

DOUTORAMENTO EM DIREITO E SEGURANÇA

DS102 – DIREITO E SOCIEDADE (10 ECTS; 30 horas)

FICHA DE UNIDADE CURRICULAR

1 – INFORMAÇÕES GERAIS

Regentes da disciplina: Professor Doutor Armando Marques Guedes e Professora Doutora Ana Cristina Nogueira da Silva

Ano letivo: 2017/2018

Curso: 3.º Ciclo

Semestre: 1.º

ECTS: 10; 30 horas

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Horário: quinta-feira, 18h30/20h30

2 – OBJETIVOS E COMPETÊNCIAS A ADQUIRIR

O objetivo do programa da disciplina é o de disponibilizar aos discentes quadros teóricos e metodológicos relativos aos vários tipos de interações existentes entre o direito e os contextos sociais da sua produção e aplicação. No que toca ao doutoramento em Direito (DD), apenas os objetivos gerais estão em causa. No que diz respeito ao doutoramento em Direito e Segurança (DDS), o programa inclui objetivos também específicos, ligados a questões securitárias da atualidade e aos seus quadros jurídico-normativos. Os objetivos gerais são os mesmos para os dois grupos de doutorandos: a aquisição de conhecimentos aprofundados sobre as teorizações e metodologias mais importantes nos domínios abordados, por forma a permitir-lhes vir a propor inovações e eventuais alargamentos de âmbito nos campos sobre que se irão debruçar nas suas teses de doutoramento.

The aim of the discipline is that of making available for students theoretical and methodological tools relative to the various types of interaction extant between law and its social contexts of production and use. For the doctorate in law (DD) only general objectives are brought to the fore. As concerns the law and

security doctorate (DDS) the program includes some specific aims, linked to current security issues and their legal-normative dimensions. The general objectives are shared by by the two student groups: the acquisition of advanced knowledge on the the most importante themes raised, so they will be capable of innovating and eventually enlarge the scope of the domains which they will engage in for their doctoral theses.

3 – PROGRAMA

A autonomia do direito e/ou a(s) sua(s) dependência(s) relativamente aos contextos em que se inserem discursos e atos jurídicos tem desde há muito sido objeto de numerosas discussões. Nuns casos, o contexto sócio-antropológico e histórico é tido como essencial para a produção jurídica, noutros a economia, noutros ainda a política, ou/e uma combinação destes fatores, de acordo com modulações e pesos específicos variáveis de cada um deles – que mudam de autor para autor e em diferentes fases das leituras analíticas de cada um dos autores que sobre o tema se debruçam.

Os seminários tocam, em ordem cronológica, alguns dos momentos centrais dessas discussões ainda em curso. Visam uma contextualização dessas leituras quanto a uma “não-autonomização” (ou a uma autonomia tão-só parcial) do direito na produção teórica nacional e internacional.

No que toca os discentes inscritos no doutoramento em Direito & Segurança (DDS), o programa é o mesmo e contará com textos específicos, de leitura obrigatória, que serão os aqui primeiro listados.

A avaliação dos estudantes será feita durante os Seminários, com base nas apresentações feitas nos termos regulamentares (que serão explicados em pormenor na primeira sessão), e sobretudo pela avaliação dos trabalhos de 15 a 25 pp. (que devem ser depois entregues nos prazos que constam do Regulamento da Faculdade). e contará com textos de leitura obrigatória para a elaboração de trabalhos, abaixo arrolados, podendo, naturalmente, ser utilizada mais bibliografia tida como relevante.

The autonomy of the law and/or its dependency(ies) in relation to contexts in which discourses and jural acts in are embedded have raised many fascinating academic discussions. In some cases their socio-anthropological and historical contexts are envisaged as essential for legal production and practices, in other economic systems are instead, in others still, politics, or/and a combination of these factors, in terms of variable modulations and specific weights– and ones that change from author to author. The seminars touch, in chronological order, some of the crucial moments of these ongoing discussions. They aim at a contextualisation of the readings carried out, and focus on their “non-autonomisation” (or onn their only partial autonomy), both as concerns national and international theoretical productions.

In what concerns the students enrolled in the Law and Security doctorate (DDS), the program is the same e will include specific texts, which constitute obligatory Reading, and that will be the ones initially listed here, which may be uptated as new developments unfold..

Student evaluation will be carried out during the Seminars, both as pertains to presentations made (which will be explained in detail in the first session) and, mostly, via the evaluation of 15 to 25pp. papers which must be handed in according to Faculty timetables. What follows below includes obligatory readings for the elaborations of these texts. These are listed below. Other academic readings may naturally be used if they are considered as relevant.

BIBLIOGRAFIA GERAL PARA OS DISCENTES DO
DOUTORAMENTO EM DIREITO E SEGURANÇA
*GENERAL BIBLIOGRAPHY FOR THE LAW AND SECURITY
DOCTORAL STUDENTS*

(eds.) **Alina Inayeh, Daniela Schwarzer, and Joerg Forbrig** (2014), *Regional repercussions of the Ukraine Crisis*, Europe Policy Paper 3, GMF, Washington, http://www.gmfus.org/wp-content/blogs.dir/1/files_mf/1404920650Inayeh_UkraineCrisisRegionalOutlook_Jun14_web.pdf

(ed.) **Kadri Liik** (2014), “Russia's Pivot to Eurasia”, *European Council for Foreign Relations*, UK, http://www.ecfr.eu/page/-/ECFR103_RUSSIA_COLLECTION_290514_AW

David Batashvili (2017), “Russia’s cyber war, past, present, and future”, in *EUObserver*, <https://euobserver.com/opinion/136909>

Michael Connell and Sarah Vogler (2017), “Russia’s Approach to Cyber Warfare”, *CNA’s Occasional Paper*, Department of the Navy, Washington, https://www.cna.org/CNA_files/PDF/DOP-2016-U-014231-1Rev.pdf

Bērziņš, Jānis (2014), “Russia's new generation warfare in Ukraine”, *National Defense University of Latvia*, <http://www.naa.mil.lv/~media/NAA/AZPC/Publikacijas/PP%2002-2014.ashx>

Dreier, Iana and Nicu Popescu (2014), “The Eurasian Customs Union”, *European Union Institute for Security Studies*, Paris, http://www.iss.europa.eu/uploads/media/Brief_11_Eurasian_Union.pdf

Dugin, Alexander (2012), *The Fourth Political Theory*, Aktos Media, London, <http://www.scribd.com/doc/225908749/The-Fourth-Political-Theory-by-Alexander-Dugin>

Formuszewicz, Ryszarda (2014), “Germany’s Policy towards Russia. New Wine in an Old Wineskin”, PISM, Warsaw, http://www.pism.pl/files/?id_plik=16971

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Laruelle, Marlène (2008), *Russian Eurasianism. An Ideology of Empire*, The Johns Hopkins University Press, Baltimore, <http://www.scribd.com/doc/40865870/M-laruelle-Russian-Eurasianism-An-Ideology-of-Empire>

Lucas, Edward and A. Wess Mitchell (2014), “The Case for Strengthening NATO’s Eastern Defenses”, *CEPA*, Washington DC, [http://www.cepa.org/sites/default/files/The%20Case%20for%20Strengthening%20NATO%20Eastern%20Defenses-%20\(2\).pdf](http://www.cepa.org/sites/default/files/The%20Case%20for%20Strengthening%20NATO%20Eastern%20Defenses-%20(2).pdf)

Markedonov, Sergey (2013), *The Rise of Radical and Nonofficial Islamic Groups in Russia’s Volga Region*, CSIS, Washington D.C., http://csis.org/files/publication/130122_Markedonov_RiseRadicalIslamicVolga_Web.pdf

Marques Guedes, Armando (2009), *A Guerra dos Cinco Dias. A Invasão da Geórgia pela Federação Russa*, Instituto de Estudos Superiores Militares e Prefácio, Ministério da Defesa, Lisboa [prefácio do Almirante Álvaro Sabino Guerreiro]

Marques Guedes, Armando and Radu Dudau (2010), “The Regional Aftermath of the ‘Five Day War’. Political, economic, and security overheads of the conflict in Georgia”, *Boletim do Instituto de Estudos Superiores Militares* 7: 165-211, Ministério da Defesa, Portugal, <http://www.iesm.pt/cisdi/boletim/Artigos/B7-6.pdf>

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Popescu, Nicu (2014), “The Eurasian Union. the real, the imaginary and

the likely”, Chaillot Paper 132, EUISS, Paris,
http://www.iss.europa.eu/uploads/media/CP_132.pdf
Shekhovtsov, Anton (2008), “The Palingenic Thrust of Russian Neo-Eurasianism”, *Totalitarian Movements and Political Religions*, vol. 9, no. 4, 491-506, December, <http://www.mod-langs.ox.ac.uk/russian/nationalism/shekhovtsov1.html>

Global Legal Insights (2017), *Global Energy Security: new concerns & enduring challenges*, <https://www.globallegalinsights.com/practice-areas/energy/global-legal-insights---energy-5th-ed./global-energy-security>

Samir Tata (2017), “Deconstructing China’s Energy Security Strategy”, *The Diplomat*, <https://thediplomat.com/2017/01/deconstructing-chinas-energy-security-strategy/>

Briosa e Gala, Francisco (2013), *O Fornecimento de Gás Natural à União Europeia: Questões de Segurança Energética*, Coimbra Editora, Coimbra.

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Freire Nogueira, José Manuel (2011), *O Método Geopolítico Alargado*, IESM e Prefácio, Lisboa.

Friedman, George (July 2013), “The PC16: Identifying China's Successors”, *Geopolitical Weekly*, STRATFOR, <http://www.stratfor.com/weekly/pc16-identifying-chinas-successors#axzz3DzTniH3N>

(ed.) **John Richardson**, *The Fractured Ocean. Current Challenges to Maritime Policy in the Wider Atlantic*, The German Marshall Fund of the

United States, Washington, DC, http://www.gmfus.org/wp-content/blogs.dir/1/files_mf/1354226179Richardson_FracturedOcean_Se_p12_web.pdf

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Lesser, Ian O. (2010), “Southern Atlanticism: Geopolitics and Strategy for the Other Half of the Atlantic Rim,” Brussels Forum paper series, The German Marshall Fund of the United States, Washington, DC <http://www.gmfus.org/doc/GMF7536%20BF%20Southern%20Atlanticism%20Paper%20Web.pdf>

Marques Guedes, Armando (2012), “Geopolitical Shifts in the Wider Atlantic: past, present, and future”, in (ed.) John Richardson, *The Fractured Ocean. Current Challenges to Maritime Policy in the Wider Atlantic*, pp. 11-59, The German Marshall Fund of the United States, Washington, DC, http://www.gmfus.org/wp-content/blogs.dir/1/files_mf/1354226179Richardson_FracturedOcean_Se_p12_web.pdf

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_____ (2012), “‘Here be Dragons. Novos Conceitos de Segurança e o Mundo contemporâneo”, *O Poder e o Estado*: 5-36, com Luís Elias, ISCPSI and Almedina, Coimbra.

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Alastair Reed and Johanna Pohl (2017), “Tackling the surge of returning foreign fighters”, *NATO Review*, Magazine, <http://www.nato.int/docu/review/2017/Also-in-2017/daesh-tackling-surge-returning-foreign-fighters-prevention-denmark-rehabilitation-programmes/EN/index.htm>

Asaf Siniver and Scott Lucas (2016), “The Islamic State lexical battleground: US foreign policy and the abstraction of threat”, *International Affairs* 92: 1, pp. 63–79, Chatham House, London, https://www.chathamhouse.org/sites/files/chathamhouse/publications/ia/INTA92_1_04_SiniverLucas.pdf

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(ed.) **Tomé, Luis** (2015) *Islamic State – the new global jihadist phenomenon*. Media XXI, Setembro.

Bunzel, Cole (2015), . *From Paper State to Caliphate: The Ideology of the Islamic State*. The Brookings Institution, Analysis Paper, No. 19, March 2015.

Url: <http://www.brookings.edu/~media/research/files/papers/2015/03/ideology-of-islamic-state-bunzel/the-ideology-of-the-islamic-state.pdf>

Richard, Barret. (2015) *The Islamic State*. The Soufan Group, November 2015. <http://soufangroup.com/wp-content/uploads/2014/10/TSG-The-Islamic-State-Nov14.pdf>

Weiss, Michael and Hassan Hassan (2015). *ISIS: Inside the Army of Terror*. Regan Arts, February.

Zelin, Aaron Y. (2014), “ISIS is Dead, Long Live the Islamic State. Will the declaration of a new caliphate unite the world’s jihadists -- or tear them apart?”, *Foreign Policy*, http://www.foreignpolicy.com/articles/2014/06/30/isis_is_dead_long_live_the_islamic_state_iraq_syria

European Commission (2017), *Cyber Security in the Energy Sector report (final version)*, *Energy Expert Cyber Security Platform*. https://ec.europa.eu/energy/sites/ener/files/documents/eecsp_report_final.pdf

European Commission (2014), *Energy Security Strategy*, https://ec.europa.eu/energy/sites/ener/files/publication/European_Energy_Security_Strategy_en.pdf

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Ulrik Franke (2015), *War by non-military means*, FOI, Global Press, Swedish Ministry of Defense, Stockholm, <http://www.foi.se/Global/Press%20och%20nyheter/War%20by%20non-military%20means.pdf>

Marlene Laruelle (2015), “The three colors of Novorossiia, or the Russian nationalist mythmaking of the Ukrainian crisis”, *Post Soviet Studies*, Washington.

Daucé, Françoise, Marlene Laruelle et al. (2015), “What Does it Mean to be a Patriot. Patriotic Practices in Contemporary Russia”, *Europe-Asia*, vol.67, no. 1, pp.1-7,

<http://www.tandfonline.com/doi/pdf/10.1080/09668136.2014.986964>

Edward Lucas and A. Wess Mitchell (2014), *Central European Security after Crimea. The Case for Strengthening NATO's Eastern Defenses*, CEPA, Washington, <http://www.cepa.org/sites/default/files/The%20Case%20for>

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Edward Lucas (2015), *The Coming Storm. Baltic Sea Security Report*, CEPA, [http://www.cepa.org/sites/default/files/styles/medium/Baltic%20Sea%20Security%20Report-%20\(2\).compressed.pdf](http://www.cepa.org/sites/default/files/styles/medium/Baltic%20Sea%20Security%20Report-%20(2).compressed.pdf)

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[f&utm_medium=email&utm_term=Gweekly&utm_campaign=20150728](https://www.stratfor.com/weekly/quantum-geopolitics?utm_source=freelist-f&utm_medium=email&utm_term=Gweekly&utm_campaign=20150728)

[2e](https://www.stratfor.com/weekly/quantum-geopolitics?utm_source=freelist-f&utm_medium=email&utm_term=Gweekly&utm_campaign=20150728)

A partir deste acervo bibliográfico podem ser propostos temas pelos discentes para apresentações opcionais de 10-15 minutos durante as sessões. Visto as apresentações durante as sessões não serem obrigatórias para dos candidatos do doutoramento em Direito e Segurança, os temas escolhidos serão entremeados no programa geral da disciplina, de acordo com aquilo que seja tido por mais conveniente.

From this bibliography, a variety of themes may be proposed by students for optional 10-15 minute presentations during sessions. Since session presentations are not obligatory for the Law and Security doctoral candidates, the themes chosen will be interspersed in the general program of the discipline according to what shall be deemed as more convenient.

PROGRAMA GERAL

GENERAL PROGRAMME

A autonomia do direito e/ou a(s) sua(s) dependência(s) relativamente aos contextos em que se inserem discursos e atos jurídicos tem desde há muito sido objeto de numerosas e fascinantes discussões académicas. Nuns casos, os contextos sócio-antropológico e histórico são tidos como essenciais para a produção e práticas jurídica, noutros a economia, noutros

ainda a política, ou/e uma combinação destes fatores, de acordo com modulações e pesos específicos variáveis de cada um deles – que mudam de autor para autor e em diferentes fases das leituras analíticas de cada um dos autores que sobre o tema se debruçam.

Os seminários tocam, em ordem cronológica, alguns dos momentos centrais dessas discussões ainda em curso. Visam uma contextualização dessas leituras quanto a uma “não-autonomização” (ou a uma autonomia tão-só parcial) do direito na produção teórica nacional e internacional.

A avaliação dos estudantes será feita durante os Seminários, com base nas apresentações feitas nos termos regulamentares (que serão explicados em pormenor na primeira sessão), e sobretudo pela avaliação dos trabalhos de 15 a 25 pp. (que devem ser depois entregues nos prazos que constam do Regulamento da Faculdade). e contará com textos de leitura obrigatória para a elaboração de trabalhos (na secção B) a relativa ao Doutoramento Geral (DD) e na secção C), aquela que diz respeito ao Doutoramento em Direito e Segurança (DDS):

The autonomy of the law and/or its dependencies in relation to contexts in which discourses and jural acts in are embedded have raised many fascinating academic discussions. In some cases their socio-anthropological and historical contexts are envisaged as essential for legal production and practices, in other economic systems are instead, in others still, politics, or/and a combination of these factors, in terms of variable modulations and specific weights– and ones that change from author to author.

The seminars touch, in chronological order, some of the crucial moments of these ongoing discussions. They aim at a contextualization of the readings carried out, and focus on their “non-autonomy” (or on their only partial autonomy), both as concerns national and international theoretical productions.

Student evaluation will be carried out during the Seminars, both as pertains to presentations made (which will be explained in detail in the first session) and, mostly, via the evaluation of 15 to 25pp. papers

which must be handed in according to Faculty timetables. What follows below includes obligatory readings for the elaborations of these texts. These are listed in Section B) for the general Doctoral Programme (DD), and in Section C) for the Doctorate in Law and Security (DLS):

**PROGRAMA E BIBLIOGRAFIA DAS SESSÕES DO
DOUTORAMENTO
PROGRAMME AND BIBLIOGRAPHY OF THE
GENERAL DOCTORATE**

**I. Direito e sociedade, as grandes perspetivações
fundacionais**

**Law and society, the great foundational
perspectives**

**1. O direito como ideologia (org. Cristina Nogueira da Silva)
Law as ideology**

Karl Marx (1818-1863): Karl Marx (1ª ed.: 1959), textos originais editados em Lord Lloyd of Hampstead, *Introduction to Jurisprudence*, London, Stevens Sons, 1979 Cap. 10: “Marxist Theories of Law and State”, pp. 724-815.

Roger Cotterrell (1992), *The Sociology of Law: an Introduction*, London, Dublin, Edinburgh, (1ª ed.: 1984), (Cap. 4: “Law, Power and Ideology”, pp. 99-133). BFDUNL: S2-33.

Isaac D. Balbus (1977), “Commodity form and legal form: an essay on the «relative autonomy» of the law”, in *Law and Society*, pp. 571-588 [11]

Andrew Vincent, “Marx and Law”, *Journal of Law and Society*, Nº20, 1993, p. 371-97.

**2. Os formatos do Direito e as configurações da
solidariedade social (org. Armando Marques Guedes)
Legal forms and social solidarity configurations**

Émile Durkheim (1858-1917): Émile Durkheim, (1975, original 1893), “L’origine de l’idée du Droit”, em *Textes I*: 233-241, Éditions de Minuit.

_____ (1950, original de 1922), *Leçons de Sociologie. Physique des Mœurs et du Droit*, Presses Universitaires de France, Paris.

3. Direito, sociedade e racionalidade (org. Armando Marques Guedes)

Law, society, and rationality

Max Weber (1864-1920): **Max Weber** (1978, 1ª ed.: 1920), *Economy and Society: an outline of interpretative sociology* (ed.: Guenther Roth and Claus Wittich, Berkeley, University of California Press, 1978, Vol. I, pp. 3-62; 213-254; BFDUNL: S1-27 (1); Vol. II, pp. 880-899. BFDUNL: S1-27(2).A. [trad. castelhana: *Economía y Sociedad: esbozo de sociología comprensiva*, Madrid, Fondo de Cultura Económica, 1993. BFDUNL: S1-9].

Roger Cotterrell (1992), *The Sociology of Law: an Introduction*, London, Dublin, Edinburgh, (1ª ed.: 1984), (Cap. 5: “The Acceptance and Legitimacy of Law”, pp. 148-178; 99-133). BFDUNL: S2-33.

4. O direito e a sociedade como foram vistos de cá (org. Armando Marques Guedes)

Law and society as seen from here

Rogério Soares (1969), *Direito Público e Sociedade Técnica*, Coimbra.

J. Oliveira Ascensão (1982), “Por um direito vivo”, *Revista de Direito e de Estudos Sociais XXVI* (1,2,3,4): 5-17, Lisboa e Coimbra.

Maria Manuel Leitão Marques e Fernando Ruivo (1982), “Comunidade e Antropologia Jurídica em Jorge Dias: Vilarinho da Furna e Rio de Onor”, *Revista Crítica de Ciências Sociais* 10: 41-87.

II. **Direito, pluralismo jurídico e jurisdicional, interculturalidade**

Law, legal and jurisdictional pluralisms, interculturality

5. **Interculturalidade e modelos de cidadania** (org. Cristina Nogueira da Silva)

Will Kymlicka (1995), *Multicultural Citizenship*, Oxford, Oxford University Press.

Cristina Nogueira da Silva (2009), “Conceitos oitocentistas de cidadania. Liberalismo e igualdade”, *Análise Social*, Vol. XLIV (192).

_____ (2009), “«Missão civilizacional» e Codificação de «usos e costumes» na doutrina colonial portuguesa (séculos XIX-XX)”, in *Quaderni Fiorentini per la Storia del Pensiero Giuridico Moderno*, n.ºs 33-34, t. II, 2004-2005, pp. 899-921.

6. **Interculturalidade, transnacionalidade, cosmopolitismo** (org. Cristina Nogueira da Silva)

Interculturality, transnationality, cosmopolitanism

Boaventura de Sousa Santos (2004), "Por uma concepção multicultural de direitos humanos", in Santos, Boaventura de Sousa (org.), *Reconhecer para libertar. Os caminhos do cosmopolitismo multicultural*. Porto: Edições Afrontamento, 331-356.

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FDUNL: S2 – 40 (1) [trad. Espanhola: Santos, Boaventura de Sousa; Rodríguez-Garavito, César (orgs.) (2007), *El derecho y la*
Campus de Campolide, 1099-032 Lisboa – Portugal | www.fd.unl.pt | Email: jbg@fd.unl.pt

globalización desde abajo. Hacia una legalidad cosmopolita.
Barcelona: Anthropos-Universidad Autónoma Metropolitana.

7. As formas híbridas nos direitos lusófonos, as representações simbólicas e a ‘bifurcação’ (org. Armando Marques Guedes

The hybrid forms of lusophones laws, symbolic representations, and ‘bifurcation’

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