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Law and artificial intelligence: challenges of AI regulation in the Brazilian judicial system.

Law and artificial intelligence: challenges of AI regulation in the Brazilian Judicial System

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ABSTRACT

This article analyzes the challenges of regulating Artificial Intelligence (AI) in the Brazilian judicial system, in light of the constitutional, ethical, and normative principles that guide the use of technologies within the Judiciary. The research examines the normative evolution promoted by the National Council of Justice (CNJ), highlighting instruments such as Resolution No. 332/2020, the General Data Protection Law (Law No. 13.709/2018), and the Strategic Management Plan of the Judiciary (2021–2026). It is concluded that the effective integration between technological innovation and law requires dynamic, interdisciplinary, and ethically oriented regulation, capable of balancing efficiency and legitimacy. Thus, the consolidation of an ethical and democratic digital justice system depends on continuous human oversight and commitment to the constitutional values that underpin the democratic rule of law.

Keywords: Artificial Intelligence; Judiciary; Regulation; Ethics; Digital Law; Algorithmic Governance; Procedural Efficiency.

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This article analyzes the challenges of regulating Artificial Intelligence (AI) in the Brazilian judicial system, in light of the constitutional, ethical, and normative principles that guide the use of technologies within the Judiciary. The research examines the normative evolution promoted by the National Council of Justice (CNJ), highlighting instruments such as Resolution No. 332/2020, the General Data Protection Law (Law No. 13,709/2018), and the Strategic Management Plan of the Judiciary (2021–2026). It concludes that the effective integration between technological innovation and Law requires dynamic, interdisciplinary, and ethically oriented regulation, capable of balancing efficiency and legitimacy. Thus, the consolidation of an ethical and democratic digital justice system depends on continuous human supervision and commitment to the constitutional values that underpin the Democratic Rule of Law.

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1. INTRODUCTION

Artificial intelligence (AI) emerges as a key player in the transformation of the Judiciary. Brazilian, bringing efficiency, speed, and new ethical and legal challenges. The topic of AI regulation. It raises issues such as biases, algorithmic opacity, legal certainty, and accountability. of automated decisions, in addition to the need to preserve human dignity and due process. legal process. The article seeks to answer: how can Brazil regulate with balance and Responsibility in the use of AI in the Judiciary, ensuring innovation without sacrificing rights. fundamental? In the Brazilian context, recent initiatives such as Bill No. [number missing] stand out. 2.338/2023, the European AI Act and the resolutions of the National Council of Justice focused on governance. and transparency of AI in judicial processes.

2. THEORETICAL FRAMEWORK

This section is based on a legal-technological and principled approach. focused on analyzing the interaction between Law, Artificial Intelligence (AI) and principles Constitutional principles that guide the actions of the Brazilian Judiciary. The normative basis. It is based on the Constitution of the Federative Republic of Brazil of 1988, and the General Law for the Protection of Data (Law No. 13.709/2018) and Resolution No. 332/2020 of the National Council of Justice (CNJ), which establishes ethical, governance, and transparency guidelines for the use of AI in the judicial field. These instruments ensure that the application of the technology occurs in a manner compatible with the values of legality, transparency, impartiality, and efficiency, preventing distortions that may to compromise the impartiality and legitimacy of judicial decisions.

This framework is complemented by the UNESCO Guidelines (2021) and the OECD Principles. (2019) on the ethical and responsible use of AI, which reinforce the centrality of the human being and the The need for continuous supervision over automated processes. The specialized literature It converges in stating that technology should be understood as an instrument of technical support for judicial activity, never as a substitute for a judicial decision. Therefore, the consolidation of An ethical, transparent, and constitutionally oriented digital justice system depends on regulation. dynamic regulations capable of balancing innovation, legal certainty, and respect for human dignity. human.

2.1 CONCEPTUAL FOUNDATIONS OF ARTIFICIAL INTELLIGENCE APPLIED TO RIGHT

Artificial intelligence (AI) can be defined as the field of computer science. responsible for creating systems that simulate human capabilities such as learning, reasoning, natural language interpretation, and autonomous decision-making using algorithms. statistical methods, neural networks, and machine learning. In the legal field, AI consists of... adoption of these technologies for processing large volumes of legal data, automation of Repetitive tasks, predictive analysis, and generating recommendations to support the judicial process.

The evolution of AI in law is marked by the integration of resources such as processing. Automated contract management, extraction of case law data, document classification, and management. deadlines and identification of decision-making patterns. Advanced AI systems, including the Text recognition and natural language processing enable legal platforms to perform procedural triage, categorize relevant requests, and assist judges and lawyers in decision-making.

Year V, v.2 2025 | Submission: October 27, 2025 | Accepted: October 29, 2025 | Publication: October 31, 2025

based on well-founded decisions. Tools such as "Victor," developed by the Supreme Court. Federal, they exemplify this performance through the automation of the analysis of general repercussion in extraordinary resources.

From a conceptual point of view, the application of Artificial Intelligence in Law requires... understanding the limitations and potential of algorithmic systems, especially regarding Transparency, reliability, and explainability of automated decisions. Legal experts, such as Ronaldo Lemos and Danilo Doneda argue that the role of AI should be subsidiary and complementary to human discernment, ensuring that their actions never replace the independence of the judiciary. or constitutional principles, such as human dignity, due process of law, privacy and non-violence. Discrimination. Controlling the variables and criteria used by AI requires constant auditing. and ethical governance to avoid technocentric risks, such as algorithmic bias, which can perpetuate injustices or discrimination against social groups.

Data collection for AI in law is carried out through information extraction. structured and unstructured versions of judicial decisions, contracts, legislation, petitions, and communications. digital. This initial step is crucial for the success of predictive models, as incomplete data, Biased or outdated information can compromise the validity and balance of the proposed solutions. Using AI. After collection, the data is processed and analyzed, identifying patterns and trends. case law – allowing recommendations for procedural matters, review of clauses and even predictions of judicial outcomes.

Technological advancement poses simultaneous challenges to legal doctrine, legislation, and practice. forensic science, because intelligent systems alter traditional legal paradigms by introducing new ones. Forms of governance, evidence production, and litigation management. The global debate focuses on... in ensuring that the use of AI occurs under specific regulations, maximum transparency and Active participation of legal professionals in the development, implementation, and updating cycles. and rework of automated systems. Furthermore, principles such as safeguarding rights Fundamental to this are ongoing human supervision and accountability for automated decisions. These constitute centers of ethical and constitutional protection in the use of AI in the Brazilian judicial system.

In summary, the conceptual foundations of Artificial Intelligence applied to Law. They encompass not only their technical basis and algorithms, but also the need for ethical integration. The legal and institutional framework for electronic instruments within the Brazilian legal system. Therefore, the AI represents a powerful tool for transforming justice, provided it is guided by... respect for constitutional parameters, transparency, and effective social control of results. generated by intelligent systems.

The incorporation of artificial intelligence in the legal field demands that operators of Law experts should master the technical and functional elements of these systems, understanding that the machine Learning — or machine learning — involves sophisticated mathematical procedures. capable of identifying recurring patterns in judicial decisions, legislation, and doctrines through Massive statistical analysis of digital data. This computerized discernment capability allows not only to optimize the search for relevant precedents, but also to propose resolution scenarios. for complex litigation, highlighting the transformative potential of AI in modernizing the practice. of Justice.

The international conceptual debate emphasizes the need for absolute transparency in algorithms used in the Judiciary, so that social control and auditability are achieved. guaranteed in real time. Nevertheless, it is essential to maintain monitoring mechanisms and human correction, avoiding the exclusive delegation of value judgment to automated systems and safeguarding the autonomy, discretion, and functional independence of magistrates. The Council The National Council of Justice (CNJ), for example, mandates that AI systems always be monitored. through continuous auditing and that they are not used in a way that suppresses fundamental rights of jurisdictions.

Among the fundamental concepts, the principle of explainability stands out, which requires that so that legal professionals can understand, question, and challenge the decision-making logic of systems. Automated. Access to technical reports, usage logs, parameters, and databases is a ethical and regulatory requirements in countries that have adopted advanced AI regulations, as is the case in European Union with the AI Act and in the resolutions of the CNJ in Brazil. Protection against discrimination. Algorithmics and the security of judicial data are considered indispensable dimensions for the The use of AI must comply with the constitutional principles of equality, due process, and the right to a fair hearing.

Among the main benefits observed in the adoption of AI by the Brazilian Judiciary is... significant improvement in operational efficiency, with reduced processing times and optimization of The work of judges and court staff. The implementation of tools such as triage systems. Procedural tools, automatic case summary generators, and predictive analytics platforms enable absorption. of large volumes of work, relieving the congestion of collections and establishing More agile procedures, especially for repetitive tasks. This context contributes to... The realization of a faster, more accessible, and technically sound justice system, provided that it is observed. proper technological governance.

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Year V, v.2 2025 | Submission: October 27, 2025 | Accepted: October 29, 2025 | Publication: October 31, 2025

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Given the analysis of the conceptual foundations of artificial intelligence applied to Law, It can be concluded that the integration of this technology into the Brazilian legal system represents progress. promising, capable of profoundly transforming the delivery of justice, making it more efficient, Transparent and accessible. However, the ethical and responsible use of AI demands technical regulation. rigorous, constant human supervision and full compatibility with constitutional principles, the in order to prevent algorithmic discrimination, guarantee the protection of fundamental rights and To promote social justice at all stages of the judicial process.

2.2 Normative Evolution of AI in the Brazilian Judiciary

The incorporation of artificial intelligence (AI) within the Brazilian Judiciary. This represents one of the most significant technological transformations in the justice system in recent years. decades. Initially, the use of these tools was marked by experimental initiatives. focused on automating administrative tasks and procedural triage, without a regulatory framework. specific. However, with the advancement of cognitive technologies and the increasing complexity of With the rise of AI systems, it has become imperative to create regulatory instruments that ensure... observance of the constitutional principles of legality, publicity, efficiency and, above all, of judicial impartiality.

The National Council of Justice (CNJ) has taken a leading role in regulating the use of AI. in the Judiciary, starting with Resolution No. 332/2020, which established ethical and technical guidelines for the development and use of these tools. The regulation stipulates that AI systems must to act in a transparent, auditable manner and in accordance with fundamental rights, prohibiting any form of algorithmic discrimination. Furthermore, the resolution determined that the The development of intelligent systems should be preceded by an assessment of risks and impact on... individual rights, while ensuring human control over automated decisions.

Prior to this milestone, the CNJ had already launched the Justice 4.0 Program in 2018. aimed at the technological modernization of the Judiciary, which boosted the use of AI in different courts. In this context, projects such as Victor emerged in the Supreme Federal Court. (STF), and Athos, in the Superior Court of Justice (STJ), both focused on screening cases and



Year V, v.2 2025 | Submission: October 27, 2025 | Accepted: October 29, 2025 | Publication: October 31, 2025

Identifying recurring themes. Such initiatives have demonstrated the potential of AI in speeding up and rationalization of the provision of justice, although they have highlighted the need for regulation. regulations to ensure legal certainty and reliability of results generated by algorithms.

Based on the consolidation of these experiences, the CNJ issued other normative acts. supplementary regulations, such as CNJ Ordinances No. 271/2020 and No. 314/2020, which regulate the Governance and interoperability of AI systems used by courts. These standards aim to... to ensure that technological development occurs in a standardized, collaborative and supervised, encouraging integration between courts and the sharing of solutions Safe and ethical technologies. This movement reflects a public policy focused on innovation. responsible, in line with the international guidelines of UNESCO and the Organization for the Organization for Economic Cooperation and Development (OECD) on the ethical use of AI.

In 2021, with the Strategic Management Plan of the Judiciary (2021–2026), AI was incorporated as a structuring element of the digital transformation of the Brazilian Justice system. The document reinforced the importance of aligning process automation with sustainability goals and Inclusion, promoting access to justice through digital tools. Thus, evolution The regulations began to engage not only with administrative efficiency, but also with values. democratic principles of transparency, social control, and protection of personal data, as stipulated by... Law No. 13.709/2018 – the General Data Protection Law (LGPD).

It is concluded that the normative evolution of artificial intelligence in the Brazilian Judiciary reflects... a trajectory of institutional and technical maturation, focused on reconciling innovation and legal certainty. The progress of the CNJ's resolutions and programs demonstrates the commitment of The Judiciary in adopting cutting-edge technologies without renouncing the constitutional foundations of due process, transparency, and the protection of rights. Thus, the future challenge consists of to consolidate a dynamic regulatory model that keeps pace with technological innovations, ensuring that AI acts as an instrument for achieving justice and not as a factor of vulnerability of those under the jurisdiction.

2.3 Constitutional and Ethical Principles in the Regulation of Judicial AI

The introduction of artificial intelligence (AI) within the Judiciary presents challenges. Ethical and constitutional considerations that transcend mere technological issues, reaching the very essence of the matter. of jurisdiction and due process of law. The Federal Constitution of 1988, in its article 37, enshrines the principles of legality, impartiality, morality, publicity and efficiency as vectors of public administration — principles that should also guide the use of AI in the judicial system.



Year V, v.2 2025 | Submission: October 27, 2025 | Accepted: October 29, 2025 | Publication: October 31, 2025

The application of automated systems must respect the supremacy of the dignity of the human person (art. 1st, III, CF/88) and respect for fundamental rights, under penalty of becoming an instrument of technological arbitrariness.

In this context, ethics emerges as an essential foundation in the regulation of judicial AI. As stipulated in Resolution No. 332/2020 of the National Council of Justice (CNJ), the systems AI development should be guided by transparency, impartiality, accountability, and traceability. Automated decisions. This implies that the development and application of these technologies must... to be accompanied by algorithmic governance criteria capable of avoiding discriminatory biases. and to ensure the predictability and explainability of the results, essential elements for trust.

public in the Justice system.

Reconciling technological innovation with constitutional principles requires that AI It should operate as a support tool, not a replacement for human decision-making. Judicial action is This right is non-delegable, and the Constitution guarantees the right to a natural judge and the right to a fair hearing as fundamental rights. of the process. Thus, the judicial decision, even when aided by algorithms, must result from a Rational and ethical assessment on the part of the magistrate. The General Data Protection Law (Law No. Law 13.709/2018 reinforces this obligation by providing, in its article 20, the citizen's right to obtain a review. of automated decisions that affect your interests.

The constitutional principles of publicity and reasoned decisions (Article 93, IX, CF/88) also directly affect the use of AI in the Judiciary. It is essential that the systems The methods adopted by the courts are auditable and the algorithmic reasoning can be understood by Judges, lawyers, and those subject to the law. The opacity of algorithms, commonly referred to as The "algorithmic black box" represents a threat to the republican principle of transparency and control. The social role of public decisions. Judicial ethics, in this context, requires the adoption of mechanisms for... accountability and independent audits.

Another relevant aspect is the need to observe the principle of equality, according to as set forth in Article 5 of the Federal Constitution. AI should contribute to the standardization of jurisprudence and the reduction of contradictory decisions, but without resorting to automatic processes that disregard the uniqueness of specific cases. The ethical principle of substantive justice demands that the The treatment of data and of the parties must be equitable, prohibiting discrimination arising from standards. biased algorithmic training. The ethics applied to judicial AI is, therefore, a dimension concrete examples of the constitutional values of equality and proportionality. International guidelines, as the UNESCO guidelines (2021) and the OECD Principles (2019) reinforce the need for An ethical and responsible use of AI in judicial systems, emphasizing the principle of human oversight. Significant (human oversight) and the protection of human rights as universal pillars. The CNJ,



Year V, v.2 2025 | Submission: October 27, 2025 | Accepted: October 29, 2025 | Publication: October 31, 2025

In line with these parameters, it has developed instruments for ethical and normative governance. promoting an institutional culture that combines technological efficiency with respect for citizenship. and to justice.

It is concluded that the regulation of judicial artificial intelligence should be based on a model. a robust ethical and constitutional framework, in which technology is an instrument for improving justice and not... A factor of procedural dehumanization. The harmonization between constitutional principles and guidelines. Ethics ensures that AI operates under the principles of legality, transparency, and human dignity. human, preserving the essence of the jurisdictional role and ensuring that technological innovation... convert it into a vector for the realization of fundamental rights in a democratic state governed by the rule of law.

2.4 APPLICATIONS AND PRACTICAL EXAMPLES OF AI IN THE JUDICIAL SYSTEM

The use of artificial intelligence (AI) in the Brazilian judicial system has been expanding. expressive form, with applications ranging from the automation of administrative activities to... Support for complex legal analysis. This technological integration aims to reduce delays. procedural and to improve the delivery of justice, in accordance with the constitutional principle of Efficiency (Article 37, paragraph 1, of the Brazilian Federal Constitution of 1988). AI tools allow the Judiciary to handle large volumes of cases. The rapid and accurate processing of data contributes to the rational management of time and resources. humans.

In the Superior Court of Justice (STJ), the application of AI is materialized in the Athos system. focused on subject classification and automatic precedent identification. The tool analyzes decisions and petitions to suggest jurisprudential correlations, assisting in the consolidation of understandings and in the formation of qualified precedents, as provided for in articles 926 and 927 of Code of Civil Procedure. This initiative reflects the institutional commitment to stability and... Integrity of jurisprudence, fundamental principles for legal certainty.

The National Council of Justice (CNJ), in turn, developed the Sinapses Platform. conceived as a collaborative environment for the development and sharing of models of AI among courts. Through it, solutions created in one court can be adapted and replicated in others, promoting interoperability and technological standardization. Synapses It constitutes a pillar of public policy on judicial innovation, promoting transparency, ethics and... Sustainability in the use of AI, in accordance with the guidelines of CNJ Resolution No. 332/2020.

At the state level, several courts have adopted AI tools for various purposes. specific. The Court of Justice of Minas Gerais (TJMG) uses the Radar system, designed for Predictive analysis of demands and identification of priority processes. The Court of Justice of...

Year V, v.2 2025 | Submission: October 27, 2025 | Accepted: October 29, 2025 | Publication: October 31, 2025

The Paraná State Court of Justice (TJPR) has implemented the Socrates System, which automatically reads court decisions and classifies them. Decisions are made according to the legal issues addressed. These solutions strengthen technological autonomy. from the courts and demonstrate the progress of digital transformation in the Judiciary.

AI has also been used to improve customer service and access to Justice. Chatbots and virtual assistants, such as those implemented by the District Court. The Federal Court of Justice of the Federal District and Territories (TJDFT) and the Court of Justice of São Paulo (TJSP) offer information. procedural matters, basic legal guidance, and automated support, reducing queues and expanding the Accessibility. These applications reinforce the Judiciary's commitment to digital citizenship and to... The humanization of public service.

Another area of practical application is in procedural and administrative management. Tools AI tools are used to detect inconsistencies in registrations, predict processing times, and optimize... procedural distribution. The CNJ Productivity Panel and the Justice in Numbers exemplify this. How can algorithmic analysis support strategic decisions, contributing to policies of evidence-based governance. Furthermore, some solutions apply techniques of... Natural language processing (NLP) to extract data from sentences and identify bottlenecks. procedural.

The expansion of artificial intelligence applications in the judicial system also has having reached the field of behavioral and predictive analysis, focused on the strategic management of the collection. procedural. Some Brazilian courts have been using algorithms to estimate processing times. Identify administrative bottlenecks and suggest process redistributions based on workload. The work of each court. This operational intelligence allows for anticipating overload scenarios and To optimize the use of human resources, promoting greater efficiency in the management of judicial time. The CNJ Productivity Panel is a concrete example of how algorithmic analysis contributes to... Accurate diagnoses and administrative decisions based on empirical data.

Another significant advancement is the use of AI in detecting fraud and inconsistencies in documentation. especially in sensitive areas such as the Electoral Court and the Labor Court. Through the Through pattern recognition and cross-referencing of information, intelligent systems are able to... To identify duplicate petitions, falsified documents, and irregular procedural conduct. This The application, in addition to ensuring greater procedural integrity, strengthens citizens' trust in... institutions, as it demonstrates the Judiciary's commitment to transparency and security. Legal information.

AI has also been explored in accessibility and digital inclusion projects, expanding Extending access to justice for vulnerable groups. Chatbots with simplified language and interfaces. Inclusive measures have been implemented to assist people with visual, hearing, or other disabilities.



Year V, v.2 2025 | Submission: October 27, 2025 | Accepted: October 29, 2025 | Publication: October 31, 2025

low educational attainment. The use of virtual assistants that convert voice to text and text to audio, such as those developed by the Court of Justice of São Paulo (TJSP) and the Regional Labor Court from the 4th Region (TRT-4), represents an important step towards democratizing access to legal information and the strengthening of digital citizenship.

Finally, it is observed that the advancement of artificial intelligence in the Judiciary is promoting a paradigm shift in the organizational culture of judicial institutions. The integration between Technology and human action have demanded new skills from judges and staff, such as... Digital literacy and mastery of automated analysis tools. In this context, training Continued sustainability and digital ethics become indispensable elements to guarantee the responsible use of... AI. Thus, the practical applications of artificial intelligence not only optimize the functioning of judicial system, but they also drive a process of institutional transformation oriented towards For innovation, transparency, and effective access to justice.

3. CONCLUSION

The analysis developed throughout this article, under the theme "Law and Artificial Intelligence: The challenges of AI regulation in the Brazilian judicial system highlight that technological advancement in The judicial sphere represents not only an instrumental innovation, but a structural transformation. in the way the State implements access to justice. The incorporation of intelligence systems. Artificial intelligence in the Judiciary has enabled significant gains in speed, efficiency, and... Procedural streamlining, in accordance with the constitutional principle of administrative efficiency. In However, the use of these technologies also raises ethical and legal concerns that demand a... Solid regulation, guided by the fundamental values of the Brazilian legal system.

Practical examples of AI applications — such as the Victor, Athos, Radar, and Synapses systems. and virtual assistants — reveal that the national Judiciary is in the process of consolidating a A culture of responsible innovation. These mechanisms demonstrate the ability of technology to act. as a tool to support, and not replace, judicial activity, reinforcing the role of magistrate as interpreter and guardian of fundamental rights. Furthermore, such experiences They demonstrate the importance of interoperability, technical standardization, and ethical governance in Implementation of AI solutions in different instances and courts.

It can be concluded, therefore, that the main contemporary challenge consists of balancing Efficiency and legitimacy, ensuring that judicial automation is always subject to limits. Ethical and constitutional principles that structure the Democratic Rule of Law. The regulation of intelligence. The artificiality of the Brazilian judicial system must continue to evolve in an interdisciplinary manner.



Year V, v.2 2025 | Submission: October 27, 2025 | Accepted: October 29, 2025 | Publication: October 31, 2025

involving legal experts, engineers, data scientists, and representatives of civil society. Only.

This will make it possible to consolidate a digital justice system that combines transparency, accountability, and...

humanity, ensuring that technological progress is, above all, an instrument for promotion.

of justice and citizenship.

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