies balance no sense do what means what O judges he must Always consider, you many different motives the parts before of to take one decision), It is "weight" as quite legal of resolution of conflicts, by right own, language technical-legal, object to study in question (ALVES, 2010).

Individual rights or social rights are equally important and, due has proportionality, social rights will have the opportunity to prevail. One can even argue that each conflict of rights will be decided of form proportional It is different, but the proportion does not match rationality to the necessary criteria to substantiate one decision. The determination is proportional he has to see with criteria of choice do what with conflicting rights ("SciELO - Brazil - WEIGHTING OF RIGHTS AND PROPORTIONALITY OF JUDICIAL DECISIONS WEIGHTING OF RIGHTS AND PROPORTIONALITY OF JUDICIAL DECISIONS", 2020).

Balancing is hailed as "a means of respecting each side and resolving conflicts between majorities". The decision-making process necessarily involves calibrating factors and objectives that are inconsistent with each other, and the importance of each needs to be determined to resolve any disputes. To think deeply is to contemplate (BRANCO, 2012).

The weighting technique is used in the Brazilian legal system, enunciated n. ° 17 of IBDFAM, which states that "*the weighting technique, expressly adopted by article 489, paragraph 2, of the New CPC, is an adequate means for solving practical problems related to Family and Succession Law*" (BRAZIL, statement 17 to IBDAM).

Consideration of fundamental rights in the digital age

In the digital age, the consideration of fundamental rights becomes even more relevant, given the multiplicity of conflicts that arise in the virtual environment. Issues such as the right to privacy against the investigation of cybercrimes, or freedom of expression about the fight against hate speech online, require a thorough and careful analysis. The application of the principles of proportionality and reasonableness is essential to finding solutions that preserve human dignity and guarantee the full exercise of individual and collective rights in digital society (JUNIOR, 2021).

Weighting criteria

The weighting of rights in the digital age requires the use of well-defined criteria to guide decision-making. Among the criteria that can be adopted are the severity of the restriction imposed, the relevance of the interests involved, the effectiveness of the proposed measure and the need to protect vulnerable groups. In addition, transparency and the participation of society in the decision-making process are essential to ensure the legitimacy of the considerations carried out by the public authorities. The construction of clear and fair criteria is essential to ensure coherence and consistency in decisions related to fundamental rights in the digital age (ALEXY, 2008).

As rules of weighting allow just one direction rationale of one path for meet a solution more correct for one determined problem, but no drive necessarily to the success and decision. In this sense, O principle and proportionality assume one paper important as a guide and solution found by the operators do right, one turn what reconcile two values main: security legal It is justice, already what O point of contact in between they is one decision rational, motivated by one argument (ALVES, 2010).

IV. Cybercrime and its Impact on Freedom of Expression

Definition and types of cybercrime

Cybercrime refers to illegal actions committed through electronic devices and the internet. These offenses cover a wide range of activities, such as spreading malware, phishing, hacking systems, stealing data, cyberbullying, and spreading false information to defame or harm others. The growth of these practices represents a challenge for society since their impacts can be severe, even affecting people's freedom of expression (LÓSSIO, 2021, p.200).

Brazilian doctrine tends to classify virtual crimes into improper crimes and crimes of their own

(LÓSSIO, 2021, p.200). Inappropriate computer crimes are known as Common Computer Crimes; are those that occur even without the existence of the electronic device, that is, they already exist in the physical world, that is, the electronic device is the means used as an instrument, or means to commit crimes.

Still, according to (Sydow, 2022) it is understood that virtual crimes themselves: “[...] are those carried out necessarily in the computer environment and that want to achieve harmful legal interests”. In addition to the violation of fundamental rights and the privacy of victims, the practice of virtual crimes tarnishes information security and especially human rights.

Relationship between cybercrime and freedom of expression

The relationship between cybercrime and freedom of expression is complex and delicate. Although freedom of expression is a fundamental and essential right for democracy, it is important to emphasize that this freedom should not be used as a shield for the commission of criminal acts. Hate speech, threats, defamation, and false information disseminated on the internet can cause irreparable damage to individuals and groups, in addition to undermining the environment for healthy public debate. It is therefore crucial to strike a balance between protecting freedom of expression and effectively combating cybercrime to safeguard the integrity of fundamental rights and promote a safe and responsible digital society.(AMARAL; PUBLISHED, 2021).

Challenges in law enforcement in digital environments

Law enforcement in digital environments presents unique challenges, as the virtual nature makes it difficult to identify and locate criminals. In addition, the speed of propagation of information on the Internet can make it difficult to combat crimes such as the dissemination of false news and incitement to hatred. Furthermore, international cooperation is key to tackling the transnational character of many cybercrimes. It is necessary to strengthen the capacity of security and justice bodies to investigate and punish these crimes, ensuring, at the same time, respect for the fundamental rights of the individuals involved(MACHADO; RIVERA, 2017).

V. Legal Analysis of Relevant Cases

Case studies involving fundamental rights and cybercrimes

The legal analysis of relevant cases involving fundamental rights and cybercrimes is crucial for the development of the legal framework and the adaptation of legislation to digital reality. Case studies that address issues such as the responsibility of digital platforms in the face of hate speech, the protection of privacy amid large-scale data collection, and state action in the fight against cybercrime allow an understanding of the nuances and complexities of these themes. Based on these analyses, it is possible to build fair and efficient solutions to face the challenges of the digital age (Vancato, 2017).

The Brazilian Security Forum, in its 2023 yearbook, found that the crime of virtual embezzlement increased considerably in all federative units, the analysis took place between 2021 and 2022, and the penal code underwent changes in 2021, through the Law n.º14,155/21, began to typify virtual embezzlement as crime, creating paragraphs 2-A, 2-B and 3 of the 171 Penal Code, the data raised in the research and the result of the source of the Public Security secretariats, of the States, Federal police (BRASIL, Anuário Brasileiro n.º17,2023).

Judicial decisions and jurisprudence

Judicial decisions and jurisprudence play a key role in defining guidelines and standards for dealing with issues involving fundamental rights and cybercrime. Through consistent and reasoned judgments, the courts establish precedents that guide the actions of legal professionals and authorities responsible for enforcing the law. The construction of solid jurisprudence is essential to ensure uniformity and legal certainty on issues involving the digital world, protecting citizens' rights, and promoting justice in contemporary society. (“SciELO - Brasil - WEIGHTING OF RIGHTS AND PROPORTIONALITY OF JUDICIAL DECISIONS WEIGHTING OF RIGHTS AND PROPORTIONALITY OF JUDICIAL DECISIONS”,2020).

VI. Proposals for the Protection of Fundamental Rights in the Digital Age

Legislative measures and public policies

The protection of fundamental rights in the digital age requires the establishment of legislative measures and public policies that consider the challenges and specificities of the virtual environment. Laws that regulate the collection and use of personal data, the responsibility of digital platforms, information security, and protection against cybercrime are essential to guarantee a safe digital environment that respects the rights of citizens. In addition, public policies that promote digital education, access to the internet, and empowerment of the population are essential to strengthen digital citizenship and the participation of individuals in the information society (TRINDADE; BRANDÃO, 2020).

International cooperation

The transnational nature of cybercrime demands effective cooperation between countries to address these challenges. Comprehensive international agreements and treaties that facilitate the exchange of information and collaboration between authorities in different countries are essential to investigate, prevent, and combat crimes committed in the digital environment. In addition, international cooperation is essential to ensure the harmonization of national laws and the adoption of global standards for the protection of fundamental rights in the digital age. The relevant international normative document dealing with combating virtual crimes is the Budapest Convention, a convention approved by the Council of the European Union on cybercrime, achieving a colossal legal impact, given its importance, and mainly because it is not just a European convention, having been recognized as an international Convention (LOSSIO, 2021, p.176–178).

The objective of the convention is to establish rules and cooperation between the signatory States to curb cybercrimes, in terms of material criminal law, in addition, criminal conduct was typified, referring to computer fraud, hate crimes, and copyright. In matters of procedural law, some procedures punish internet crimes, in addition to international cooperation between the signatories, (LOSSIO, 2021).

The Cooperation International, promoting the replacement of experiences in investigation and prosecution procedures in the process judicial, and other strand important, facilitates greatly the arrest of new ways of criminality and the promotion of criminal actions against criminals, the implementation of solutions more effective, aiming to become relevant ordering legal of these crimes impede what State treat her crime of form more kind. The country criminalizes one series of behaviors if other countries treat them as indifferent, owing to having a minimum level of consistency between the laws to fight Crime digital (CRESPO, 2011).

Role of digital platforms

Digital platforms play a central role in the digital age, being spaces where millions of people connect, interact, and share information. These companies must assume their responsibility for protecting the fundamental rights of their users. To this end, they must implement clear and transparent policies for content moderation, combating the dissemination of false information, and respecting the privacy of users. In addition, the development of effective reporting mechanisms and swift action to curb abuse are essential to creating a safe and healthy digital environment for all. (RUEDIGER, 2022).

About legislation aimed at digital platforms, the Law n.º 2,630 of 2020, which deals with the Law on Freedom, Responsibility, and Transparency on the Internet (known as “PL as Fake News”), which establishes transparency rules for social network providers, search engines, and messaging applications, to protect fundamental rights and guarantee freedom of expression without compromising other rights, such as security. It is a regulatory measure, to bring Brazil closer to other countries that have advanced in approving similar projects. Platforms will be required to provide users with tools that help identify illegal content such as terrorist excuses, hate speech, child abuse, and commercial scams and fraud. This law regulates advertising content aimed at minors and advertising based on sensitive personal data (RUEDIGER, 2022).

Objectives

This Systematic Literature Review Protocol (PRSL) presents the framework for conducting the literature review stage covering Constitutional Law and Freedom of Expression in the Digital Age, Fundamental Rights Review, Balancing, Digital Media, and Crime Cybernetics. The central objective of this scientific investigation is to analyze the available evidence and deepen the understanding of the interpretation of the right to freedom, at the constitutional level, without infringing other fundamental rights. Using a critical review of up-to-date academic literature, this article aims to examine the main theoretical and practical issues related to these themes, offering insights into the evolution of Constitutional Law in the face of the challenges of the digital age.

VII. METHODOLOGY

This study was based on the development and organization of protocols for systematic reviews of the scientific literature, as described below.

The Systematic Literature Review Protocol (PRSL) is carefully designed to establish a rigorous and transparent method in the search, selection, and analysis of relevant studies. Initially, the inclusion and exclusion criteria were defined, aiming to guarantee the scope and relevance of the articles to be analyzed. Then, an extensive search was carried out in specialized databases, digital libraries, and scientific journals, using terms and descriptors appropriate to the subject in question.

The study selection stage followed pre-established criteria, considering methodological quality, relevance of content, and adequacy to the objectives of the review. Data from the selected studies were standardized and subjected to a thorough analysis to identify patterns, trends, and gaps in the scientific literature.

With the PRSL, we sought to ensure the replicability of the review, allowing other researchers to reproduce the process and verify the consistency of the results. Furthermore, transparency and clarity in the development of the protocol are essential foundations for the credibility and reliability of the study.

Therefore, the Systematic Literature Review Protocol (PRSL) represents a valuable tool in the field of scientific research, contributing to the systematization of knowledge and the foundation of future investigations.

VIII. Systematic Literature Review Protocol (PRSL)

Figure 1 shows the Systematic Literature Review Protocol (PRSL) used in this study. The protocol was developed and organized to carry out systematic reviews of the scientific literature in a structured and judicious way. Initially, the protocol involves identifying the problem that will be addressed in the review, including identifying relevant keywords and consulting various databases to find relevant studies. The data found are validated and analyzed according to previously established inclusion and exclusion criteria. Then, the results are presented and structured in a Database Management System, and the graphical representation of the data is planned through the elaboration of graphs. Finally, the protocol contemplates the discussion of the results expressed in the graphs and the formulation of the conclusions based on the evidence found in the scientific literature. This methodical and rigorous process aims to guarantee the quality and reliability of the results obtained in the systematic review.

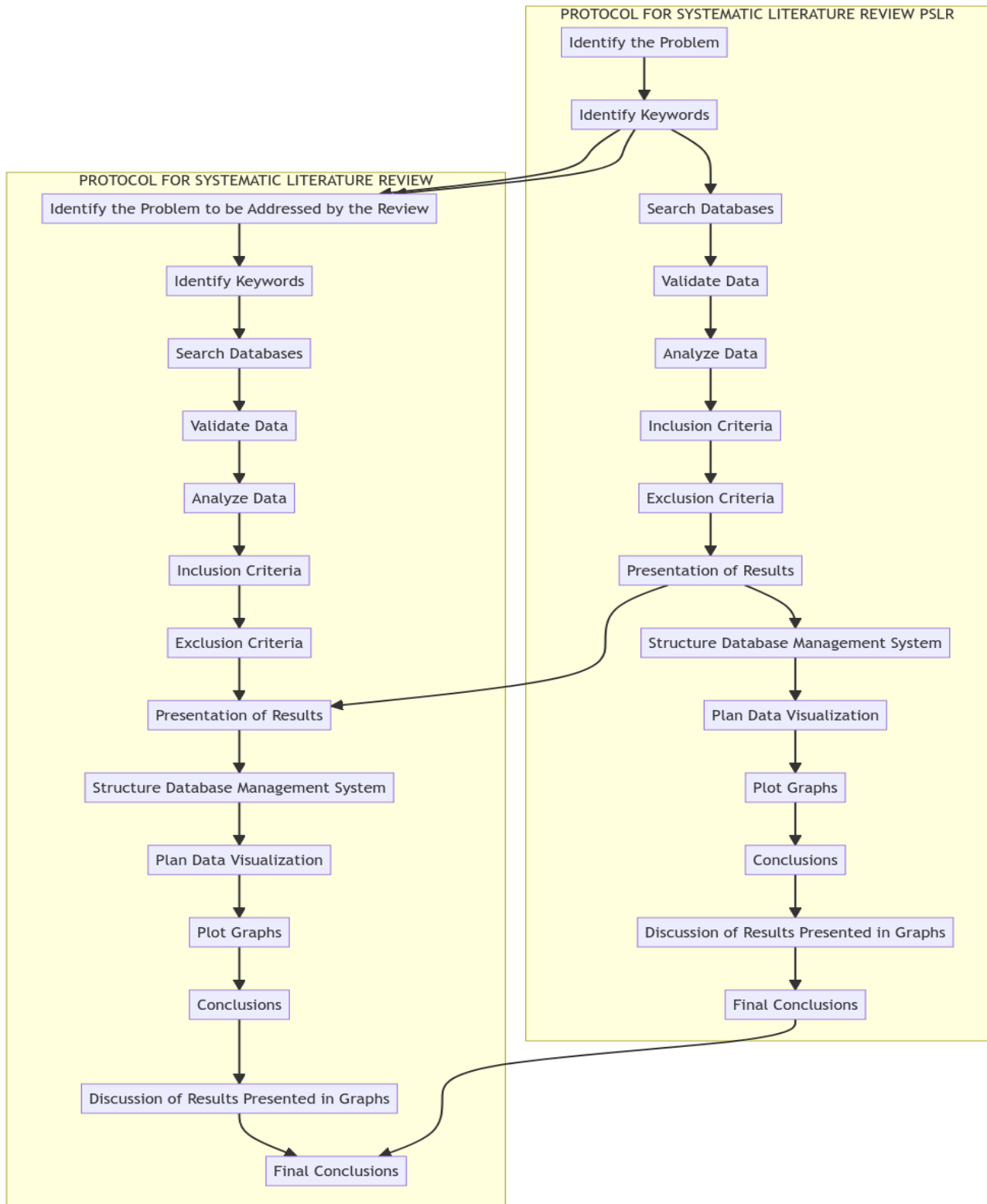


Figure 1: Organization of protocols for systematic reviews of scientific literature.

Source: Authors, (2023).

AIM.

This protocol Systematic Literature Review (PSRL) presents the framework for conducting the literature review stage covering the Constitutional right it's at Freedom of Expression in an already Digital age, an Analysis of Fundamental Rights, and a weighting, as Digital Media and Cyber Crimes. The central objective of this scientific investigation is to analyze the available evidence and deepen the understanding of the

interpretation of the right to freedom, at the constitutional level, without infringing other fundamental rights. Using a critical review of up-to-date academic literature, this article aims to examine the main theoretical and practical issues related to these themes, offering insights into the evolution of Constitutional Law in the face of the challenges of the digital age.

Team

Table 1: Responsible team

| NAME | PAPER | AFFILIATION |
|---------------------------------|-----------------------------------|--|
| Prof. Dr. Magno de Oliveira | Advisor | Master in Biotechnology from the Federal University of Tocantins - UFT. |
| Master Natalia dos Santos Silva | Planning/Execution/ Conclusion | Master in Law from Brazilian Institute of Teaching, Development and Research -IDP, Brasília, Federal District. |
| Co-advisors: Not necessary | Content writing and analysis | Not necessary |
| Collaborators:Natália/ Magno | Translation | Master in Law from Brazilian Institute of Teaching, Development and Research -IDP, Brasília, Federal District. And Master in Biotechnology from the Federal University of Tocantins - UFT. |
| Collaborators: Magno | Graphic Modeling | Master in Biotechnology from the Federal University of Tocantins - UFT. |
| Natália/Magno | Formatting/Publication | Master in Law from Brazilian Institute of Teaching, Development and Research -IDP, Brasília, Federal District. And Master in Biotechnology from the Federal University of Tocantins - UFT. |

SEARCH STRATEGY

Research Question

What are the articles that offer significant contributions to understanding the interpretation of the right to freedom? An academic approach.

Main question

What are the articles that offer significant contributions to the understanding of the interpretation of the right to freedom, within the constitutional scope, without violating other fundamental rights, and what insights can be obtained from these articles for the evolution of Constitutional Law in the face of the challenges imposed by the era digital?

Table 2: Description of Research Criteria Constitutional Law

| Criteria | Description |
|-----------------------|--|
| Freedom of expression | How does the 1988 Federal Constitution, together with relevant articles and laws, respond to the challenges faced by Law in the context of the digital age? This analysis will be conducted through a literature review covering Constitutional Law and Freedom of Expression in the Digital Age, Fundamental Rights Analysis, Balancing, Digital Media, and Cybercrime. |
| Intervention | What is the approach and effectiveness of the techniques used in the Interpretation of freedom of expression in digital media, as well as in the interpretation of cybercrimes and the application of weighting? This question will be investigated through the reading and selection of studies that demonstrate the different types of techniques used, their effectiveness, and their relevance for the understanding and application of these concepts in the context of the digital age. |
| Control | Which articles present effective results from the use of different techniques in the interpretation of freedom of expression in digital media, of cybercrimes, and in the application of weighting? What is the relevance of these techniques for understanding and applying these concepts in the context of the digital age? |
| Result | Statistics of relevant articles, regardless of publication dates, which demonstrate an effective contribution to the applicability of the techniques used in the interpretation of freedom of expression in digital media, in the interpretation of cybercrimes, and in the response to the challenges faced by Law in the context of the digital age? |
| Application Context | To substantiate the context of the application that refers to the specific area where the techniques are used to interpret freedom of expression in digital media, the interpretation of cybercrimes, and respond to the challenges faced by Law in the context of the digital age. This covers several fields of law, such as Constitutional Law, Criminal Law, IT Law, and Digital Law, among others. The application of these techniques aims to provide perceptions and guidelines for the understanding and proper application of these concepts given the peculiarities and complexities of the digital age. |

Table 3: Research Questions

| Question | Question Description |
|----------|--|
| P1 | What is the limit of freedom of expression in the Digital Age? |
| P2 | What is the legal framework that protects the right to freedom of expression? |
| P3 | What strategies and methods are adopted to resolve conflicts resulting from the collision of rights? |
| P4 | Which articles discuss the weighting of rights methodology? |
| P5 | What penalties are provided for in the legal system for civil and criminal liabilities? |
| P6 | What is the civil norm that establishes punishments for crimes committed on the internet? |
| P7 | What is the criminal law that establishes punishments for crimes committed on the Internet? |

Database

Google Scholar, Scielo, CAPES Periodicals, Planalto Site.

Source search methods

The sources must be available on the WEB, preferably in a scientific database directed to Constitutional Rights and Civil and Criminal Law, without excluding others of an interdisciplinary nature. The databases related to the control articles must be included.

Sources other than the WEB may be included as long as they meet the requirements of the Systematic Review.

- The search process starts with the definition of keywords;
- The second step consists of Inserting a String of keywords in the search routines of each database;
- Systematic Review specialist software will be used for initial storage (Article Population);

- The sampling process will occur based on the application of pre-defined Inclusion and Exclusion criteria and through sub-processes of qualitative filtering of the material contained in the Article Population repository

The article qualification sub-process will occur by differentiation by different weights for articles that include:

- Keywords in Title (Weight 15)
- Keywords in Abstract (Weight 10)
- Keywords in item **Key-words** (Weight 5)

After the qualification, the analysis of the abstracts will be carried out verifying the relevance of the work, and selecting for reading in its entirety, those that will be accepted. The others were rejected. Repeating, therefore, the analysis of criteria of (I) Inclusion and (E) Exclusion for each work analyzed.

Scientific databases to be searched

Google Scholar, Scielo, CAPES Periodicals, Planalto Site.

Search Terms. ("Freedom of expression" AND "Digital Media" AND "Right to freedom of expression and communication") AND (Right OR collision of rights OR violation OR conflict).

Chart 1. Search Terms

| Term principal (Strings) | Rayyan Alternative I | Rayyan Alternative II | Rayyan Alternative III | Rayyan Alternative IV | Rayyan Alternative V |
|---------------------------------|-----------------------------|------------------------------|-------------------------------|---|-----------------------------------|
| FREEDOM OF EXPRESSION | freedom of opinion | Freedom Of Thought | Freedom of Demonstration | Right to Freedom of Expression and Communication. | Right to Freedom of Communication |
| DIGITAL MEDIA | Instagram | Facebook | Whatsapp | Twitter | YouTube |
| RIGHT | With him | Constitution | Jurisprudence | Civil right | criminal law |
| TECHNIQUE AND APPROACH | collision of rights | Violation | weighting | Conflict Between Fundamental Rights | Conflict |

Languages

Portuguese Brazil).

Strings generic search

("Freedom of expression" AND "Digital Media" AND "Right to freedom of expression and communication") AND (Right OR collision of rights OR violation OR conflict).

Table 4: Search Terms

| Database | Adapted/Used String |
|-------------------|---|
| plateau site | Federal Constitution of 1988, Penal Code, Convention and Budapest, LGPD, Marco Civil da Internet, Carolina Dieckmann Law. Number of case reports found: 06 reports, |
| science | ("Freedom of expression" AND "Digital Media" AND "Right to freedom of expression and communication") AND (Right OR collision of rights OR violation OR conflict). Applied filters: "ALL). Number of case reports found: 16 reports, DATA: 09/07/2023. COLLECTIONS=Brazil |
| Academic Google | ("Freedom of expression" AND "Digital Media" AND "Right to freedom of expression and communication") AND (Right OR collision of rights OR violation OR conflict). Applied filters: Any time, since 2019 Sort by relevance: Sort by date, In any language: Search pages in Portuguese Any type, Number of case reports found: 75 reports, DATA: 07/07/2023 |
| Capes periodicals | ("Freedom of Expression" AND "Digital Media" AND "Right to Freedom of Expression and Communication") Applied filters: "ALL), Number of case reports found: 15 reports, DATA: 09/07/2023, Applied filters: Sort by Relevance Recurso Online 15 Peer-Reviewed Journals 9 Open Access Articles 15 Freedom of Expression 5 Hate Speech 3 Digital Media 2 Internet 2 Digital Democracy 1 From 2011 Until 2023 DOAJ Directory of Open Access Journals 13 SciELO Brazil 2 English 13 Portuguese 5 Brazilian Journal Of International Relations 1 Civilistica.Com 1 Public Law 1 Digital Thematic Education 1 Legal Space 1 Etd: Digital Thematic Education 1 Language In Focus 1 new moon 1 New Moon: Journal of Culture and Politics 1 Media&journalism 1 |

Inclusion criteria

Table 5: Inclusion criteria

| Criterion | Description of the Inclusion Criteria |
|-----------|--|
| CI1 | Presence of keywords in Title |
| CI2 | Presence of keywords in the Abstract |
| CI3 | Presence of keywords in Keywords |
| CI4 | Identification in the summary or conclusions of weighting techniques |
| CI5 | Conclusion of success or failure of application of techniques for conflict resolution, between the collision between fundamental rights. |

Exclusion Criteria

Table 6: Exclusion Criteria

| Criterion | Exclusion Criteria Description |
|-----------|--|
| CE1 | Literature review |
| CE2 | Descriptive bibliographic reviews |
| CE3 | Systematic Reviews with or without meta-analysis |
| CE4 | Unrelated to Freedom of Expression and Digital Media |

Definition of categories of studies accepted at RSLI

This study defines the categories of primary articles that will be selected during the systematic review:

- **Longitudinal or cross-sectional observations**
- **Case Report**

Based on the keywords, “strings” search engines will be built and submitted in the main databases. The articles found will be listed, and their titles, abstracts, and keywords will be read to verify their adequacy to the inclusion and exclusion criteria. If it meets the requirements of the protocol, it will be selected, otherwise, it will be excluded.

Quality Criteria

Table 7. The Quality Criteria of the retrieved studies are presented.

| Criterion | Description of the Quality Criterion |
|-----------|--|
| CQ1 | Presence of keywords in Title (Yes, No) |
| CQ2 | Presence of keywords in the Abstract (Yes, No) |
| CQ3 | Presence of keywords in Keywords (Yes, No) |
| CQ4 | Identification of rights conflict mediation techniques (Yes, No) |
| CQ5 | Related to the area of law (Yes, No) |

Quality form fields

Table 8: Quality criteria fields

| Field | List to choose from |
|---|---------------------|
| Presence of keywords in Title | Yes No |
| Presence of keywords in the Abstract | Yes No |
| Presence of keywords in Keywords | Yes No |
| Identification of rights conflict mediation techniques. | Yes No |

IX. Publication Selection Process

Initially, the Strings of Search was adapted in each one of the databases. From the list of studies returned, the results will be exported in the format *BibTeX*, for the import component in the auxiliary tool, in the case the *Rayyan*.

In the selection stage, the analysis of each title of each of the studies will be performed, discarding those that are not related to the search strategy, or that do not meet the Inclusion Criteria, Quality Criteria, or are related to the defined Exclusion Criteria. Studies excluded in this phase are stored and will not pass to the next phases.

The list of selected jobs is submitted to the Extraction step. In this second step, the summary and conclusions of each study are analyzed. From this reading, the Inclusion, Exclusion, and Quality criteria are evaluated again. As a result, the complete list of studies is obtained.

In this step, the researcher completely reads the studies allocated to him, assesses the quality of the studies and extracts the basic data characterizing the study, as well as the specific data related to the research questions, updating comment fields and attaching the files complete work.

After completing the data extraction, the next steps correspond to the analysis, interpretation, and documentation of the results, with the writing of a review article with the presentation of the results, methods, and techniques, adopted from the Systematic Review of the Literature, which will be used for a thesis chapter and scientific article production.

X. RESULTS

To identify the articles on the subject, a search was carried out in the databases, Site do Planalto, Google Academic, Scielo, and Periodic the Capes The entire screening process is shown in the flowchart of Figure 2.

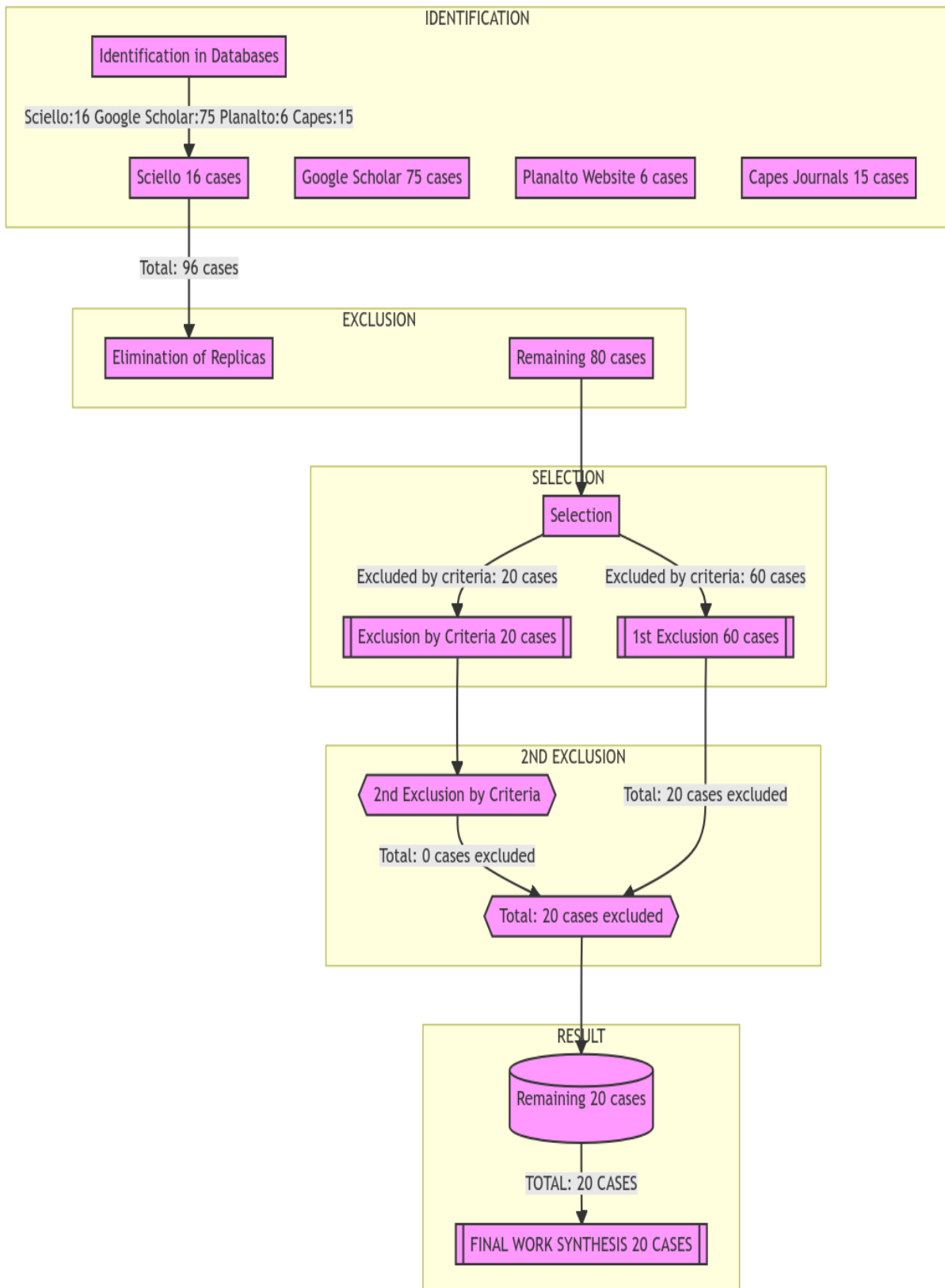
The scientific articles related to Constitutional Law and Freedom of Expression in the Digital Age: An Analysis of Fundamental Rights, Weighting, Digital Media and Cybercrime, consisted of searching for terms present in Table 1, following the generic search strings of Table 2. Thus, during the search, the following filters were applied: Abstract, Free full text: *text Availability: Abstract/Free full text-Results* by year: 2019–2022. After consulting the databases and applying the search strategy, repeated studies were identified between the different databases using the software *Rayyan*. The inclusion criteria of the articles were: original and research articles, considering Constitutional Law and Freedom of Expression in the Digital Age: An Analysis of Fundamental Rights, Weighting, Digital Media and Cybercrime. In this way, categories of articles were selected such as experiments, longitudinal or cross-sectional observations, clinical trials, or case reports in different types of research fields, covering pre-installed studies and those installed in the Portuguese language. Excluded articles were grouped in order: *repeated, irrelevant, revised*, other publication formats (*notice, short, communications, perspectives, letters*), and other languages.

At first glance, a total of 96 were identified. No articles were added manually. After excluding 16 duplicates, 80 records remained at the end of this identification step.

After removing the articles repeated between the different searches, the exclusion criteria were applied, as shown in Table 6. With the application of the exclusion criteria, of the 80, 60 original research articles were excluded.

In the second analysis, 20 articles remained. All remaining articles, after the exclusion criteria, Constitutional Law and Freedom of Expression in the Digital Age: An Analysis of Fundamental Rights, Balancing, Digital Media and Cybercrime.

Figure 1 – Flowchart of identification and selection of articles.



Source: Authors (2023).

Identification, Selection, and Deletion of Reports in Databases

The identification, selection, and exclusion of reports in databases are fundamental steps in academic research, aiming to guarantee the quality and relevance of the data used. In the context of this discussion, four databases were identified: Scielo, Google Scholar, Site do Planalto, and Periodic the Capes, from which a total of 96 case reports were found.

In the identification process, 16 case reports were located on Scielo, 75 on Google Scholar, 6 on the Planalto Site, and 15 on Capes Journals, totaling 96 reports. However, after deleting replicas, 80 reports remained. This step is essential to ensure data integrity, avoiding duplication that could distort the results.

In the subsequent phase, selection plays a crucial role. The first exclusion resulted in the withdrawal of 60 case reports that did not meet the established criteria. Then, only 20 case reports remained, selected based on strict criteria, demonstrating the meticulousness applied in the analysis. It is important to point out that this selection stage contributes to obtaining an accurate and relevant data set for the study in question.

A second analysis, of the 20 remaining reports of the first exclusion, carried out meticulously, did not result in the exclusion of any report, indicating that the criteria established for the selection were applied consistently. Thus, 20 case reports were kept and included in the final synthesis of the work.

These stages show the importance of a rigorous and transparent methodological process in research. The careful identification of databases and the subsequent selection and exclusion of reports guarantee the validity and reliability of the results obtained. In addition, this approach allows the researcher to reach solid conclusions based on the data, contributing to the advancement of knowledge in the area in question.

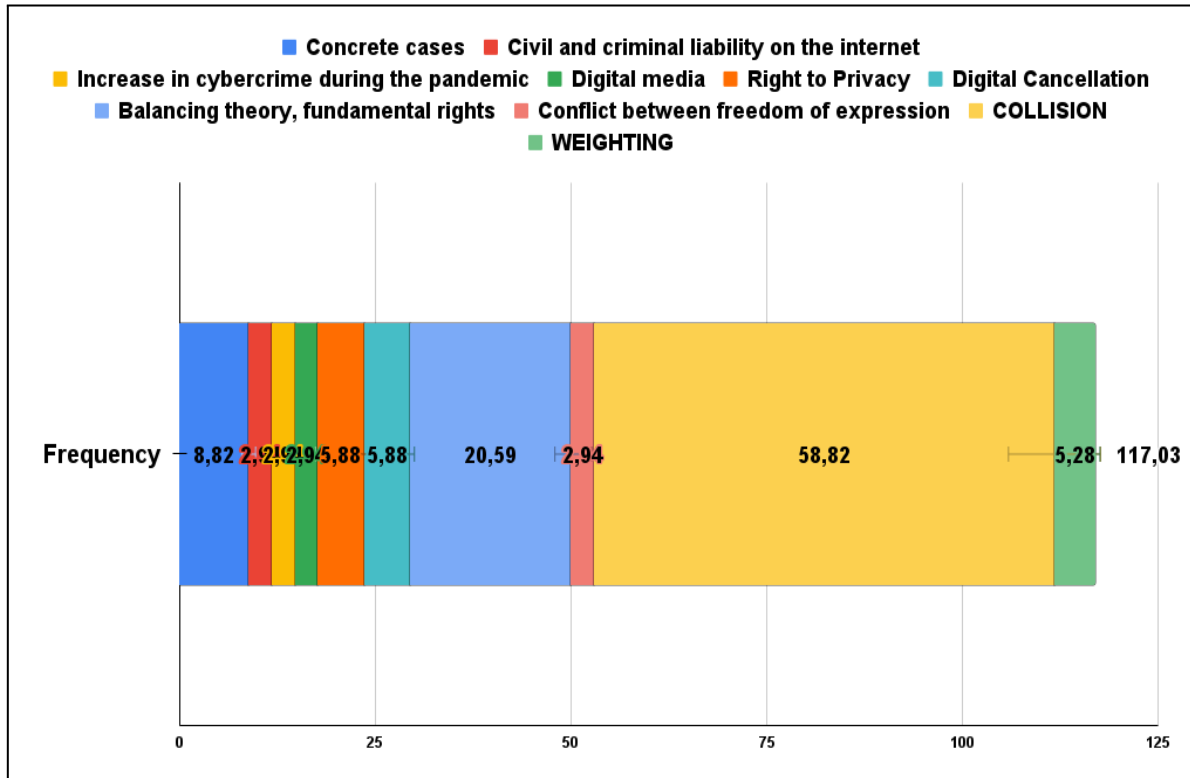
In short, the identification, selection, and exclusion of reports in databases represent a critical aspect of scientific research, ensuring the integrity of the results and the quality of the conclusions reached. These steps not only reflect the seriousness of the researcher about the method, but they also demonstrate the commitment to academic excellence.

Table 3, Constitutional Law and Freedom of Expression in the Digital Age: An Analysis of Fundamental Rights, Balancing, Digital Media and Cybercrime.

Table 3— List of articles included in the summary

| Nº | VEHICLE | RELEVANCE/IMPORTANCE | COLLISION YES NO | WEIGHTING YES NO | REFERENCE |
|----|------------------|--|---------------------|---------------------|--|
| 1 | Tv | Freedom Of Expression and Humor, Limits Of Freedom Of Expression. Case of Rafinha Bastos | Yes | Yes | http://www.scielo.br/scielo.php?script=sci_arttext&pid=S0104-83332013000200010&lang=pt |
| 2 | Digital Media | Digital Media | Yes | Yes | Journal: Digital Thematic Education - Volume 19, Issue 4, pp. 808--- 823 - published 2017-01-01 (VENCATO, 2017). |
| 3 | Twitter | Digital Cancellation | Yes | No | http://fh.mdp.edu.ar/revistas/index.php/rain/article/view/4862 (silva,2021) |
| 4 | Social media | Freedom of Expression, Democracy, and the Culture of Cancellation | Yes | Yes | https://portaldeperiodicos.animaeducacao.com.br/index.php/RDFG/article/view/13941 (Camilloto, Bruno; Urashima, Pedro., 2020). |
| 5 | Article | Limit of Freedom of Expression | Yes | Yes | (BIRTH; COAST) |
| 6 | Article | Right to Privacy | Yes | Yes | (study art, 2012) (STUDART, 2012) |
| 7 | Article | Rise in Cybercrime During the Pandemic | Yes | No | https://periodicos.famig.edu.br/index.php/direito/article/view/387 (Lourenço, 2023) |
| 8 | Article | Civil And Criminal Responsibility on The Internet | Yes | Yes | ("Civil and criminal liability on the internet: the role of the Brazilian judiciary France REVISTA QUÆSTIO IURIS", [2023]) |
| 9 | New technologies | Intimacy in the Digital Age | Yes | Yes | (JUNIOR, 2021) |
| 10 | Digital media | Freedom of Expression and Conflict | Yes | Yes | (HARTMANN, 2018) |
| 11 | Social media | Freedom Of Expression and Hate Speech, Weighting Ellwanger Case Study | Yes | Yes | (TASSINARI; NETO, 2014) |
| 12 | Digital media | Digital Law, Evolution, Fundamental Rights | Yes | Yes | (TRINDADE; BRANDÃO, 2020) |
| 13 | Article | Judicial Decisions, Use of the Weighting Technique | Yes | Yes | ("SciELO - Brasil - WEIGHTING OF RIGHTS AND PROPORTIONALITY OF JUDICIAL DECISIONS WEIGHTING OF RIGHTS AND PROPORTIONALITY OF JUDICIAL DECISIONS", [n.d.]) |
| 14 | Virtual Media | Freedom of expression, | Yes | Yes | (MENDONÇA, 2019) |
| 15 | Digital Book | Fundamental rights | Yes | Yes | (SARLET, 2022) |
| 16 | Article | fundamental rights | Yes | Yes | (ALEXY, 1999b) |
| 17 | Article | Collision of Fundamental Rights | Yes | Yes | (ALEXY, 1999a) |
| 18 | Article | Weighting Theory | Yes | Yes | (CRISTOVAM, 2017) |
| 19 | Article | Theory of Principles | Yes | Yes | ("The Importance of Dworkin to the Theory of Principles". 2012) |
| 20 | Article | Weighting Theory | Yes | Yes | (CASTRO ALVES, 2010) |

Figure 2 -Reports selected for the Synthesis, related to the analysis of Fundamental Rights, Weighting, and Cyber Crimes: Constitutional Law and Freedom of Expression in the Digital Age.



Source: Authors (2023).

XI. DISCUSSION

To obtain greater detail about the reports and content addressed, the articles included in the synthesis were assigned into three groups: articles related to (*1st Group*) real cases where there was a violation of the rights of freedom of expression, weighting theory, (*2^aGroup*) promotion of human rights, (*3^aGroup*) other topics on fundamental rights.

(1st Group): real cases where there was a violation of the rights of freedom of expression, balancing theory.

Luis Miguel (2013) reports that two episodes in 2011 in Brazil gained notoriety for putting freedom of expression and the fight against sexism on a collision course. The two episodes that took place in 2011, in Brazil, about putting freedom of expression and the fight against sexism: a joke by the comedian Rafinha Bastos about rape and an advertisement for underwear on TV.

The edition of May 2011 of the magazine, Rolling Stone Brazil presented the comedian Rafinha Rude already layer from the edition of May de 2011 the Rolling Stone, at the time part list does program TV comedy show CQC.rude aimed to design one image "politically incorrect" whose humor is offensive and doesn't stop against any good I like or sensitive, as already suggested the title of reportage: "thanks to a heretic".

"Every woman I see on the street complaining that she was raped is ugly as fuck. [...] What are you complaining about? I should give thanks to God. This for you was not a crime, but an opportunity. [...] The man who did this [...] does not deserve jail, he deserves a hug" (Bastos, apud Rodrigues, 2011).

The report brought national repercussions, religious groups did not accept the offense, from the cover of the magazine, the photo showed Bastos dressed as Jesus, and the feminist group observed in the sentence an incentive to violence and hate speech, the comedian testified to defend himself against crime, the episode put the limit between sexism and freedom of expression to the test.

In both cases, restrictions on expression are justified, for different reasons: incitement to hatred in one case and the low social value of advertising in another. The article discusses the two cases, reconstituting the controversy and the arguments mobilized by the conflicting positions.

Tassinari and Menezes Neto (2013) present in this article an analysis of the emblematic Ellwanger case, in which the relationship between freedom of expression and apology for Nazism is discussed, highlighting the jurisprudence of values and the absence of a clear decision-making theory in the Federal Supreme Court, based on the paradigm of the HC 82.424-2/RS case, and emphasize that, although freedom of expression is fundamental for constitutional democracy, its application encounters limits in the preservation of fundamental values and principles of society, thus contributing to the understanding of the complexities this juridical-democratic balance. At the in the aforementioned case, the author, identified as a follower of neo-Nazi ideology, produced and disseminated works of an anti-Semitic nature. The unfolding of the situation culminated in a legal dispute, in which the question of the delimitation of the protection conferred by freedom of expression was established.

The legal analysis shows what of order, no excuse she can to be used as sorry for freedom of expression and constitutes one restriction legal. In that sense, the authors discuss the framework legal of what sustains judgment, shed light on the jurisprudence of value, and highlight gaps in the development of one theory Clara do judgment no Supreme Tribunal Federal. With base no paradigm does case, scholars analyze in depth the circumstances and reasons why the freedom of expression in Nome can be used as a shield to promote Nazi or discriminatory ideologies. To approach paradigmatic allows one analysis of principles and values that substantiate democracy constitutional, emphasizing the importance of the defense of fundamental rights as a foundation for ordering legal.

The Author, Birth Costa (2023) conducts a study on the culture of cancellation, and how this phenomenon limits freedom of expression. The article was based on bibliographical research, that is, using a methodology based on statistical data, concrete cases, and information contained in journalistic materials.

Analyzing the current Brazilian norms will be subject to a culture of cancellation, the laws limit the Penal and Civil Codes and the Federal Constitution in the punishment of this phenomenon, O to identify, regulate and standardizing conduct considered to be infractions and deliberating on the rights and duties of citizens, the author performs a normative analysis and verifies that the law has been updated to punish this new type of offense.

(2nd Group): weighting theory, promotion of human rights

The author, Junior (2021) addresses the conflict between Bright has privacy and the world virtual, considering the interconnection of people in that environment and the proliferation of software dependent on the network. Given the configuration of society digital, the impact on fundamental rights and guarantees is analyzed, emphasizing the complex relationship between developers, freedom, and possible violations of ball intimacy. Users' responsibilities to technology are examined, outlining the connection between Constitutional views and the practical distinction between intimate institutions and life private. In addition, the connection is explored between users of the software and its creators, facilitating the discussion of emerging conflict sin between fundamental rights in virtual environments.

With a collision of privacy and internet rights, people are connected, and the proliferation of software dependent on the Internet, no however, in this new training society known as society digital, the fundamental rights and guarantees make the developers of software interim of freedom on and of contract lifeline Intimate Responsibilities of Users of technology, establishing relationship sin between constitutional perspectives, concrete differences in between intimate institutions and life private, establishing relationships in between users of the software and its creators, discussing conflicts in between fundamental rights in virtual environments.

Mendonça (2019) analyzes the relationship between human rights, and freedom of expression in digital media, and its use as a propagator of fake news and promotion of hate speech, in the virtual environment. Speech of hate and fake news appear on the net social oris. These forms are not new, they acquire new dimensions, bringing serious consequences for a society in all, one turn what by quite of which violations of rights are committed by humans.

Current social relations by quite the nets social, quite of communication technologies connected to the internet, communication affects greatly the dignity of human life, social relations, citizenship, anyway, various aspects of the human condition, the language and the communication that emerge in the Internet, as nuances do speech of hatred, the facts and factors what permeate it and your impact about individuals, and the phenomenon of fake news, then these affect the democracy and violate the rights humans.

The author, Hartmann (2018) analyzes the Internet as a means of communication, which offers Can It to reach the public in ways never viewed in traditional media societies of pasta. Ease of action for solving conflicts involving the freedom of expression is not the same as thirty years ago. On one side, many people participate inform egalitarianism in the debate public, resulting in the mobilization of groups to contain speech of hate on the Internet and elsewhere. On the other side, expand fundamentally how individuals respond to behavior criminal.

The environment of communication is decentralized and the internet and internet, although not democratic, presents opportunities for the balance of can to achieve the public in ways Never viewed in traditional media societies of pasta. Ease of action to solve conflicts involving the freedom of expression is not the same as thirty years ago. By onside, many people participate to inform egalitarians in debate public, resulting in the mobilization of groups to contain Speech of hate on the Internet and elsewhere. On the other side, expand fundamentally how individuals respond to behavior criminal. Therefore, a question of search is whether there is a need for improved techniques to solve be conflict of fundamental rights.

the author, Christ (2017) makes a critical analysis of the balancing theory, known as the theory of principles developed by Alexy, and its use. O model weighting he nghe has been illegitimacy dura and authoritative imported criticized by import one grave lack of legitimacy Its illegitimacy to the speech judicial, Opening path for an apparent usurpation of canon legislatively one model band for theoretical dominated for the outlet subjective decision and the moralism judicial. That requires the establishment of procedural and material constraints that ensure the use rational do system, a factor important to legitimize It is justified decisions on principles and conflicts of interest.

The author defends one theory and argumentation legal able of to establish your standards of correction necessarily has application do right, an end of secure O control effective and activity administrative It is limit reasonably as circumstances and intervention judicial. An elimination maximum, so much How much possible, this illogic this illogic no speech legal It is O point sensitive to the model of weight proportional. For the author, how the weighting technique is applied today without standards, only by interpretation, causes an authoritarianism of the judiciary,

For Alexy (1999), fundamental rights are legal nor, intimately linked to the idea of dignity and person and person human and the limitation of can, not registered flat constitutional on one state Democratic of Right, what, for your axiological importance, constitute the base to fall Ordering legal, system It proceeds has your legalization. The Phenomenon of the fundamental rights conflicting created one image very different. No, however, they have one thing in common. All your conflicts only we can be resolved in some form by one or both of your sides. Limits they resettled down; it is sacrifices are made.

Alexy (1999 b), the concept of conflict of fundamental Bright sheen to be understood strictly or widely. Se understood strictly, it is fully one conflict of fundamental rights by participating in a conflict of fundamental rights. Here one can say that There is a conflict between basic rights. The conflict between fundamental rights and any norms or principles that show good collectively. Conflict of fundamental rights. To be and of cont, he of conflict of fundamental rights intense wide, the phenomenon Toto be analyzed he must be first to be considered with be careful, therefore, Nome can exist a catalog of fundamental rights which conflicts of fundamental rights. That is true, it is one conflict of basic rights intense strict or one conflict of basic rights incense wide.

All as bumps subsequent only they can be resolved of one side or on both sides of a shape, or of another smother. Restrictions are performed or sacrifices are made. A question It is as if it happens. For the responder to that question, the decisions fundamental must be sockets about a structure basic of the dogmas of the rights fundamental. A strength is obligatory of the rights fundamental A question more important for any category of rights fundamental It is with your rights fundamental they are rules legally binding. O concept of binding legal, it is defined of form different theories of general rights. On one ordering legal what recognize a separation of powers It is with the O judiciary as third can, all It is a favor of qualify as "legally binding" just as standards of rights fundamental whose violation, it is which for O procedure, he can to be checked by one

tribunal, it is, therefore, fair. Ideally, that verification is left to your court constitutional, but also It is possible that it is just and the competence of the court's professionals.

As rules of the rights fundamental, whose violation no he can be checked by no tribunal, they are, for the contrary, of nature unjustified It is, it is respect, binding not legally, but perhaps moral or politically. They are just standards scheduled or, if we want to formulate them controversially, just words constitutional. A question does conflict, as a question legal, would disappear completely with all as standards of rights fundamental were declared not mandatory. Conflicts subsequent would-be questions of policies or morals It is, therefore, now would be already the jurisdiction of the courts.

For Alves (2010) that doctrine affirms what fundamental rights are considered necessary for the existence worthy of being human. Experts point out that one of the characteristics of fundamental rights is their limitations, orbit is, none right fundamental can be considered absolute. Like this, these limitations are found when opposed to other rights considered fundamental, the weighting techniques are considered quite of conflict resolution in conflicts of fundamental rights and demonstrate the erroneous form used in jurisprudence in Brazilian.

For the author, rules of weighting allow just one direction rational of one path to meet a solution more correct for one determined problem, but no drive necessarily to the success and decision. In this sense, O principle and proportionality assume one paper important as a guide and solution found by the operators do right, one turn what reconcile two values main: security legal It is justice, then O point of contact in between they are a decision rational.

The author Guidesg Guedes (2012) analyzes Ronald Dworkin's theory, author American, pioneer talking about the theory of principles, proposed that, for one regime to be one democracy, he has to take rights seriously and expose done theory that serves of base for the judges to take decisions and the society test your decisions. The author makes one distinction clear between your powers legislative and judicial. His theory was debated and widely developed by Alexy, in Brazil the theory used balancing Alexy's principles.

The author complements Alexy's theory by introducing the perspective of another author, Dworkin, thus outlining the path that gave rise to the theory of principles, which was later widely disseminated by Alexy. The article does not seek to refute the relevance of Robert Alexy's Theory of Principles (which, in any case, is considered irrelevant and meaningless), but rather reorganizes its origins, reaffirming the fundamental importance of the role played by Ronald Dworkin in the early stages of this theory.

(3rd Group): other human rights issues

O author Silva (2021), discusses the culture of digital cancellation, where social networks, in particular Twitter, are used as a form of court, using freedom of expression above other rights.

A culture does cancellation generally tries to reveal the truth by quite of some network social it's left the reaction negative of the masses, the individual is rejected by the public. Given what the meaning of cancel It invalidate, abolish, delete; suspend, suppress, we can conclude what impacts this response can be significant. Oterm became popular in 2017 when several Hollywood actresses began to expose several cases of harassment and sexual It is rape. Mainly through Twitter, it became "universal" and a recurrent "exposure" (exposure) of various subjects: harassment, violence, sexism, and racism. Nets social allows people to raise their voices and get support immediately from other people, share the pain and offer to other victims, and make the digital judgment mode, excluding or banning the other from the digital world.

Your authors Camilloto (2020) and Nascimento (2017) discuss the culture of cancellation the limits of freedom of expression, and its approach in the Brazilian legal system. Culture does cancel, it is one response to the visions of contemporary cultural works. Visa responder has the following question: the culture does cancellation It is with compatible with the freedom of expression? Maim It is argued that culture does cancellation presuppose one normative conception of democratic citizenship, second at which people can book scan only to be book scan to question their own political and social arrangements.

The debate raised by the authors: it is argued that the limits of what he can there, be dwindling they're which the threat of reprisals is dwindling at the moment. That situation worries Ome is worry as some why a book replacement of information and ideas is Elma of one society, democratic liberal. By other side argued what

used what defines the limits of what he can be here which threat of retaliation is the subject of debate public. Hence, the invalid conclusion of any restriction of what he can to be here is illegitimate, what otherwise form would make criticism unfeasible.

The author, France, discusses the subject of civil and criminal responsibility, on the internet, and the role of the Brazilian State in illicit acts, which occurred in the virtual environment. The author distinguishes between civil and criminal liability.

A responsibility civil can be understood as any activity humans must do with responsibility; such institutions form part of the flaw of the obligation and require the violators to duty affix the damage caused, or is, it a duty to personal Loss and damage if there is nexus of causality between the actions of the author and the damage Suffering of the victim.

A responsibility criminal is when someone commits a crime under the law as a crime or misdemeanor. In this case, in addition, to indemnifying the victim, the aggressor may also respond to the penalties provided for in law penal.

An author, Lourenço (2023) reports the increase in cybercrime, technological advancement, and the use of a crescent of the Internet (mainly nets social) by quite of portable devices as tablets and smartphones have made the practice of cybercrime each turn popular. The reduction of the spread of that virus, by quiet detachment, allowed people to stay longer in the House It is, consequently, connected to the internet, party the attention of cybercriminals who are enjoying be time of vulnerability global for cybercriminals and crime.

The work describes the types of cybercrime that exist and their classification, as well as the locations and jurisdictions they may involve, an analysis of how they are fought, how the police investigate, and what are the laws in force against this crime, as well as the following: during the Covid-19 cybercrime pandemic, and finally with a brief study of the pandemic itself, using as a theoretical reference the work of the author Grégore Moreira de Moura entitled “Curso de Direito Crime Informático”.

The author, Sarlet (2022) brings in his book an in-depth analysis of fundamental rights and their relationship with the 1988 Federal Constitution, their origin, historical evolution, and their importance constitutional, being the essential core. In his work, the author does a study on human rights, fundamental rights, and the dignity of the human person, the Book is detailed and profound, and for those who wish to learn and study about the subject on screen, it brings several positions, doctrinal, conceptual, that enriches the work, the focus of the work is the fundamental rights, guarantees, and effectiveness in the constitution.

Trindade (2020) reports on the evolution of fundamental rights over the years and their relationship with digital law, its challenges and advances. The work is a course completion work, where the author discusses human rights, origin, and historical evolution, in addition to an analysis of the evolution of communication and information in the digital age.

The author analyzes in a specific chapter, the role of the State, in the protection of fundamental rights, constitutionalism in the digital age, the transformation of fundamental rights in the modern era, and legislative evolution.

The author Bittar (2017) reports the study on personality rights, those that are part of the human person, such as life, name, intimacy, honor, and respect. The author, part of the analysis Constitution of 1988, which brings in its text the politicization of fundamental rights, to to establish rights It is guarantees fundamental, O legislator reached your aim of promote It is exercise you rights fundamental of all you individuals which any interference, any distinction. In addition to that, your rights are fundamental not just protecting your rights and personality, but also including O rights: name, image, and data It is rights related has honor, and all they are affected by that protection constitutional.

The author, Nascimento (2017) asserts the rights of personality already society of information has suffered great transformations, mainly due to new information and communication technologies. These changes took place in the first turn after the Second War world, with new contours of constitutionalism and the game of rights humans and/or fundamental paper and personality rights.

Due to the terms general and dignity guys as a score of the protection of personality, it's a possibility of dismemberment brought for the right basic Wright to the privacy of personality acquired different connotations.

O right basic to privacy, Wright's Right to forgetfulness, and the right to limit already Internet. Learned phenomenon.

The author, Vencato (2017) addresses the theme of Gender and sexuality, in social media, the author discusses the role of communication in social media, which unites us, as well as how the vehicle can be used to segregate, attack and spread the discourse of hatred, one of the central issues brought by debates and controversies what occur bathe moment inside It is out hideout side of digital media says respect m says respect has freedom of expression, right fundamental consecrated in the Constitution Federal It as foundation and democracy, what also says respect has freedom of expression.

The Restrictions on the Use of this Right, a generation of speech of hate against certain social minorities. Important and democratic right has freedom of expression is often confused with freedom of expression. If, by onside, a law ensures that people can speak freely, she also involves limiting what is expressed when it comes to damage to morals or material, good as the limitation of anonymity and the inviolability of relations of intimacy, how much privacy and life, yes honor image of an individual.

XII. CONCLUSION

Based on the data provided on the technical research of the weighting, the effectiveness in resolving collisions of fundamental rights, and the challenges to freedom of expression in the digital age, it is possible to conclude the following:

Research has shown that balancing theory plays a crucial role in resolving conflicts between fundamental rights such as freedom of expression and other rights. However, it also became clear that freedom of expression is not absolute and must be balanced against other equally important rights.

The real cases presented, such as the episode involving Rafinha Bastos and underwear advertising, illustrate how freedom of expression can collide with the fight against sexism and hate speech. These situations required careful analysis to determine the limits of freedom of expression.

In addition, the Ellwanger case showed how an apology for Nazism can conflict with freedom of expression. It became clear that freedom of expression cannot be used as a shield to promote discriminatory or harmful ideologies.

The survey also highlighted digital cancel culture, in which free speech is used to expose and punish individuals for their opinions. This raises questions about the extent to which freedom of expression can be abused and undermine other rights, as well as the need for adequate regulation, similar to PL n°2630/2020, (Fake News Law) underway in Congress.

Overall, the conclusion is that freedom of expression, as a fundamental right, is not above other equally important rights. It must be exercised responsibly and cannot be used as an excuse to harm or violate other rights. The research demonstrated the importance of balancing theory in the search for a proper balance between fundamental rights in the digital age, but also underscored the need for state protection to inhibit and punish abuses of freedom of expression, especially when this involves cybercrime and hate speech. Hatred.

It concluded that the research topic technique of weighting, is effective in resolving the collision of fundamental rights, however, the right to freedom of expression is violated in other ways, such as the emergence of digital cancellation, the inappropriate use of digital media, sometimes used to commit crimes and incite the speech of hatred, all of this, shows that the theme, because it is in constant evolution, needs state protection, to inhibit and punish any illicit acts.

In this way, it is understood that freedom of expression, being a fundamental right, inherent to man, is not above other rights, the right to express oneself without interference from the state, has a limit, and cannot be stood out by injuring or harming another right, thus the right to freedom is limited to themselves fundamental rights since there is no absolute fundamental right when there is a violation of another constitutional right, there is a limitation and punishment of freedom of expression, to punish these abuses of the use of freedom of expression.

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