Background

- Lawrence Lessig is a constitutionalist from the University of Chicago
- Studied forming democracies in Central & Eastern Europe

Lessig brings his background to the **landscape of the internet** by defining **values that resonate with our constitution** and analyzing **potential violations** of those values in “cyberspace”.
Summary

- “Regulability”
- Regulation by Code
- Latent Ambiguities
- Competing Sovereigns
“But regulation by whom? For the **rules are different in one place versus another**. This was one important issue raised by Jake Baker. Jake lived in Ann Arbor, Michigan. His life there was subject to the norms of Ann Arbor, and he apparently adapted to these norms reasonably well. The authority of that space governed Jake, and, as far as anyone knew, it appeared to govern him exclusively. **But in cyberspace, Jake’s behavior changed, in part because the norms of the space were different**. That created the problem. For when Jake “went to” cyberspace, he didn’t leave real space. In particular, he never left Ann Arbor. While sitting in a dorm at the University of Michigan, he was able to teleport himself—in the only normatively significant sense—to a different world where the norms of civility and decency that governed outside his dorm room did not reign.” (p 26).
“Cyberspace is not one place. It is many places. And the character of these many places differ in ways that are fundamental. These differences come in part from differences in the people who populate these places, but demographics alone don’t explain the variance.” (p 84).
Section 3: Latent Ambiguities

“Friction is thus privacy’s best friend” (p 202).

- A continually revisited theme throughout the book.
- Before the internet, it was hard to gather information about an event.
- “Friction” refers to a natural limitation, one which we have no control over.
- Regulation is an artificial limitation, one which we retain full control over.

If it weren't for that darn internet...
“When that surveillance is digital, however, then it is my view that a different set of restrictions should apply. The law should sanction ‘digital surveillance’ if, but only if, a number of conditions apply:

1. The purpose of the search enabled in the algorithm is described.
2. The function of the algorithm is reviewed.
3. The purpose and the function match is certified.
4. No action—including a subsequent search—can be taken against any individual on the basis of the algorithm without judicial review.
5. With very limited exceptions, no action against any individual can be pursued for matters outside the purpose described. Thus, if you’re looking for evidence of drug dealing, you can’t use any evidence discovered for prosecuting credit card fraud” (p 224).
“There will be no nation that has no speech that it wishes to regulate on the Internet. Every nation will have something it wants to control. Those things, however, will be different, nation to nation. The French will want to regulate Nazi speech; the Americans will want to regulate porn; the Germans will want to regulate both; the Swedes will want to regulate neither” (p 297).
How should we deal with privacy?

“The alternative [to Lessig’s original solution] simply specifies that a representation made by a website through the P3P protocol be considered a binding offer, which, if accepted by someone using the website, becomes an enforceable contract” (p 230).

- P3P never really set a foothold in internet technology.
- “Shrink-wrap culture” will remain a problem
- Fails to shift attitudes about privacy, from both businesses’ and users’ perspectives.
Questions?