

# Internet und Gesellschaft. Schriften des Alexander von Humboldt Institut für Internet und Gesellschaft

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The Alexander von Humboldt Institute for Internet and Society (HIIG) conducts and supports academic research on the interrelationship of the internet and the society. With a focus on the development of the internet and related processes of societal transformation, it examines major changes in the economy, at workplace, of the state and in public administration, in the light of the tension between governance and innovation. New challenges for the constitution, for human rights and security, but also the transformation of the public sphere and potential shifts in the roles of political actors, civil society, corporations, and customers are among the subjects of the interdisciplinary research led by the institute. The purpose of this publication series is to function as an open transdisciplinary platform of scientific exchange and discussion, providing public access to analyses and research findings in these fields of investigation. It covers legal, economic, social scientific, philosophical, and communication studies perspectives relating to the internet. Submissions of scholarly work from the HIIG as well as from other institutions are equally welcome.

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Eibl, Julian

## Privatheit durch Bargeld?

Zu den Grenzen hoheitlicher Bargeldbeschränkungen aus dem grundrechtlichen Schutz von Privatheit

Volume 21  
2020. XXXI, 546 pages.  
forthcoming in September

ISBN 9783161597671  
cloth 119,00 €

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Payment data allows broad conclusions to be drawn about the payer. At the same time, restrictions on the use of cash favor a shift towards cashless payment methods which involve disclosing such data. On this basis, Julian Eibl shows that privacy as guaranteed in German and European fundamental rights precludes a complete elimination of cash. The author concludes his analysis by discussing the legal scope for less intrusive restrictions.

Schur, Nico B.

## Die Lizenzierung von Daten

Einordnung, Grenzen und Möglichkeiten von vertraglichen Zugangs- und Datennutzungsrechten in der digitalen Ökonomie

Volume 20  
2020. XXVIII, 372 pages.

ISBN 9783161595493  
sewn paper 79,00 €

ISBN 9783161595509  
eBook PDF 79,00 €

As the significance of data grows, it is increasingly being traded through licences. In his study, Nico B. Schur categorises data licences in relation to the law of licence agreements, determines their legal limits, and addresses possible options for the legislator to foster the trade of data on this basis.

Klein, Urs Albrecht

## Rechtsrealismus und Digitalwirtschaft

Einfluss amerikanischer Rechtstheorie auf Rechtsverständnis und Praxis

Volume 19  
2020. XVI, 320 pages.

ISBN 9783161597435  
sewn paper 79,00 €

ISBN 9783161597442  
eBook PDF 79,00 €

Many tech companies employ business models that seem at odds with German law. Yet this has not impaired their success. In shaping today's digital economy, differences in legal thought have played a crucial role. Urs Albrecht Klein investigates how legal realism has come to define American jurisprudence and the far-reaching effects this has had on everyday life in Germany.

Pernice, Ingolf

## Staat und Verfassung in der Digitalen Konstellation

Ausgewählte Schriften zum Wandel von Politik, Staat und Verfassung durch das Internet

Volume 18  
2020. IX, 248 pages.

ISBN 9783161593024  
sewn paper 69,00 €

ISBN 9783161593031  
eBook PDF 69,00 €

Digitization has changed society as much as it has our concepts of state and constitution. Eight essays from 2013 to 2020 seek to establish some key aspects of this transformation, beginning with the structural change of the public sphere and politics up to the changed relationship between citizens and the state and the role of states and citizens in global governance. The digital constellation described includes the emergence of a constitution of the internet and allows for new democratic normative processes beyond the state, including new ways for individuals to determine themselves as global citizens.



Busching, Michael

## Der Schutz »privater« Informationen bei Cloud Computing

Eine Untersuchung straf-, datenschutz- und berufsrechtlicher Sanktionsrisiken für Ärzte und Rechtsanwälte bei der Nutzung von Cloud-Diensten

Volume 16  
2019. XXIV, 358 pages.

ISBN 9783161582486  
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ISBN 9783161582493  
eBook PDF 79,00 €

Using the likes of cloud services can be a potential wasps' nest for those sworn to professional secrecy or medical confidentiality. Michael Busching investigates the legal situation for doctors and lawyers in particular and sets out measures to help them avoid being stung.

## Regulierung in Zeiten der Digitalwirtschaft

Ausgewählte Fragen des Öffentlichen Wirtschafts-, Informations- und Medienrechts

Hrsg. v. Christoph Krönke

Volume 15  
2019. VI, 163 pages.

ISBN 9783161582899  
sewn paper 49,00 €  
ISBN 9783161582905  
eBook PDF 49,00 €

Google, Amazon, Facebook, and Instagram – our digitized world is driven by tech companies which have become an integral part of our lives. Yet unlike private law research, that in the field of public law is thin on the ground. This volume seeks to balance things out by examining interdependencies between regulation on the one hand and how the digital economy operates on the other.

Survey of contents

*Christoph Krönke:* Einführung: Regulierung in Zeiten der Digitalwirtschaft

### Teil 1: Wirtschaftsbedingte Veränderungen im Recht der Digitalisierung

*Meinhard Schröder:* 'Paradigm Shift' im Datenschutzrecht? – Wirtschaftsverwaltungsrechtliche Instrumente in der Datenschutz-Grundverordnung – *Katharina Reiling:* Transnationale Ordnung der Digitalwirtschaft durch die Datenschutzgrundverordnung

### Teil 2: Digitalisierungsbedingte Veränderungen im Recht der Wirtschaft

*Christoph Krönke:* »More Digital Approach«: Überlegungen zu einer funktionsgerechten Regulierung digitaler Plattformen am Beispiel der Sharing Economy – *Rike Krämer-Hoppe:* Verfassungsrechtliche Maßstäbe und Anforderungen an eine »gute« Regulierung plattformbasierter Wirtschaft am Beispiel der Kurzzeitvermietung von Wohnraum – *Albert Ingold:* Regulativer Wettbewerbsschutz der digitalen Medienwirtschaft: Grenzen für den öffentlich-rechtlichen Rundfunk im Internet

### Teil 3: Digitalwirtschaftliche Elemente staatlicher Regulierung

*Gabriele Buchholtz:* Legal Tech und die Herausforderungen einer guten Regulierung – *Yvan Hermstrüwer:* Algorithmische Verteilungsmechanismen im Infrastrukturrecht – Überlegungen zur Stauregulierung aus einer Marktdesign-Perspektive

Hofert, Eduard

## Regulierung der Blockchains

Hoheitliche Steuerung der Netzwerke im Zahlungskontext

Volume 14  
2018. XVIII, 262 pages.

ISBN 9783161563911  
sewn paper 69,00 €  
ISBN 9783161564598  
eBook PDF 69,00 €

Blockchains provide a distributed architecture for virtual currencies and other applications to allow transnational transactions without traditional intermediaries. Eduard Hofert explores the necessity, the feasibility and the specific form of a potential blockchain regulation by taking the distributed nature and the governance mechanisms of the networks into account.



Mengden, Martin

## Zugangsfreiheit und Aufmerksamkeitsregulierung

Zur Reichweite des Gebots der Gewährleistung freier Meinungsbildung am Beispiel  
algorithmengestützter Zugangsdienste im Internet

Volume 13  
2018. XIII, 438 pages.

ISBN 9783161560538  
cloth 89,00 €

ISBN 9783161562907  
eBook PDF 89,00 €

Google, Facebook, YouTube – they all use algorithm-based content which is customised and made accessible. How do such services affect the free formation of individual and public opinion? What are the prerequisites for free opinion forming? What regulation does the law demand? Martin Mengden seeks answers in theory and practice.

Leisterer, Hannfried

## Internetsicherheit in Europa

Zur Gewährleistung der Netz- und Informationssicherheit durch Informationsverwaltungsrecht

Volume 12  
2018. XIX, 439 pages.

ISBN 9783161559761  
sewn paper 79,00 €

ISBN 9783161562662  
eBook PDF

The question of how the law can deal with the problem of internet security is addressed in this volume. Starting with the fact that the internet is structurally insecure, the author finds that the uncertainty this causes must be countered with legal means, particularly when it comes to controlling information about weak spots. Hannfried Leisterer's study examines whether and to what extent information management law can contribute to ensuring internet security.

Maier, Henrike

## Remixe auf Hosting-Plattformen

Eine urheberrechtliche Untersuchung filmischer Remixe zwischen grundrechtsrelevanten Schranken  
und Inhaltefiltern

Volume 11  
2018. XIII, 220 pages.

ISBN 9783161560255  
sewn paper 69,00 €

ISBN 9783161560354  
eBook PDF

Remixers recombine copyright-protected audiovisual material and distribute it via hosting platforms. To what extent does copyright law allow remixing and what is the impact of platforms' policies and filtering mechanisms for user uploads? Henrike Maier employs a comparative legal approach and focuses on the role of creative users' fundamental rights to investigate these questions.

Leuschner, Sebastian

## Sicherheit als Grundsatz

Eine grundrechtsdogmatische Rekonstruktion im Unionsrecht am Beispiel der Cybersicherheit

Volume 10  
2018. XVIII, 250 pages.

ISBN 9783161555152  
sewn paper 64,00 €

ISBN 9783161568435  
eBook PDF

In its basic rights doctrine, security takes on various different guises. However, the understandings of security as a legitimate aim, as a positive obligation to protect, or even as a fundamental right, do not do justice to its special need to be treated differently. How, then, might security be fundamentally re-thought?



Haase, Adrian

## Computerkriminalität im Europäischen Strafrecht

Kompetenzverteilung, Harmonisierungen und Kooperationsperspektiven

Volume 9  
2017. XIII, 269 pages.

ISBN 9783161554063  
cloth 84,00 €

ISBN 9783161558504  
eBook PDF

Combatting computer crime requires transnational co-operation between law enforcement agencies as well as the harmonisation of criminal law. Adrian Haase assesses existing EU directives regarding cybercrime, and develops a network-specific definition to facilitate the demarcation of European and national competences.

Herbort, Nina Elisabeth

## Digitale Bildnisse

Objektbezogene Interessengeflechte zwischen Urhebern, Abgebildeten und Nutzern in der digital-  
vernetzten Kommunikation

Volume 8  
2017. XXII, 335 pages.

ISBN 9783161548314  
sewn paper 69,00 €

Taking a photo of someone and posting it online for worldwide consumption may be quick and easy, but sets up a collision course for photographers, the photographed and those viewing the images. Nina Elisabeth Herbort reveals the legal peculiarities to be found at this interface of personal data protection and copyright issues. Analysing the legal status of the individuals, she identifies ways to balance out the conflicting interests of new technique users and copyright holders.

Piras, Gabriella

## Virtuelles Hausrecht?

Kritik am Versuch der Beschränkung der Internetfreiheit

Volume 7  
2016. XV, 244 pages.

ISBN 9783161548345  
sewn paper 69,00 €

Do websites need domiciliary rights? The tendency to regard websites as virtual spaces has resulted in their operators being afforded these rights in order to close a supposed legal loophole. Gabriella Piras is critical of the need for domiciliary rights and argues that recognising them would restrict the freedom of internet users.

Staben, Julian

## Der Abschreckungseffekt auf die Grundrechtsausübung

Strukturen eines verfassungsrechtlichen Arguments

Volume 6  
2016. XI, 208 pages.

ISBN 9783161548383  
sewn paper 54,00 €

ISBN 9783161554889  
eBook PDF

Julian Staben examines chilling effects, framed as deterrence-based lines of argument, in the jurisprudence of the Bundesverfassungsgericht (German Federal Constitutional Court) and compares them with the jurisprudence of the US Supreme Court. Chilling effects follow distinct patterns when it comes to online behaviour and emerging digital practices and therefore call for their constitutional reassessment. Julian Staben's work enables a more methodologically reflective use of these arguments in the judicial discourse.

Radlanski, Philip

## Das Konzept der Einwilligung in der datenschutzrechtlichen Realität

Volume 5  
2016. XVIII, 263 pages.  
ISBN 9783161540622  
cloth 84,00 €

Processing personal data is prohibited unless allowed by legitimising grounds. One of these is recognised as being the individual's consent. For this to be valid however, the individual has to act in an informed and free manner when signifying his or her consent. Given the reality of data privacy, Philip Radlanski asks whether this can still be considered a viable concept.

Kipker, Dennis-Kenji

## Informationelle Freiheit und staatliche Sicherheit

### Rechtliche Herausforderungen moderner Überwachungstechnologien

Volume 4  
2016. XXII, 220 pages.  
ISBN 9783161541148  
sewn paper 64,00 €

How should the modern technologies used by governments to keep an omnipresent eye on a whole host of living areas and life's areas be regulated? What can be done to protect citizens' informational rights in the near future? Dennis-Kenji Kipker takes a close look at how best to achieve this.

Haase, Martin Sebastian

## Datenschutzrechtliche Fragen des Personenbezugs

### Eine Untersuchung des sachlichen Anwendungsbereiches des deutschen Datenschutzrechts und seiner europarechtlichen Bezüge

Volume 3  
2016. XXVII, 496 pages.  
ISBN 9783161537998  
sewn paper 94,00 €

The massive elicitation and processing of data and information sets huge challenges before the operators of data protection law and to those whom it is addressed. The demarcation of data protection's material area of application is one of these challenges. Which data protection regulations are applicable to the data and information of our modern reality, which are not and which should be? These are the central questions focused on in this volume.

Sandfuchs, Barbara

## Privatheit wider Willen?

### Verhinderung informationeller Preisgabe im Internet nach deutschem und US-amerikanischem Verfassungsrecht

Volume 2  
2015. XVI, 287 pages.  
ISBN 9783161541582  
sewn paper 69,00 €  
ISBN 9783161557583  
eBook PDF

Competent adult internet users voluntarily disclose vast amounts of personal data. As such disclosure can cause great harm, governments may feel that through minor interventions they can protect their citizens from disclosure that is not in the latter's best interest. However, such actions can infringe upon the rights of the users' and of the data collectors', and are only licit when justified. Neither the German nor the US government has the duty or the power to coerce the privacy choices of competent adult users for the sole purpose of protecting them against dangers caused by themselves. Instead, it is suggested that governments should focus on limiting specific harmful disclosure.

Steinbach, Julien

## Souveränitätsfragmente

### Ein Beitrag zur Literaturgeschichte der Souveränität und gegenwärtigen Herausforderungen der Rechtswissenschaften im Spiegel der Digitalisierung



2019. XI, 236 pages.

ISBN 9783161583278  
sewn paper 64,00 €

ISBN 9783161583285  
eBook PDF 64,00 €

Sovereignty is *the* key concept in the theory of states. But with the internet and global networks now crisscrossing the planet, it is high time to rethink outmoded notions of it in order to meet both the legal and political challenges of digitalization.

Lewinski, Kai von

## Die Matrix des Datenschutzes

### Besichtigung und Ordnung eines Begriffsfeldes

Volume 1  
2014. XVIII, 99 pages.

ISBN 9783161533730  
sewn paper 29,00 €

Data protection is an important concept which is well established but unclear. Nevertheless a clarification of this term is vital for the communication in jurisprudence and between the various scholarly disciplines and especially for a (transatlantic) comparative law analysis. Kai von Lewinski's study deconstructs the concept of data protection and separates it into its various parts.

