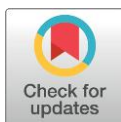


Brazilian General Data Protection Law (LGPD): the relationship between information policy and information regime

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ABSTRACT

Introduction: This article brings reflections on the General Data Protection Law (Law nº 13,709/2018) based on the theoretical framework in Information Science. The objective of this article is to present Law No. 13,709/2018, a legal-normative resource for a national information policy, from an information regime perspective. **Objective:** It is to present the General Data Protection Law (Law nº 13,709/2018), a legal-normative resource for a national information policy, from an information regime perspective. Documentary analysis was applied, in which the aim was to verify constituent elements of information regimes proposed by González de Gómez in the LGPD context, searching in laws, decrees, and Brazilian Federal Government's ordinances, technical recommendations and selected reports. **Results:** It is inferred that laws like LGPD must be observed by the actors involved, the social practices that are conditional, the informational environment in which it will be applied and its production situation (who, for whom and why), that is, its information regime. **Conclusions:** It considers that information policy studies need to be carried out, in Information Science, through information regime perspective for better understanding its context of creation, applicability, and adequacy.

KEYWORDS

Brazilian general data protection law. Information policy. Information regime.

Lei Geral de Proteção de Dados (LGPD): a relação entre as políticas e os regimes de informação

RESUMO

Introdução: O presente artigo traz reflexões sobre a Lei Geral de Proteção de Dados (Lei nº 13.709/2018) a partir do referencial teórico em Ciência da Informação. **Objetivo:** Apresentar a Lei nº 13.709/2018, recurso jurídico-normativo de uma política nacional de informação, por uma perspectiva de regime de informação. **Metodologia:** Aplicou-se análise documental para verificar os elementos constitutivos de regime de informação, proposto por González de Gómez, no contexto da LGPD em leis, decretos, portarias, recomendações técnicas e relatórios selecionados do Governo Federal brasileiro. **Resultado:** Infere-se que leis como a LGPD devam ser observadas pelos seus atores envolvidos, as práticas sociais que são estabelecidas, o ambiente informacional em que é aplicada e a conjuntura de produção (quem, para quem e o porquê), ou seja, o regime de informação. **Conclusões:** Ao final, considera que os estudos de políticas de informação sejam realizados, na Ciência da Informação, por meio da

perspectiva do regime de informação para melhor compreensão do seu contexto de criação, aplicabilidade e adequação das leis.

PALAVRAS-CHAVE

Lei geral de proteção de dados. Política de informação. Regime de informação.

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JITA: IP. Data protection

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1 INTRODUCTION

The increasing use of Information and Communication Technologies (ICT) and the consolidation of the Internet, where billions of pieces of data circulate continuously, have led to a growing interest for the state in regulating the production, use, access, storage, and disposal of information, information resources and services. Internet regulation and information policies are important for countries like Brazil, but they are not enough to eliminate the hegemony and technological dependence of others. These efforts need to be combined with state investments in technological research and digital infrastructure (Morozov, 2018).

In recent decades, the Brazilian federal government has recognized the impact of information and ICT. Thus, regulations have been established to expand an information policy in the country, such as: 1) Law No. 12.527/2011 - Access to Information Law (LAI); 2) Interministerial Order MJ/MP No. 2.320, of December 30, 2014 - Creation of the Integrated Protocol; 3) Decree No. 8.539/2015 - Implementation of the National Electronic Process (PEN); 4) Decree No. 9.637/2018 - National Information Security Policy and Information Security Governance; 5) Decree No. 10.332/2020 - Strategic Digital Government Plan - 2020 to 2022; 6) Law No. 12.965/2014 - Civil Rights Framework for the Internet; 7) Law No. 13.709/2018 - General Data Protection Law (LGPD), and others.

This recent regulation is characterized by the establishment of responsibilities for the processing of personal data, whether in digital form or not, collected in the national territory by natural persons or by legal persons, public or private. The LGPD, with its broad scope, in addition to placing the data subject as the protagonist of decisions on the processing of his or her personal data, is a starting point for establishing relationships between citizens, government and the private sector regarding the collection, use, storage, and disposal of personal data. Therefore, it is essential to study the context and relationships of this legislation in Brazilian society.

As information becomes more relevant in society, especially in a scenario where personal data is increasingly valuable, it is important to align critical thinking with the context in which information is inserted. The concept of the Information Regime (IR), "[...] understood as an interpretive resource for thinking about the relationships between politics, information, and power [...]" (Bezerra, 2020, p. 185), emerges as a contribution of the Critical Theory of Information, which understands the study of information based on the methodological proposal of Critical Theory instead of a theoretical framework of Information Science (IS) based on Shannon and Weaver's Mathematical Theory of Communication¹.

In the IR, "[...] we find the totality of the environment between all the elements that share this space: people and information policies, as well as the information assets formed by information systems" (Delaia; Freire, 2010, p. 106). For this reason, the following question was raised: how does the LGPD in Brazil constitute a metadata² structure in the context of an IR? In this way, this article aims to review the IR established

¹ The Mathematical Theory of Communication was developed by Claude Shannon (1948) and Warren Weaver (1949), and its fundamental contribution was to prove that there is a limit to the transmission of signals in a physical communication channel, and that this limit can be calculated. The conclusions were strongly based on statistics and mathematical theorems with direct application to telegraph systems. It was an answer to the problems of signal transmission over physical communication channels. It takes into account real transmission conditions, such as the presence of noise and the statistical distribution of the message to be transmitted (Guedes, 2011, p. 1).

² We call the rules and conditions of production that establish the domain of contextualization within which information informs and relates to other information in a meaningful way "metainformation" (González de Gómez, 1999a, p. 79).

by the LGPD in Brazil, since legislation is "one of the bases for defining and implementing public information policies" (Jardim; Silva; Nharreluga, 2009, p.15).

Although there are other information regulations in the country, such as the Law on Access to Information (Law No. 12.527/2011) and the National Policy on Public and Private Archives (Law No. 8.159/91), which shape the national information regime(s) by bringing organizational stabilization of actions, organizational hierarchies and functional jurisdictions, the LGPD stands out for its wide scope of application and for being the first to have informational self-determination as one of its foundations. As such, it provides greater transparency in data processing, as well as greater control and awareness for the data subject regarding the use, processing, purpose and retention periods of their data. The LGPD sheds new light on a fundamental right of individuals, the protection of their personal data, and establishes a treatment of personal data that guarantees the security and availability of the information. Its application affects the public and private sectors that use personal data to carry out their activities.

2 REVIEWS AND REFLECTIONS ON IR IN THE CONTEXT OF INFORMATION POLICIES: PERSPECTIVES AND LIMITATIONS

The concept of information regime (IR) in the field of Information Science (IS) is one of the concepts assimilated and integrated into research in Critical Information Theory (Bezerra, 2020). This concept is developed by adapting the theoretical and methodological phases of Critical Theory to the research field of information studies.

[...] the information regime is configured as a joint social formation of networked elements - such as social actors (subjects, devices, and technologies), rules of power, and the organization and political management of information that are operationalized in social practices with products and services (Bezerra et al, 2016, p. 61).

IR is a concept under development in the context of the Social Sciences, more specifically in IC, reflecting the epistemological and political relationships that surround information actions and their actors (Bezerra et al, 2016).

One of the main attributions of information regimes would be to highlight this tension between the socio-cultural configurations of interactions in which the pragmatic differentials of information are manifested and constituted, and the legal-normative, technical-instrumental and economic-market structures that aim to overdetermine this configuration, with some imposition of direction or value. Rules, norms, standards, and codes are precisely the domain where these tensions and impositions occur (González de Gómez, 2012, p. 56).

Several authors have used the term "information regime" as one of the interpretive underpinnings for addressing the relationship between politics, information, and power (Bezerra et al., 2016).

In short, the information regime is understood as

- a) It is a concept, in IC, with which we strive to achieve "[...] a landscape of the field of action of information politics, in relation to actors, technologies, representations, norms and regulatory standards that configure implicit or explicit information politics" (Costa, 2017, p. 38).
- b) It originates mainly in material exchanges (economic, technological, cultural)

resulting from relationships between people with information needs (Bezerra et al., 2016).

- c) It is configured in an environment created by the exchange of information and its dissemination, provided by the intense flow of information resulting from technological advances in telecommunications and information technology (Unger; Freire, 2006).
- d) Its concept "[...] presents this double composition: a physical environment where technological artifacts are installed and the information policies that regulate their production and communication" (Unger; Freire, 2008, p.92).
- e) Its theoretical-conceptual construction is correlated with, but not limited to, the information policies of governmental institutions and organized society (Bezerra et al., 2016).

In presenting an IR, González de Gómez (1999b) considers that its construct has four components:

- 1) Information devices - a set of guidelines that regulate the use of and access to information.
- 2) Social actors - the people who produce or need information.
- 3) Information artifacts - technological and material resources that capture, distribute, and store information.
- 4) Information actions - are actions that "[...] direct the flow and distribution of information between subjects, fields of knowledge, activities, and regions" (González de Gómez, 2003). Information actions are divided into three types (González de Gómez, 2003, p. 36): a) Relational - "[...] when the purpose of an information action is to intervene in another information action so that, although it has relative autonomy, it receives direction and goals from it"; b) Mediating - "[...] when the information action is linked to the goals and direction of another action"; and c) Formative - "[...] when information is used not as a means but as a finalization. "

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Information regimes turn out to be interpretative resources on the relationship between politics, information, and power, designed to provide a deeper understanding of the formation, organization, disarray, and stabilization of information spaces (public or private; local or global; technical or social), information processes, services, and products in a context driven by information and communication technologies (ICT) within a solid market economy (Bezerra et al, 2016).

Market transformations at a global level have affected state economies through privatization and market deregulation, limiting state participation to the provision of traditional public goods and the task of regulation. These processes affect the field of information through ICTs, which, in the past two decades, have reached their peak with the emergence of information infovias, or networks, with special emphasis on the Internet (Aun, 1999, p. 116).

So we have a society that is tied to an economy in which information is at the heart of its economic needs and citizen participation is essentially based on the speed of production and the wide dissemination capacity of information. Both the economy and society

[...] grow and develop as a function of the production and use of informational values, and where the importance of information as an economic product

exceeds that of goods, energy and services, modifying the very structure of the city and the relationships and services offered in urban life (Marciano, 2006, p. 43).

It is essential to adopt a shared strategy to create a balance between the state and the market, in which one compensates for the shortcomings of the other. The former establishes presence and coercive power, while the latter brings greater agility and investment and production capacity to public authority projects (Marciano, 2006). Thus, according to Bezerra et al. (2016), the importance of the object "information" in the information society is perceived not only in the flow of information and its internal characteristics in technological arrangements, but also "[...] by information policies that shape external conditioning aspects in a specific way in the production and consumption of information and knowledge" (Bezerra et al., 2016, p. 61-62).

Therefore, information policies include

[...] a set of interrelated principles, laws, guidelines, standards, regulations, and procedures that guide the oversight and management of the information lifecycle: production, collection, distribution/dissemination, retrieval and use and withdrawal, including preservation of information. Information policy also covers access to, and use of, information and documents; [...] (Hernon; Relyea, 2003, p. 2147).

It is aimed at describing, delimiting and defining the actions of using information as a resource for transforming society in governmental, organizational and private spheres (Marciano, 2006). González de Gómez (2012, p. 53), using Braman's (2004) reflections, points out that "[...] in any of its formulations, an information policy has to do with power, whether it is oriented towards social welfare or driven by other motives and intentions".

Therefore, since policies are the result of "the interaction between users and their peers, considering the networks and forces present at the time of their formulation and attentive to the changes presented therein" (Marciano, 2006, p. 46), it is understood that the conception of an information policy demands what is really a priority: the construction of society in an equitable and democratic way (Aun, 1999). In this sense

[...] it is essential to understand how the presentation of the information policy document can affect and enable the forms of mediation to lead to the pertinent use of information, its appropriation necessary for the construction of knowledge through translation processes, and the adaptation and use of technical artifacts (Pinheiro, 2010, p.123).

Considering the concepts and reflections on information policy and that the state's control over the flow of information is a preponderant factor, its mediating characteristic should be emphasized.

We discuss Information Policies when, in the case of a question posed in a collective field of action, there are conflicts between the different formulations of objectives, plans, actors, and resources assigned to the actions in the field and, consequently, regarding the scope, priorities, and goals of the information actions, in such a way that these conflicts cannot be equated or resolved by technical or instrumental means and require the deliberative reformulation of principles, aims, and rules for the realization of collective and coordinated plans of action, or a change in the power relations of the actors involved (González de Gómez, 1999a, p. 69).

In a context where information is increasingly becoming a central element for the state, mediating its relations with society, information policies manifest themselves by

guiding and balancing the forces between society's interests with the state and the market, by establishing political values, goals, actions, rules, and objectives that are intrinsic to their respective information regime (Santos; Freire, 2020). That said, it is understandable that “[...] the construction of an information policy, in its broadest sense, is today, without a shadow of a doubt, a challenge for all States” (Aun, 1999, p. 119).

2.1 Legislation in the context of information policies

According to Jardim, Silva and Nharreluga (2009, p.15) “Rather than controlling a public policy, the relevant legislation is often the product of a policy. [...] Legislation is one of the foundations for defining and implementing public information policies,” the latter being understood as a set of decisions, projects, and programs established at government level to regulate activities involving the relations of multiple social actors with information. In addition, they are made up of the sum of a certain number of work programs, systems, and services and the definition of the geographical, administrative, economic, thematic, social, and informational universes that they should cover (Jardim, 2008).

To guide the implementation of public policies as a system of rules, it is essential to create a standard of behavior through norms, seeking a balance between the multiplicity of interests. One of the recent government actions for Brazilian public information policy is Law No. 13,709/2018, known as the General Personal Data Protection Law (LGPD), which establishes

[...] the processing of personal data³, including in digital media, by a natural person or by a legal entity governed by public or private law, with the aim of protecting the fundamental rights of freedom and privacy and the free development of the personality of the natural person (Brazil, 2018, Art. 1).

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Inspired by the European Data Protection Regulation (GDPR), the LGPD brought greater legal guarantees for data protection to Brazilian legislation, complementing Law No. 12,965/2014, which establishes the principles, guarantees, rights, and obligations for the use of the Internet in Brazil (Brasil, 2014).

The “[...] LGPD was created to respond to the global need to exchange personal data in a more secure manner, mitigating the risks of this process” (Escola Nacional de Administração Pública, 2020, p.5), as the services provided on the Internet by public or private organizations have made information one of the most valuable assets, especially personal data, whose market is becoming “[...] an increasingly important segment of the so-called information economy” (Silveira; Avelino; Souza, 2016, p.218).

Law No. 13,709/2018 brought something unprecedented to Brazilian information policy: informational self-determination as a basis for the protection of personal data. Thus, it consists of

³ The use of the terms data and information should be clarified. The content of both overlaps in various circumstances, which justifies a certain promiscuity in their use. Both terms are used to describe a fact, a particular aspect of reality. However, each carries a particular weight that must be taken into account. [...] Legal doctrine often treats these two terms - data and information - indistinctly, or makes a somewhat empirical distinction that at least deserves to be emphasized (Doneda, 2011, p. 94). In the case of Brazilian legislation, there is no technical-scientific distinction between data and information, as has been widely studied and discussed in the field of information technology (see Davenport, 1998, p. 18-20), for example, in the Access to Information Law there is the term “personal information: information related to an identified or identifiable natural person”. (Brazil, 2011, Art. 3, IV). In the General Personal Data Protection Law, the term “personal data: information related to an identified or identifiable natural person” (Brazil, 2018, Art. 5, I).

[...] the data subject's freedom to dispose of their personal information according to their interests. In other words, it is the individual's right to choose with whom they want to share their information, on the assumption that they can veto any interference that is not consented to and, therefore, it is personal data and information that they want to keep secret (Ruaro, 2015, p. 45).

The right to informational self-determination is synonymous with the right to informational privacy⁴ (Vieira, 2007). This foundation of the LGPD is expressed in the willingness of the data subject to provide personal data for processing and to have free access to information about the processing of their data, such as: purpose, form and duration, identification, contact details of the natural or legal person, public or private, who is responsible for decisions regarding the processing of personal data, shared use of data and purpose, responsibility of the agents who decide and carry out the processing of personal data, and other information.

For the LGPD, personal data is "information relating to an identified or identifiable natural person", i.e. it can be considered information about an individual (CPF; RG; CNH; work permit; passport; voter registration, address, etc.), as well as information created by an individual (CPF; RG; CNH; work permit; passport; voter registration, address, etc.), as well as information created by an individual (CPF; RG; CNH; voter registration, address, etc.).), as well as information created by someone (tweets, posts, likes, comments, views, location, searches on websites, and others), in addition to data related to the consumption habits, behavioral profile, appearance, and personality traits of a given natural person and that can be identified (Brazil, 2018; National Data Protection Authority, 2021).

According to the Ministry of Economy (Brasil, 2020), the definition of personal data in the LGPD consists of four elements (Figure 1).

Chart 1. Why is information such as social security number and address personal data?

Personal data element	Information	It can be objective (e.g. age) or subjective (e.g. debtor X is trustworthy).
	Related to	A piece of data can be considered related to an individual if it relates to one of the following criteria: (i) it relates to content about the individual; (ii) has the purpose of evaluating an individual or their behavior; or (iii) has an impact on the interests or rights of the individual.
	Natural person ⁵	To be personal, the information must relate to a human individual.
	Identified or identifiable	"Identified" means that the link to the individual is made directly, such as by

⁴ Among the categories of classification of privacy according to the scope of protection, informational privacy is related to the protection of "[...] information about a given person, encompassing not only that related to their most intimate sphere, but also personal data" (Vieira, 2007, p. 27).

⁵ In this case, it is assumed that it applies to the processing of personal data of natural persons, i.e. living persons, since, according to Article 6 of the Civil Code, the existence of a natural person ends with death. The post-death protection of the personality rights of personal data subjects would therefore not be covered by the LGPD, as there is no longer any development of personality. The LGPD therefore only applies to information relating to natural persons, i.e. living, identifiable or identified persons (Autoridade Nacional de Proteção de Dados, 2023b, p.1).

		processing their full name or photo. As "identifiable", the link is indirect, and a cross-checking process may be necessary for identification. This, however, does not eliminate the characterization of the data as personal data. This is the case with identifiers such as a natural person's ID, CPF, address and telephone number.
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Source: Brasil. Ministry of Economy (2020).

In addition, the World Economic Forum (2011) considers personal data to be data and metadata created by and about individuals in three circumstances:

- a) Volunteered data - data that is spontaneously entered, created and shared by citizens (e.g. social network profiles);
- b) Observed data - data created and collected by the actions of individuals (e.g., geolocation data from the use of certain mobile phone applications);
- c) Inferred Data - is data about individuals based on the analysis of a set of voluntary or observed data (e.g., credit score).

Law No. 13,709/2018 establishes that any natural or legal person, public or private, who has collected data in the national territory, must decide and carry out the processing of personal data in order to "[...] protect the fundamental rights of freedom and privacy and the free formation of the personality of each individual" (Brasil, 2020, p.) 10), and this right was later ratified in Article 5 of the Federal Constitution of 1988, item LXXIX, included by Constitutional Amendment No. 115/2022, "the right to the protection of personal data, including in digital media, is guaranteed under the terms of the law".

The actors established in the LGPD for data processing (art. 5) are

- 1) **Holder**: the natural person to whom the personal data refer. It can be a child, adolescent, adult or elderly person.
- 2) **Controller**: a natural or legal person, governed by public or private law, who is responsible for the decisions relating to the processing of personal data, such as: the application of the legal hypothesis⁶, the purposes, and methods of the processing of personal data. Depending on the law, he/she may carry out the processing or designate the person(s) responsible for carrying it out.
- 3) **Processor**: a natural or legal person governed by public or private law, or a natural person who carries out the processing of personal data on behalf of the data controller.
- 4) **Handler**: a natural person appointed by the data controller or data processor to act as an intermediary between the data controller, the data subjects and the National Data Protection Authority (ANPD). One of its activities is to provide

⁶ Legal hypothesis is the condition established in a normative document that should help identify the applicable legal basis. The legal hypotheses must be assessed "[...] together and systematically with the additional criteria provided for in art. 23 [of the LGPD], which complement and assist the interpretation and practical application of the legal bases within the scope of the Public Power [...]" (Autoridade Nacional de Proteção de Dados, 2022, p.6).

guidance on personal data protection practices to the controller's employees and contractors. In addition, the ANPD is responsible for establishing "[...] complementary rules on the definition and duties of the person in charge, including hypotheses for waiving the need for their appointment, according to the nature and size of the entity or the volume of data processing operations" (Brazil, 2018, Art. 41).

The main rights of the data subject that must be met by the controller, who is responsible for defining the requirements by which these rights are met, at any time upon request, are:

- I - confirmation of the existence of processing;
- II - access to data;
- III - correction of incomplete, inaccurate or outdated data;
- IV - anonymization, blocking, or deletion of unnecessary, excessive data or data processed in breach of the provisions of this Law;
- V - portability of data to another service or product provider, upon express request, in accordance with the regulations of the national authority, observing commercial and industrial secrets; (Edited by Law No. 13,853, of 2019);
- VI - deletion of personal data processed with the consent of the data subject, except in the cases provided for in Article 16 of this Law;
- VII - information on the public and private entities with which the controller has shared data;
- VIII - information on the possibility of not providing consent and the consequences of refusing to do so;
- IX - revocation of consent, under the terms of § 5 of art. 8 of this Law (Brasil, 2018, Art. 18).

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The LGPD sets out assumptions for the processing of personal data so that there is no imbalance between the privacy of data subjects and the flow of data and information in a market environment and digital economy, thus ensuring their protection. For this reason, it proposes rules on how processing agents (ie, controllers and operators) should carry out operations on personal data, by manual or automated means, when providing products and services to society.

Law 13,709/2018 establishes in its text what the processing of personal data consists of, by whom it should be carried out, who should be responsible, what the hypotheses of processing are, in other words, it establishes clear rules on the processing of personal data, in addition to presenting the principles that govern it, such as: purpose, adequacy, necessity, free access, data quality, transparency, security, prevention, non-discrimination, responsibility, and accountability. There are also requirements for the implementation of measures by natural or legal persons, whether public or private, to ensure the security and protection of personal data collected in the national territory, respecting its principles.

According to Article 7(III) of the aforementioned Law, the public administration may process personal data for the specific purposes of carrying out public policies established by laws and regulations or supported by contracts, agreements or similar instruments, and for the fulfillment of its public purpose, "[...] with the aim of executing legal powers or fulfilling the legal attributions of public service" (Brazil, 2018, Art. 23).

However, the entities must inform the hypotheses in which

[...] carry out the processing of personal data, providing clear and up-to-date information on the legal provision, purpose, procedures, and practices used to

carry out these activities, in easily accessible vehicles, preferably on their websites (Brazil, 2018, Art. 23).

The processing of personal data may include sensitive data such as racial or ethnic origin, sexual orientation, religious, philosophical or moral beliefs, political opinions, trade union membership, party membership, membership of religious, philosophical or political organizations⁷. However, anonymized data⁸ is not considered personal data for the purposes of the LGPD.

In addition to the processing, the existence of a limitation on access to personal information addressed by the LGPD must be considered. According to the Law on Access to Information (LAI), which is a previous law, not all personal information, but only "information with the potential to violate personality rights, as defined in art. 5, X of the Federal Constitution, would be under special protection [...]" (Brasil, 2020, p.20), i.e. only information related to intimacy, private life, honor, and image (Figure 2).

Chart 2: "personal data", "personal information" and "sensitive personal data"

LGPD (BRAZIL, 2018)	LAI (BRAZIL, 2011)
PERSONAL DATA: "information relating to an identified or identifiable natural person" (Art. 5, point I).	PERSONAL INFORMATION: "information relating to an identified or identifiable natural person" (Art. 4, item IV); "information relating to privacy, private life, honor, and image" (Art. 31, § 1)
SENSITIVE PERSONAL DATA: "personal data concerning racial or ethnic origin, religious conviction, political opinion, membership of a trade union or religious, philosophical or political organization, data concerning health or sex life, genetic or biometric data, when linked to a natural person" (Art. 5, item II).	There is no concept in the LAI that can be related to the "sensitive personal data" of the LGPD.

Source: Barros; Silva; Schmidt (2019).

⁷ Sensitive personal data may be processed only in the following cases: I - with the explicit and unambiguous consent of the data subject or his/her legal guardian for specific purposes; II - without the data subject's consent in cases where it is indispensable for: a) the compliance with a legal or regulatory obligation by the data controller; b) the joint processing of data necessary for the execution of public policies provided for by laws or regulations by the public administration; c) the performance of studies by a research body, guaranteeing, whenever possible, the anonymization of sensitive personal data; d) the regular exercise of rights, including in a contract and in judicial, administrative and arbitration proceedings, the latter under the provisions of Law no. 9. 9. 307 of September 23, 1996 (Arbitration Code); e) the protection of the life or physical safety of the data subject or of third parties; f) the protection of health, in the case of procedures carried out by health professionals or health entities, or the protection of health, exclusively in the case of procedures carried out by health professionals, health services or health entities; or g) the prevention of fraud and the security of the data subject, in the case of procedures for the identification and authentication of registration in electronic systems, safeguarding the rights referred to in art. 9 of this Law and except when the fundamental rights and freedoms of the data subject, which require the protection of personal data, prevail (Brazil, 2018, art. 11).

⁸ According to the LGPD, such data are data relating to a data subject who cannot be identified, taking into account the use of reasonable technical means available at the time of processing (Autoridade Nacional de Proteção de Dados, 2023a, p.6).

The LGPD distinguishes between the concepts of anonymization and pseudonymization in the context of the rules on the processing of personal data in public health research. According to the text of Art. 13, § 4, "pseudonymization is the processing by which a piece of data loses the possibility of association, directly or indirectly, with an individual, if not for the use of additional information kept separately by the controller in a controlled and secure environment. [...] Thus, the identification of the data subjects remains possible once the secret of pseudonymization has been accessed, kept separately and the appropriate security and administrative measures have been taken (National Data Protection Authority, 2023a, p.8).

As explained by the Ministry of Economy,

[...] Unlike the LAI, however, the LGPD's personal data rights and safeguards apply to all types of personal data, subject to existing legislation, including existing transparency and access to information regimes. In other words, the law's protection no longer extends only to sensitive personal data or data directly related to personality rights, but, to a greater or lesser extent, to all personal data. (Brasil, 2020, p.20)

In addition, the Comptroller General of the Union (2022, p. 152) clarifies that the LAI, the LGPD and Law No. 14,129/2021 (Digital Government Law) are "[...] systematically compatible with each other and harmonize the fundamental rights of access to information, intimacy, and protection of personal data, with no antinomy between their provisions. "

It is important to remember that Brazilian legal texts such as the LGPD and the Law on Access to Information (LAI), even though the entire legal text contains the term data or information, it is clear that there is no theoretical conceptual distinction between information and data as there is in Information Science. We can therefore consider the use of the terms data and information in Brazilian legislation to be synonymous and to mean any recorded referential element, processed or not, which can be used for the production and transmission of knowledge, contained in any medium, support, or format.

Data processing, as defined by the LGPD, which is essential to guarantee the protection of citizens' freedom, privacy and dignity, includes a 'life cycle'⁹. This cycle "[...] begins with the collection of the data and ends with its elimination or disposal. Each phase of the life cycle corresponds to processing operations defined in the LGPD" (Brasil, 2020, p. 45). It has the following phases:

- 1) **Gathering** - obtaining, receiving or producing personal data regardless of the medium used.
- 2) **Retention** - archiving or storing personal data regardless of the medium used.
- 3) **Processing** - any operation involving the classification, use, reproduction, processing, evaluation, or control of information, extraction, and modification of personal data.
- 4) **Sharing** - any operation involving the transmission, distribution, communication, transfer, dissemination, and sharing of personal data.
- 5) **Deletion** - any operation aimed at erasing or eliminating personal data (Brasil, 2020, p. 45).

It is important to note that, for the LGPD, any violation of the law, such as the unavailability of the data processed by the data subject, constitutes a data breach. The violation is not only related to the invasion of databases or the leakage of information, but may also lead to the National Data Protection Authority (ANPD) ordering the cessation of data processing.

⁹ Life cycle (or vital cycle) is also a term used in Document Management to designate the "[...] succession of phases that documents go through (current, intermediate, permanent), from the moment they are produced until their final destination (elimination or permanent storage)." (Arquivo Nacional, 2005, p. 47). (Arquivo Nacional, 2005, p. 47) As archival documents are records of the organic information of natural or legal persons, whether public or private, produced in the course of their activities, it is essential to emphasize "[...] that a large part of the personal data referred to in the LGPD is contained in archival documents, on any medium." (Brasil, 2020, p.8)

To comply with art. 37 of the LGPD, the Ministry of Economy has drawn up a model Inventory of Personal Data (IDP), a document in which the personal data processing operations carried out for each of the institution's services/business processes must be recorded. "The inventory is an excellent way to take stock of what the body and entity does with personal data, identifying what personal data is processed, where it is located and what operations are carried out with it" (Brasil, 2023a, p.8). It is a tool proposed by the Ministry of Management and Innovation in Public Services and can be adapted to the reality of each organization. It is based on the models proposed by the data protection authorities of France, Belgium, and England.

In Art. 5(XVII), the LGPD provides for the preparation and maintenance of the Personal Data Protection Impact Report (RIPD) by the controller. The report must contain "[...] a description of the personal data processing operations that may give rise to risks to civil liberties and fundamental rights, as well as measures, safeguards, and risk mitigation mechanisms" (Brasil, 2020, p. 33). The minimum elements of this report are

[...] the description of the types of data collected, the methodology used for the collection and for ensuring the security of the information and the controller's analysis of the measures, safeguards, and risk mitigation mechanisms adopted (Brazil, 2018, Art. 38, sole paragraph).

This document may also be requested by the ANPD from the controller at any time.

3 METHODOLOGY

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The research is applied in that it aims to generate knowledge about information policies, information regimes and the LGPD. Its objectives are exploratory and descriptive, as it seeks to understand how the LGPD constitutes another information regime in Brazil. Its approach is qualitative, as it allows for in-depth studies of the LGPD, its production context, its relationship with information policy and the information regime.

The research technique used was documentary research. The data collection was carried out in two ways: a) documentary research through a survey of laws, decrees and regulations, technical recommendations and reports of the Brazilian Federal Government related to the Personal Data Inventory (IDP), the General Data Protection Law (LGPD) and the processing of personal data by the LGPD, carried out on the websites of the Federal Public Administration; and b) bibliographic research in full articles published in periodicals on information regimes by Maria Néliida González de Gómez, listed in herattes curriculum (<http://lattes.cnpq.br/3087665610359216>) in Google Scholar. The author was chosen because of her relevant production, from 1999 to 2020, of theoretical elements on information regimes, knowledge organization and information policies.

Documentary analysis¹⁰ was applied with the aim of verifying the information regime for the LGPD by searching for the constituent elements of information regimes proposed by González de Gómez in the selected laws, decrees and regulations, technical recommendations and reports of the Brazilian Federal Government: The LGPD - Law 13709/2018; The Guide to the Preparation of a Personal Data Inventory; The Guide to

¹⁰ Documentary analysis is both a data collection and analysis technique and a research method. As a data collection and analysis technique, it is used to complement other forms of data collection and analysis, with the aim of making the object of study more comprehensible. As a research method, it presupposes the approach that will serve as the basis for an investigation, and can be used as a rigorous methodological path for research (De Andrade et al, 2018, p.2).

Good Practices - General Data Protection Law (LGPD); The Guide - Processing of Personal Data by Public Authorities; The Guide - Processing of Personal Data for Academic Purposes and for the Conduct of Studies and Research; and The Guide to the Definitions of Personal Data Processors and the Person Responsible.

First, the bibliographical research was read to extract the definitions of the constituent elements of information regimes proposed by González de Gómez. The elements were highlighted, interpreted and their concepts were entered in a table. The government documents were read to identify passages in the LGPD that were close to the concepts of information devices, social actors, information artifacts and information actions. The paragraphs of the documents that had the conceptual characteristics of the constituent elements of information regimes were selected and analyzed. The information organized in this way made it possible to construct, in a more didactic and scientific way, the theoretical applicability of the concept.

4 RESULTS AND DISCUSSION: THE RELATIONSHIP BETWEEN INFORMATION POLICIES AND REGIMES IN THE CONTEXT OF LGPD

Branco (2001, p. 199) points out that

As a public policy, information policy is based on political and bureaucratic interests and objectives, which are not necessarily congruent and which manifest themselves beyond the governmental apparatus. In this sense, the expression of an information policy goes beyond the formal field of laws and regulations, since it also encompasses the informal practices and actions of a given context in which people, institutions and interests mix, the manifestations of which are not always revealed through formal mechanisms.

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The LGPD is a standard that was drafted in the context of digital government, which was called electronic government (e-Gov) until 2016. The latter, in turn, was a strategy for modernizing the State that aimed to improve the quality of its information and provide services to citizens by electronic means, reducing bureaucracy and making its communication channels more standardized and accessible (Brasil, 2023b).

The LGPD, as a reflection of the digital government's information policy, is part of information environments such as the Data Market¹¹, in the private sector and, in the public sphere, open government, which is a form of public management that seeks transparency and popular participation through the optimization of resources, efficiency, innovation and state trust, as well as meeting the needs of its citizens.

The analysis of the LGPD as an information device in an information regime generated the following scenario, illustrated in Chart 3.

¹¹ The personal data market is increasingly relevant in the information society and can be understood as economic interactions aimed at buying and selling information relating to an identified or identifiable person, directly or indirectly. The personal data market is based on the information needs of companies, public institutions and end users (Silveira; Avelino; Souza, 2016, p. 219).

Chart 3. Information regime for the LGPD

Information Regime [information environment] Data market - Open Government [Digital Government]			
Information Device	Social actors	Information Artifacts	Information actions
LGPD	Controller and Operator (treatment agents)	Organizational assets: <ul style="list-style-type: none"> • databases; • documents; • equipment; • physical locations (archives, libraries and others), • people, • systems; and • organizational units 	Relational: Data processing (collection; retention; processing; sharing and deletion) Enforcement of data subject rights; and Personal Data Inventory (PDI) or register of personal data processing operations and Personal Data Protection Impact Report (PDPIR).
	In charge		Mediation: Ministry of Economy Guides; Repository of publications by the ANPD with guides and technical documents; and Primers, manuals, guides and guidelines published by the Controller on data processing practices.
	Holder ANPD		Training: Courses, trainings, and other capacity-building activities to instruct employees linked to the treatment agent .

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Source: Prepared by the authors, inspired by the structure proposed by González de Gómez (1999a).

In the context of information policy, the LGPD is another normative instrument that defines the scope, rules, and sanctions for the use, processing, and storage of information. This legislation marks the beginning of a redistribution of information resources that alters and makes more flexible the positions of power, from the moment that it establishes informational self-determination and the holder as a social actor as one of its foundations. This is a first but timid movement towards the social management of information produced about citizens.

It can be assumed that information regimes will be redirected or maintained from the perspective of legislation. For example, the LGPD, as a legal-normative element, has included social actors with well-defined roles that were not explicitly considered, thus formally redirecting the previously tacitly established regime.

For a deeper understanding of the impact and power of the informational state¹² on society, exercised through information policies, it is necessary to go beyond the establishment of the treatment of information. "More than that, it is necessary to analyze the context: the actors involved, the social practices, the informational environment for whom and by whom these policies are constructed, in other words, the informational

¹² As digital possibilities influence the timing of decisions and, as Braman points out, states cease to be bureaucratic and call themselves the "informational state", and thus "deliberately, explicitly and coherently place control over information, its treatment, its flows and its use for the exercise of power", the convergence between technological innovation and politics to control these flows is established. (Pinheiro, 2012, p. 63)

regime" (Pinheiro, 2012, p. 69), and thus be able to understand the gaps, discrepancies, and conflicts surrounding the production, use, and flow of information.

Therefore, the adaptation, reinterpretation, or replacement of certain laws or rules at the micro level forces us to think about information and intelligence policies based on the analysis of the different regimes throughout the cycle of creation, processing, flows, and use of information, to be rethought in their new contexts (Pinheiro, 2012).

Information policies, and especially their regulatory actions, such as the LGPD, which function as information devices in information regimes, are products and, at the same time, contribute to the expansion or establishment of information regimes. In this sense, it confirms the thinking of Santos and Freire (2020, p. 147) that

[...] information policies emerge to establish political values, actions, rules, objectives, and goals that are specific and inherent to the respective information regime to which they belong, regulating and balancing forces between the interests of society, the community or social group, the state, and the market.

In short, there is a two-way relationship:

- Information policies for IR - perception of their theoretical-conceptual construction and determination of their direction or their validation; and
- IR for information policies - understanding the context in which they are drawn up, implemented and evaluated, as well as understanding the relationship between the state, society, and information.

6 CONCLUSION

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For Pinheiro (2012), the transformation from a bureaucratic state to an information state is reflected in national public information policies. However, as the author points out, "it is necessary to find out the disciplinary origin of the information and knowledge needed by the government to establish a legal framework that can avoid dysfunction and ensure that it is made explicit in laws" (Pinheiro, 2012, p. 70).

Information policy is "[...] a set of practices that stabilize and maintain an information regime" (Frohmann, 1995, p. 12). In the case of the LGPD, it can be seen that the law seeks to regulate a set of information regimes involving natural or legal persons, public or private, who process personal data. By verifying the information regime for the LGPD, in this research, through the constituent elements of information regimes, this law in Brazil has shown itself to be a metadata structure in the context of an IR, when it introduces new social actors, highlights information artifacts in data processing, and generates unprecedented information actions, thus defining new conditions for the processing of personal data in the country, establishing a context and a direction or validation for IRs on sensitive or non-sensitive personal data.

As Braman (2011, p. 43) points out, "policy is not just about the global information infrastructure - it helps to create that infrastructure. " Therefore, from this perspective, the regulations that make up information policy can be considered inserted into an information regime in which there are people (social actors), information, its transfer actions, products (devices), services, and their means of data transmission, storage, and processing (artifacts), and it is in this scenario that information is produced and public and private organizations are inserted.

Studying information policy from an IR perspective establishes a "[...] critical distance from reductionist approaches that have considered information policy as one of

the classes of government policies and often as a government policy about government documents" (González De Gómez, 2012, p. 50), mainly by reasoning that information policy practices are in an inherent relationship between management and information power. For this reason, it is increasingly necessary that studies of information policies in information science be carried out through the prism of relations of domination in the transfer of information, in order to reflect on the context of demand and creation of these policies, as well as their applicability and suitability.

For future research, it is suggested to study the relations, effects and functioning of the LGPD with other information regimes (e.g., Complementary Law No. 105/2001 - Provides for the Secrecy of the Operations of Financial Institutions and makes other provisions), within the same information regime or its interaction with other regimes (e.g., information regime in the field of health in Brazil).

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