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The preservation of registry and notarial records in the face of disasters and crimes: responsibility and measures for the State and the National Council of Justice (CNJ).

The preservation of the registry and notarial collection in the face of disasters and crimes: responsibility and measures of the State and the CNJ

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ABSTRACT

This research aims to analyze in depth the preservation of notarial and registry records in the face of disasters and crimes, examining the responsibilities of the State and the measures adopted by the National Council of Justice (CNJ). The central objective was to understand how the Brazilian legal system and the CNJ guidelines organize the protection, digitization, and recovery of notarial and registry records in the face of events that threaten their physical or digital integrity. To achieve this purpose, the following specific objectives were established: to analyze the role of the State and the CNJ in the protection of notarial and registry records; to examine the risks represented by natural disasters and crimes against registry records; to investigate the impacts of digitization as an instrument for preserving legal security; and to verify the civil liability of the registrar and the State in case of document loss. The methodology adopted was based on a qualitative narrative literature review, with analysis of previously published works and documents. The findings demonstrated that digitization represents an essential tool for the preservation of archives, but normative and structural gaps still persist, leading to the conclusion that the actions of the National Council of Justice (CNJ) and the State are indispensable to guarantee the legal security of notarial and registry acts. The conclusions emphasize the relevance of deepening investigations in this area, with a view to expanding the existing theoretical body and fostering new scientific contributions.

Keywords: Registry archive. Document preservation. Notarial law. CNJ (National Council of Justice). Legal certainty.

ABSTRACT

The purpose of this research is to analyze in depth the preservation of the registry and notarial collection in the face of disasters and crimes, examining the State's responsibilities and the measures adopted by the National Council of Justice (CNJ). The main objective was to understand how the Brazilian legal system and the CNJ guidelines organize the protection, digitization, and recovery of notarial and registry records in the face of events that threaten their physical or digital integrity. To achieve this purpose, the following specific purposes were established: to analyze the role of the State and the CNJin the protection of the notarial and registry collection; examine the risks posed by natural disasters and crimes against notary collections; investigate the impacts of digitalization as an instrument for preserving legal certainty; and verify the civil liability of the registrar and the State in case of document losses. The methodology adopted was based on a narrative review of qualitative literature, with analysis of previously published works and documents. The findings demonstrated that digitization is an essential tool for the preservation of collections, but that normative and structural gaps remain, which led to the conclusion that the action of the CNJ and the State is indispensable to ensure the legal certainty of notarial and registry acts. The conclusions emphasize the need to deepen investigations in this area, with a view to expanding the existing theoretical body and fostering new scientific contributions.
Keywords: Registry collection. Document preservation. Notarial law. CNJ. Legal certainty.

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1 INTRODUCTION

Notarial and registry services are cornerstones of legal certainty in the legal system.
Brazilian, being responsible for the authentication, preservation and publication of acts and facts that
They directly impact the lives of citizens. Public deeds, property registrations, contracts,
Inventories, birth and death certificates, among many other documents, make up a collection.
which, once lost or damaged, can have enormous financial and social consequences.
magnitude. In this context, the preservation of registry and notarial records in the face of disasters and crimes is crucial.
This emerges as a matter of paramount importance for both Notarial and Registry Law and for...
general theory of state responsibility (Borher, 2024).

Recently, the topic has gained renewed prominence due to increasing transformations.
Technological innovations tested by notary offices and the Brazilian judicial system itself. A
The digitization of notarial acts and the migration of archives to digital platforms have opened new...
Possibilities for preservation, but they also introduced additional risks, including attacks.
cybersecurity, systemic failures, and vulnerabilities related to metadata management and...
Long-term storage. Such transformations require the State, especially the Council.
National Council of Justice (CNJ), an increasingly active normative and supervisory stance (Da Silva)
Correia and Lourenço, 2024).

Analyzing the preservation of registry and notarial records in the face of disasters and crimes constitutes the
The central focus of this research. The purpose of this study is to deepen the understanding of
responsibilities of the State and the measures adopted by the CNJ to guarantee integrity, the
continuity and recovery of this collection in situations of disaster or illegality, contributing to
Theoretical advancement and the consolidation of solid foundations to support future research.
To achieve this purpose, the following specific objectives were defined: to analyze the role of the State.
and the CNJ in protecting notarial and registry records; examine the risks arising from disasters and
crimes against notarial records; investigating digitization as a tool for preserving them.
legal certainty; and to verify the civil liability of the registrar and the State in case of losses.
documentary. In order to fulfill these goals, the work is guided by the following question.
Main question: how do the Brazilian State and the CNJ (National Council of Justice) work to protect registry and notarial records?
In the face of disasters and crimes, what are the legal consequences of failures in this protection?

The relevance of this investigation is based on the recognition that the records
Notaries and registry officials represent the legal memory of society and constitute an instrument
indispensable for the realization of fundamental rights, such as property, inheritance, and the state.
civil rights of individuals. The loss of this collection, whether due to natural disasters or criminal activity,

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imposes an irreparable burden on individuals and on the State itself, which assumes the duty of delegation and oversight of notary services. Furthermore, it is noted that there are still gaps in the literature. national regarding the State's obligations in the face of the destruction of notarial archives, especially when the harmful event involves criminal conduct or administrative omission in the adoption of preventive measures, and this is the area that the present research seeks to fill.

The methodology employed was based on a narrative literature review, of a [characteristic/nature]. qualitative, focused on the meticulous analysis of scientific productions related to the object of investigation. The bibliographic search was conducted in databases such as Scielo, Capes, and Google Scholar. supplemented by consulting reference works and widely available academic journals. recognized. Texts written in Portuguese, English, and Spanish were included.

In order to ensure the timeliness and relevance of the sources analyzed, the inclusion criteria They favored publications from the last five years, as well as essential classic works. Understanding of the topic. Studies with qualitative, quantitative, or mixed methodologies were accepted. provided they originate from reliable sources and have undergone peer review. On the other hand, they were disregarded materials that were not in the established languages, productions without relevance. theoretical or historical publications with restricted access or that presented methodological limitations.

According to Dourado and Ribeiro (2023), narrative revision allows for the organization of existing knowledge, facilitating the identification of gaps and the integration of different approaches. In accordance with the established objectives, the work structure was organized Topics include: the role of the State and the CNJ (National Council of Justice) in protecting archives; the risks arising from disasters. and crimes; digitization as a tool for preservation; and civil liability in cases of Document losses.

2. DEVELOPMENT

2.1 The Role of the State and the CNJ in the Protection of Notarial and Registry Records

The Brazilian State exercises a delegation function over notarial and registry services. and oversight, which finds constitutional basis in article 236 of the 1988 Federal Constitution. By delegating the execution of these services to a private entity, the State does not relinquish its responsibility to to ensure its continuity and integrity, assuming a duty of guardianship that manifests itself through of standards, inspections and public policies aimed at preserving documentary collections (Amorim et al., 2025). In this sense, the CNJ acts as a regulatory and supervisory body of the Judiciary and of ancillary services linked to it, including extrajudicial registry offices.

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The CNJ's regulatory actions regarding the protection of archives have intensified in recent years. In recent decades, resolutions and provisions have been issued that regulate everything from the physical custody of documents up to the implementation of electronic storage and retrieval systems. One An example of this regulatory trend is CNJ Resolution No. 574/2024, which expanded the possibilities for carrying out extrajudicial acts, such as inventory and division of assets involving minors. of age, demonstrating the agency's willingness to increase the efficiency of notarial services without neglecting legal guarantees (Amorim et al., 2025). Permanent oversight of registry offices, by through state ombudsman offices and the National Ombudsman Office of Justice, it constitutes the main Mechanism for monitoring compliance with document conservation and security standards.

From a comparative point of view, the study by Tanal and Mandala (2025) on notarial legislation in different countries indicates that the diversity of legal regimes applicable to the filing of Notarial deeds reflect differing conceptions about the role of the State in protecting legal memory. While some systems concentrate this responsibility in centralized custodial bodies, Others largely delegate to notaries the definition of conservation criteria, which may This generates inequalities in the quality and security of collections. The Brazilian model of oversight... centralized by the CNJ (National Council of Justice) and decentralized by the registry offices, it seeks to balance these... Trends are emerging, but practical challenges to uniform implementation across the territory still persist. national.

The State's responsibility for the integrity of notarial records is also related. with the broader theme of land regularization and territorial planning. Lemes, Tárrega and Dal Bosco (2025) demonstrate that the security of property records is an indispensable condition. for the effectiveness of land regularization programs, since the absence or destruction of these Registration makes it impossible to recognize real property rights over land, generating legal uncertainty. which particularly affects the most vulnerable populations. Therefore, the protection of the registry records... It's not just a bureaucratic issue, but it also has direct repercussions on the realization of rights. fundamental needs, such as housing and property.

The preservation of historical records of normative and administrative acts of the courts. It also forms part of the scope of state responsibility regarding legal assets. Fernandes et al. al. (2025) analyzed the practices of preserving the historical records of the Court of Justice of The state of Roraima, concluding that the absence of systematic conservation policies can result in the irreversible loss of documents essential to institutional memory and the guarantee of rights. The The study points to the need for investments in physical and technological infrastructure, as well as training for those responsible for safeguarding the archives, which also applies to registry offices. extrajudicial (Fernandes et al., 2025).

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2.2 Risks Arising from Natural Disasters and Crimes Against Registry Records

Notarial and registry archives face a variety of challenges in their daily operations.
threats capable of irreversibly compromising its integrity. Among the most significant risks
Recurring events include fires, floods, landslides, and other natural disasters that affect
the physical facilities of registry offices, as well as crimes of forgery, theft, and destruction.
intentional and, more recently, cyberattacks targeting digital systems of
storage of notarial acts (Borher, 2024). The vulnerability of physical archives is exacerbated
due to the absence, in many registry offices, of adequate fire protection and control systems.
humidity and restricted physical access.

With regard to crimes against notarial records, the falsification of deeds and certificates
This constitutes one of the most serious forms of crime, as it has direct effects on the assets of
third parties in good faith and on the credibility of the registration system itself. Celani's analysis (2025)
regarding the civil liability of the land registrar in the municipality of Santa Rita-PB demonstrates
that judicial intervention in property registration often stems from irregularities that
These problems could have been prevented through more effective monitoring and verification mechanisms.
Regarding the authenticity of the acts performed, the author points out that the registrar's responsibility is objective.
with regard to damages resulting from errors or omissions in the performance of their duties, which reinforces the
The importance of strict preventive measures.

The criminal dimension of threats to notarial archives is not limited to conduct...
practices carried out by external agents. Internal corruption, the misappropriation of documents by employees, and the
Willful omission in adopting security measures also figures among the risks to which these
collections are subject to change. In this sense, Brown, Hall and Holgersson (2026) analyze, under a
From a critical perspective, how can the notarial monopoly, in certain weakened institutional contexts,
to facilitate the capture of notarial services by private interests, which compromises neutrality and
The reliability of the actions taken increases, as does the risk of selective manipulation or destruction of...
documents. The authors' reflection, although focused on post-colonial territories, offers
Analytical elements applicable to the Brazilian reality in regions with less institutional control.

In the context of extrajudicial adverse possession, a modality that depends heavily on integrity.
Regarding real estate records, Cardozo (2025) demonstrates that the loss or deterioration of documents
Registration issues can make it impossible to recognize the possessor's right, especially in regions such as
The Legal Amazon, where land regularization faces historical organizational difficulties.
from the collections. The author points out that the dialogue of sources and the control of conventionality can
to offer legal solutions to situations where the absence of a registration document is due to omission.

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or state negligence, recognizing the environment and property security as rights.
Humans who must be protected even in the face of documentary failures (Cardozo, 2025).

The perspective of transitional justice and historical archives, developed by Viebach, Hovestädt and Lühe (2023) add a new dimension to the problem of disasters and crimes. against documentary collections. The authors argue that the deliberate destruction of archives Institutional structures, in contexts of conflict or political repression, constitute a form of erasure. of collective memory and violation of victims' rights to access truth and justice. Although the Although the context of extrajudicial registry offices may be different, the authors' argument is relevant to highlight. the public and civilizing dimension of preserving notarial and registry archives, which transcend private interest in becoming the collective patrimony of society.

2.3 Digitization as an Instrument for Preserving Legal Security

The digitization of notarial and registry archives has been recognized by legal scholars. both by regulatory bodies as one of the main instruments to reduce vulnerability These documents provide a solution in the face of physical disasters and crimes. The creation of authenticated digital copies, the cloud storage with geographic redundancy and the adoption of electronic signatures and Digital certifications are measures that, when implemented properly, increase resilience. of the notarial archives (Da Silva Correia and Lourenço, 2024). The transformation process Technological advancements in notary services, however, do not occur without tensions and challenges, especially regarding... This concerns maintaining preventative legal certainty throughout the transition from paper to digital. digital.

Chavez (2024) specifically examines the digitization of notarial archives as a tool. to guarantee preventive legal security, concluding that the effectiveness of this measure depends also the existence of clear regulatory frameworks that define the standards of authenticity, Integrity and accessibility of digital documents. The author highlights that digitization has poorly planned data loss can create new risks, such as technological obsolescence of file formats and data loss. essential metadata for understanding the context of actions and vulnerability to attacks cybernetic (Chavez, 2024). In this sense, the simple conversion of physical documents to cybernetic (Chavez, 2024). The digital format alone does not guarantee the preservation of the collection; investment in systems is necessary. robust document management systems and policies for continuous technological updating.

In the field of property registration, Martins (2024) analyzes how technology can contribute for the realization of human dignity and solidarity at the intersections between public rights and private. The author argues that the technological modernization of real estate registries democratizes the

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access to property regularization instruments, with particular relevance for groups historically marginalized. The digitization of records, from this perspective, acquires a a social dimension that goes beyond mere administrative efficiency, connecting to principles. constitutional principles of human dignity and the social function of property (Martins, 2024).

Technological transformations in notary services, however, also require attention. redoubled efforts to address the challenges of preserving legal security in digital environments. Da Silva Correia Lourenço (2024) identifies that the transition to the digital environment introduces new risk vectors. that the traditional regulatory framework was not prepared to address, among other things, the possibility due to the imperceptible tampering of digital documents, the difficulty in tracking access does not authorized and the question of the legal validity of electronic documents in litigation situations. The The authors argue that preventive legal security, historically guaranteed by public faith, Notarial principles need to be reinterpreted and reinforced in the digital environment through mechanisms. robust technological and regulatory frameworks.

2.4 Civil Liability of the Registrar and the State in Case of Document Loss

The issue of civil liability arising from the loss, destruction, or falsification of Notarial and registry documents involve defining the legally required duties of both The responsibility of the service provider lies with both the service provider and the State itself. In the Brazilian legal system, the responsibility of The role of the notary and registrar stems directly from Law No. 8.935/1994, which establishes that these... Professionals will be held liable for damages caused to third parties as a result of the exercise of their activities. based on the theory of strict liability when dealing with functional failures. A Celani's (2025) analysis of property records in Santa Rita-PB exemplifies how this Responsibility is realized in judicial practice, with cases in which judicial intervention has become... necessary to correct flaws that caused property damage to the owners.

The responsibility of the State, in turn, must be examined in light of the regime of strict liability enshrined in Article 37, § 6, of the 1988 Federal Constitution, which This applies both to damages caused directly by public agents and to those resulting from... State omission in fulfilling its duty to oversee delegated services. When the State does not adopt the necessary measures to prevent the loss or destruction of notarial records, whether by Regulatory omission, whether due to a lack of effective oversight of registry offices, constitutes liability. State omission, although requiring proof of a causal link between the inaction and the damage, may give rise to the obligation to compensate those harmed (Borher, 2024). The distinction between failure of The distinction between delegated authority and state omission, however, is not always clear in practice, requiring case-by-case analysis.

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of the elements of each specific situation.

In the context of natural disasters, state responsibility takes on specific dimensions.
when it is found that the loss of notarial records resulted from a foreseeable event for which the
The state has not adopted the available preventive measures. The existence of recognized risk zones,
the absence of backup and redundancy policies for collections and the lack of training for
Those responsible for registry offices in emergency situations are factors that may constitute negligence.
relevant state action for accountability purposes. In this sense, the CNJ's role in matters of
Standardizing the physical and technological conditions of registry offices is of strategic importance.
because normative insufficiency can be invoked as an element of the causal chain of damage (Fernandes)
et al., 2025).

The international dimension of the problem of the loss and destruction of legal archives points to
experiences that can enrich the Brazilian debate. Viebach, Hovestädt and Lühe (2023)
They document how different legal systems have developed mechanisms for the reconstruction of
collections destroyed in conflict contexts, including the creation of special commissions of
documentary reconstruction, the use of testimonies and alternative sources of evidence, and the
establishing legal presumptions favorable to the victims of record destruction. Although these
Mechanisms that have been developed in the context of transitional justice offer inspiration for
the creation of similar instruments, applicable to situations of document loss resulting from
disasters or crimes within the scope of Brazilian extrajudicial registry offices.

The protection of notarial and registry records is also connected to the issue of extrajudicial adverse possession.
A method whose processing presupposes the integrity of the real estate registration chain. The analysis
de Cardozo (2025) on adverse possession in the Legal Amazon reveals that, in contexts of precariousness
From the registry records, the recognition of the right to housing and property frequently
It depends on the hermeneutical creativity of those who apply the law to overcome documentary gaps.
The author proposes a dialogue of sources between civil law, environmental law, and legal instruments.
International human rights organizations can offer solutions for situations where the loss or
The absence of registration stems from state omission, acknowledging that human dignity cannot be...
overlooked due to administrative failures in the safekeeping of the collections (Cardozo, 2025).

FINAL CONSIDERATIONS

In order to achieve the outlined objectives, this research conducted an investigation.
in-depth study on the preservation of registry and notarial records in the face of disasters and crimes, with a focus
in the responsibilities of the State and in the measures adopted by the CNJ, with the main method being

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A narrative literature review. The analysis of the sources enabled a comprehensive understanding of the topic.
and provided relevant bases for critical reflection on the data collected.

At the end of the study, it was found that the protection of notarial and registry records constitutes
This obligation falls simultaneously on the service provider and the State, with the CNJ being responsible.
The main instrument for regulating and overseeing this obligation at the federal level. Digitization
It emerges as an indispensable tool for increasing the resilience of collections in the face of disasters.
Physical tools are essential, but their effectiveness depends on clear regulatory frameworks and proper metadata management.
and ongoing policies for technological updating. The registrar's civil liability is
objective liability with respect to damages arising from functional failures, whereas the liability of
State failure to oversee requires proof of causal link, which reinforces the importance
from the issuance of precise rules by the CNJ (National Council of Justice) that define the obligations of registry offices in matters of
security and document preservation.

It was also found that the risks arising from natural disasters and crimes against the environment...
Notary archives are multidimensional, ranging from the physical vulnerability of the facilities.
...from sophisticated cyber threats to internal corruption and intentional manipulation.
record keeping. Overcoming these risks requires an integrated approach that combines investments
In terms of infrastructure, training for those responsible for registry offices, and the adoption of secure digital systems.
and improvement of state oversight mechanisms. The impact of the loss of registry records.
on fundamental rights, such as housing, property and inheritance, as well as their relationship with
Land regularization, coupled with the institutional memory of the State, reinforces the urgency of addressing this issue.
should be treated as a public policy priority and the subject of increasing legislative and doctrinal attention.

However, it is important to emphasize the need for continued investigations into the matter, with
Aimed at expanding existing knowledge and stimulating new scientific debates. Empirical research
that assess the degree of implementation of CNJ (National Council of Justice) regulations in Brazilian notary offices, as well as studies
Comparisons of notarial record protection systems in other countries could offer
Subsidies for improving the regulatory framework and public policies applicable to the topic.

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