Machine Translated by Google
RCMOS – Multidisciplinary Scientific Journal The Knowledge.
ISSN: 2675-9128. São Paulo-SP.

Year VII, v.1 2026 | Submission: April 25, 2026 | Accepted: April 28, 2026 | Publication: May 1, 2026

The impartiality of the judiciary in contexts of political polarization: impacts on institutional credibility and public trust in justice.

The impartiality of the judiciary in contexts of political polarization: impacts on institutional credibility and social trust in justice

The impartiality of the judiciary in contexts of political polarization: impacts on institutional credibility and social confidence in justice

Edenilson do Nascimento Araújo1
Letícia Ferreira da Silva2
Denise Gomes da Silva Torquato3

Summary

The impartiality of the Judiciary represents one of the fundamental principles for...
The consolidation of the democratic rule of law is essential to guarantee justice and equality.
before the law and the public's trust in institutions. In contexts of increasing polarization.
Politics, however, is causing the Judiciary's actions to be observed more intensely by
public opinion, which may raise questions about the neutrality and legitimacy of their
decisions. Ideological polarization tends to amplify narrative disputes and influence how
Judicial decisions are interpreted by different social groups, often shifting the...
The debate moves from the legal field to the political field. In this scenario, the perception of impartiality becomes...
if it is as relevant as actual impartiality itself, since institutional credibility depends
directly from the social trust placed in the justice system. Therefore, this study...
Its objective is to analyze the impartiality of the Judiciary in contexts of polarization.
politics, investigating its impacts on institutional credibility and public trust in the justice system.
The research employs a qualitative approach and uses a review as its methodological procedure.
bibliographic, based on the analysis of doctrinal works, scientific articles, case law and
Institutional documents related to the performance of the Judiciary and the phenomenon of the judicialization of
Politics. The analysis allows us to understand the challenges faced by the Judiciary.
contemporary times and the importance of strengthening institutional mechanisms that ensure

[1] Law students at Unisapiens College; Porto Velho/RO

[2] Law students at Unisapiens College; Porto Velho/RO

[3] Professor and Advisor in the Law course at Unisapiens University Center; Porto Velho/RO. Denise Gomes da Silva Torquato. Lawyer, professor of the Law course at Unisapiens University Center, Master's student in the Interdisciplinary Professional Postgraduate Program in Human Rights and Justice Development at the Federal University of Rondônia. Email: professoradenisetorquato@gmail.com Brazil. ORDCID Id: https://orcid.org/0009-0009-0763-4835

This article is published in open access under the Creative Commons Attribution license, which permits unrestricted use, distribution, and reproduction in any medium, provided the original work is properly cited.

Machine Translated by Google
RCMOS - Multidisciplinary Scientific Journal The Knowledge.
ISSN: 2675-9128. São Paulo-SP.

Year VII, v.1 2026 | Submission: April 25, 2026 | Accepted: April 28, 2026 | Publication: May 1, 2026

Transparency, independence, and legitimacy in judicial decisions.

Keywords: Judicial impartiality; Political polarization; Institutional trust. Law
Electoral.

Abstract:

The impartiality of the Judiciary represents one of the fundamental principles for the consolidation of the Democratic Rule of Law, being essential to ensure justice, equality before the law, and society's trust in institutions. In contexts of increasing political polarization, however, the actions of the Judiciary comes under greater scrutiny by public opinion, which may generate questions regarding the neutrality and legitimacy of its decisions. Ideological polarization tends to intensify narrative disputes and influence how judicial decisions are interpreted by different social groups, often shifting the debate from the legal sphere to the political arena. In this scenario, the perception of impartiality becomes as relevant as actual impartiality, since institutional credibility depends directly on the social trust placed in the justice system. In light of this, the present study aims to analyze the impartiality of the Judiciary in contexts of political polarization, investigating its impacts on institutional credibility and social trust in justice. The research adopts a qualitative approach and uses bibliographic review as its methodological procedure, based on the analysis of doctrinal works, scientific articles, case law, and institutional documents related to judicial activity and the phenomenon of the judicialization of politics. This analysis makes it possible to understand the challenges faced by the contemporary Judiciary and the importance of strengthening institutional mechanisms that ensure transparency, independence, and legitimacy in judicial decisions.

Keywords: Judicial impartiality; political polarization; institutional trust; Electoral Law.

1. Introduction

The impartiality of the Judiciary is one of the fundamental principles of the State.
A democratic system governed by the rule of law, which is essential for guaranteeing justice and equality before the law.
In democratic societies, judges are expected to act neutrally, basing their decisions on...
decisions in the Constitution and legal norms, without influence from political interests or
ideological.

Given this scenario, the following problem arises: How does political polarization affect political polarization?
Could this compromise the real or perceived impartiality of the Judiciary? This question reveals itself.
This is relevant because the legitimacy of judicial decisions depends, to a large extent, on trust.
that society places its trust in the independence and neutrality of the institutions responsible for
application of the law.

This article is published in open access under the Creative Commons Attribution license, which permits unrestricted use, distribution, and reproduction in any medium, provided the original work is properly cited.

Machine Translated by Google
RCMOS – Multidisciplinary Scientific Journal The Knowledge.
ISSN: 2675-9128. São Paulo-SP.

Year VII, v.1 2026 | Submission: April 25, 2026 | Accepted: April 28, 2026 | Publication: May 1, 2026

The overall objective is to analyze the impartiality of the Judiciary in contexts of polarization. politics, investigating its impact on institutional credibility and public trust in the justice system. Specific objectives were defined, among which the following stand out: to examine how polarization Politics interferes with the perception of judicial impartiality; identifying the effects of the loss of The credibility of the Judiciary in public trust; and to evaluate proposals and mechanisms for strengthening it. of impartiality and transparency in judicial proceedings.

The rationale for this research is based on the social, scientific, and academic relevance of... The topic. The Judiciary represents one of the pillars of the Democratic Rule of Law, being responsible for ensuring justice and protecting fundamental rights. However, in contexts In the context of political polarization, judicial neutrality can be questioned by different sectors of the... society, which contributes to the weakening of public trust in institutions and to the The emergence of debates regarding the legitimacy of judicial decisions.

In terms of methodology, the research is characterized by a qualitative approach. Based on a literature review. The study was developed from the analysis of works. Doctrinal texts, scientific articles, case law, and institutional documents that address the performance of the Judiciary, the judicialization of politics, and the principle of judicial impartiality. This Analysis allows us to understand how the principles of independence, neutrality, and impartiality They manifest themselves in judicial practice and how they influence the legitimacy of judicial decisions.

Thus, the study seeks to contribute to the understanding of the challenges faced by The Judiciary in contexts of political polarization, highlighting the importance of impartiality. judicial measures to maintain institutional credibility and strengthen social trust. in court.

2 METHODOLOGY

This research is characterized as qualitative, exploratory, and descriptive in nature. with a focus on a critical understanding of judicial impartiality in a democratic state governed by the rule of law. The procedure adopted consisted of a literature review, through analysis of doctrinal works, Scientific articles, case law, and institutional documents relevant to the topic. The instruments The research involved the selection, reading, and systematization of academic and legal content. relevant, prioritizing recent productions that align with the problem being investigated.

The approach used was deductive, starting from constitutional principles. such as impartiality, independence, and due process, to examine their concrete application. In a complementary way, the dialectical method was employed, allowing for the analysis of the tensions between

This article is published in open access under the Creative Commons Attribution license, which permits unrestricted use, distribution, and reproduction in any medium, provided the original work is properly cited.

Machine Translated by Google
RCMOS – Multidisciplinary Scientific Journal The Knowledge.
ISSN: 2675-9128. São Paulo-SP.

Year VII, v.1 2026 | Submission: April 25, 2026 | Accepted: April 28, 2026 | Publication: May 1, 2026

judicial neutrality and socio-political pressures. The data analysis was carried out through
Critical and comparative interpretation of sources, seeking to identify convergences and divergences.
Theoretical aspects were also considered. The influence of political polarization on the social perception of justice was also taken into account.

3. RESULTS AND DISCUSSION

3.1 Judicial impartiality in times of political polarization

In a democratic context, the Judiciary also exercises a counter-majoritarian function.
by protecting fundamental rights even when these are threatened by the will of the majority.
This action reinforces the supremacy of the Constitution and the protection of human dignity.
According to Barroso (2020), this role is indispensable for preserving democratic balance.
However, when there is an excessive judicialization of political issues, criticism may arise.
Regarding the legitimacy of this action, Streck (2022, p. 54) argues that the Judiciary should adopt
a stance of interpretative restraint to avoid encroaching on the proper political sphere. Thus,
Their actions must be guided by institutional responsibility and respect for the principle of separation.
of powers.

However, in contexts of heightened political polarization, this impartiality becomes...
frequently contested, both in the content of the decisions rendered and in the manner in which they are made.
interpreted by public opinion. In this sense, as Luís Roberto Barroso points out (2021, p.
67), the legitimacy of constitutional jurisdiction is directly linked to the level of trust that
Society places its trust in the neutrality of judicial decisions.

Several structuring principles of the judicial process contribute to ensuring this.
impartiality, including the right to a natural judge, due process of law, the right to a fair hearing, and the right to a full defense.
These guarantees function as mechanisms that limit state power and prevent practices.
arbitrary. In this sense, Marinoni (2021, p. 33) states that these principles support the
legitimacy of decisions and prevent abuses by the State-judge. Furthermore, the reasoning
The decisions represent an indispensable element for transparency and social control of
jurisdictional activity. Didier Jr. (2022, p. 76) highlights that a consistent and well-founded motivation
A structured system is essential to strengthen public trust in the justice system. Therefore,
These elements act as institutional barriers against potential interference of a political nature.
political or ideological.

The intensification of political polarization, especially driven by social media and
The widespread circulation of ideological discourses contributes to an environment in which decisions

This article is published in open access under the Creative Commons Attribution license, which permits unrestricted use, distribution, and reproduction in any medium, provided the original work is properly cited.

Machine Translated by Google
RCMOS – Multidisciplinary Scientific Journal The Knowledge.
ISSN: 2675-9128. São Paulo-SP.

Year VII, v.1 2026 | Submission: April 25, 2026 | Accepted: April 28, 2026 | Publication: May 1, 2026

Judicial decisions are now being evaluated not based on their legal basis, but on their potential implications.
political affiliations attributed to judges or the electoral consequences of such decisions.
According to Lenio Streck (2020, p. 43), this perspective reduces the role of jurisdiction and compromises the very...
The concept of justice, because the judge should not be transformed into a political agent, at the risk of converting
Law as an instrument of ideological dispute.

Some episodes of great repercussion on the national scene, such as the processes
related to Operation Lava Jato and certain decisions of the Supreme Federal Court in
Electoral matters, contributed to intensifying the public debate about judicial impartiality.
Arantes (2020) observes that such events highlighted the independence of
The judiciary facing pressure from public opinion and the media. The sensationalization of trials and the
Extensive media coverage has broadened the perception of the politicization of the justice system. According to Kerche
(2021), this context weakens trust in institutions and strengthens discourses that question the
legitimacy of the judicial system. Thus, these cases have become important references in
Contemporary discussion on judicial neutrality.

The politicization of the judiciary occurs when decisions that should be strictly technical are made.
They become associated with ideological or partisan positions. Streck (2022, p. 67) emphasizes
This phenomenon undermines institutional credibility, as it raises doubts about neutrality.
of the judge. Furthermore, the pursuit of political prominence by magistrates represents a
risk to the counter-majoritarian function of the Judiciary. Mendes (2021) argues that the judge must
to remain faithful to the Constitution and legal norms, avoiding any connection with vested interests.
partisans. When politicization intensifies, the democratic legitimacy of judicial decisions is
Weakened, and public trust in the justice system tends to decrease.

To preserve the integrity of the judicial system, there are several institutional mechanisms.
control and oversight mechanisms, such as the actions of the National Council of Justice (CNJ), and inspections.
administrative and the guarantees inherent to the judiciary. Silva (2021, p. 82) points out that these
These instruments are fundamental to strengthening public trust and preventing potential abuses.
power. Furthermore, norms such as the 2015 Code of Civil Procedure and the Organic Law of
The National Judiciary Law (LOMAN) establishes clear rules regarding disqualification and recusal of
magistrates. Barcellos (2020, p. 67) highlights that such devices function as instruments of
protection of judicial independence, safeguarding the magistrate from internal and external pressures and
ensuring greater institutional security for decisions.

In contemporary theoretical debate, different perspectives seek to explain the role of
Judiciary in a Democratic State of Law. Barroso (2020) points out three main positions: a
The defense of absolute neutrality, the idea of institutional engagement, and the perspective of transparency.

This article is published in open access under the Creative Commons Attribution license, which permits unrestricted use, distribution, and reproduction in any medium, provided the original work is properly cited.

Machine Translated by Google
RCMOS - Multidisciplinary Scientific Journal The Knowledge.
ISSN: 2675-9128. São Paulo-SP.

Year VII, v.1 2026 | Submission: April 25, 2026 | Accepted: April 28, 2026 | Publication: May 1, 2026

judicial. Absolute neutrality seeks to preserve the complete impartiality of the judge, removing ideological influences. Institutional engagement, in turn, argues that the Judiciary should to act more actively in protecting fundamental rights. Judicial transparency, on the other hand, seeks to... to reconcile these positions, promoting transparency, legitimacy, and social trust in decisions. judicial.

In the recent Brazilian scenario, relevant decisions were issued by the Supreme Federal Court. In matters of great political impact, especially in the criminal and electoral spheres, they have become... to be interpreted by certain sectors of society as manifestations of alignment partisan. This perception contributes to the weakening of institutional credibility. Sarlet (2022, p. 76) warns that the politicization of justice can compromise democratic stability and To reduce the perception of the Judiciary's neutrality in the eyes of society.

Another relevant element in this context is the influence of the media in image construction. Public scrutiny of the Judiciary. The intense journalistic coverage of trials and demonstrations. Public posts by judges on social media increase the visibility of judicial decisions, but also criticism and political interpretations intensify. Mendes (2021, p. 79) observes that the exposure An excessive number of judges in the public sphere can undermine the perception of impartiality, reinforcing the The idea of political engagement on the part of judges.

3.2 Judicial Impartiality as a Guarantee of Due Process of Law

Impartiality is one of the central foundations of due process. ensuring that the judge acts as a neutral third party in resolving conflicts submitted to the Judiciary. Judiciary. This neutrality ensures that judicial decisions are made based on... exclusively based on the Constitution, the laws, and the evidence presented in the proceedings, without influence from personal interests, external pressures, or ideological preferences. According to Gomes (2019, p. 56), "Judicial impartiality is an indispensable element for the legitimacy of decisions and for trust." "Social in the justice system." In this way, the impartial performance of the magistrate not only guarantees the justice in the specific case, but it also strengthens the institutional credibility of the Judiciary before the public. society.

In the contemporary context, however, preserving this neutrality faces several challenges. Challenges. The growing visibility of the Judiciary, driven by intense media coverage. The media coverage of trials and the wide circulation of information on social networks contributes to to broaden public scrutiny of the actions of judges. This phenomenon, although it may Promoting institutional transparency also generates additional pressure on judges, who then...

This article is published in open access under the Creative Commons Attribution license, which permits unrestricted use, distribution, and reproduction in any medium, provided the original work is properly cited.

Machine Translated by Google
RCMOS - Multidisciplinary Scientific Journal The Knowledge.
ISSN: 2675-9128. São Paulo-SP.

Year VII, v.1 2026 | Submission: April 25, 2026 | Accepted: April 28, 2026 | Publication: May 1, 2026

to have their decisions constantly evaluated from political or ideological perspectives.

In this sense, Lima (2022) states that impartiality is not limited to the absence of favoritism or preference, but it involves the magistrate's ability to maintain distance. emotional and cognitive aspects in relation to the interests at stake. This requires not only knowledge Technical expertise is essential, but so is balance, prudence, and ethical awareness in conducting legal proceedings.

Furthermore, the principle of impartiality has strong constitutional support in Brazilian legal system. The Federal Constitution establishes, in its article 5, item XXXVII, the prohibition against the creation of special courts, reaffirming the need for all The trial should be conducted by previously established and independent bodies. According to Lima (2022), this guarantee is directly related to the principle of the natural judge, which ensures that no person is judged by authorities specifically chosen for that purpose. a given case. This constitutional provision strengthens protection against arbitrary actions and It ensures that the judicial process takes place within an environment of legality and fairness.

> Impartiality is also linked to the ethical standards that guide the actions of the judiciary. The Code of Ethics for the Judiciary establishes fundamental duties related to independence, prudence and Integrity of judges, requiring conduct that preserves public trust. in the Judiciary. (Souza, 2020, p. 72).

In this sense, Souza (2020, p. 74) highlights that impartiality must be understood as a judicial virtue, which requires constant vigilance on the part of the magistrate. Such vigilance This implies recognizing the existence of possible external influences, whether political, social, or media influence, and to act consciously to prevent such factors from interfering with decision-making. Thus, impartiality is not a permanent or automatic state, but an ongoing commitment. with justice and constitutional values.

Another relevant aspect concerns the relationship between impartiality and legitimacy. democratic. In democratic systems, society's trust in institutions depends on The perception that public decisions are made in a fair and independent manner. According to Souza (2020), when the Judiciary is seen as impartial, its decisions tend to be more easily accepted by society, even when they do not meet expectations of certain groups.

In societies marked by strong political polarization, this challenge becomes even more significant. complex. The polarized political environment tends to encourage interpretations of judicial decisions that

This article is published in open access under the Creative Commons Attribution license, which permits unrestricted use, distribution, and reproduction in any medium, provided the original work is properly cited.

Machine Translated by Google
RCMOS - Multidisciplinary Scientific Journal The Knowledge.
ISSN: 2675-9128. São Paulo-SP.

Year VII, v.1 2026 | Submission: April 25, 2026 | Accepted: April 28, 2026 | Publication: May 1, 2026

based on ideological preferences or party alignments. In this scenario, Azevedo (2021, p. 112) notes that “the public perception of bias, even if unfounded, has the potential to "To undermine the institutional legitimacy of the Judiciary." This means that public trust in the Justice system is being eroded. It depends not only on the actual impartiality of the judges, but also on how that impartiality is exercised. Impartiality is perceived by the population. Thus, the construction of an institutional image of Neutrality becomes a strategic element for preserving the credibility of the judicial system.

According to Gomes (2019), when a judge acts in a neutral manner, all parties involved In the process, they receive equitable treatment, ensuring that the outcome of the decision is the result of a fair trial. objective analysis of the evidence and legal arguments presented. This commitment to Procedural equality reinforces the role of the Judiciary as a space for the legitimate resolution of conflicts. social issues. Without impartiality, the judicial process would lose its capacity to promote justice and become... It would become an instrument of favoritism or discrimination.

Thus, impartiality is not limited to a technical requirement of the judicial process. But it represents a true democratic imperative. The guarantee of an impartial judge is what It allows the Judiciary to fulfill its constitutional mission of ensuring justice and protecting rights and preserve the balance of power within the State.

3.3 Judicialization of Politics and Judicial Activism

The judicialization of politics, in direct dialogue with judicial activism, is configured as an increasingly common phenomenon in contemporary democracies, marked by expansion the role of the Judiciary in matters traditionally linked to the political field and administrative.

In this context, Barros (2020, p. 97) emphasizes that “judicial activism emerges as a response to the inertia of the other branches of government, but also as a risk of institutional imbalance.” In this way, Judicial action plays a significant role in the formulation of public policies and in the resolution of... conflicts with significant social repercussions.

In Brazil, this phenomenon became more evident after the promulgation of the Constitution. Federal Constitution of 1988, which significantly expanded the catalog of fundamental rights and It strengthened the instruments for access to justice. The new constitutional order established mechanisms. legal mechanisms that enabled greater participation of the Judiciary in the realization of these rights, such as Public civil action, writ of injunction, and direct action of unconstitutionality. How? As a result, the Judiciary has been constantly called upon to decide controversies. involving public policies, social rights, and institutional issues. As Barros points out.

This article is published in open access under the Creative Commons Attribution license, which permits unrestricted use, distribution, and reproduction in any medium, provided the original work is properly cited.

Machine Translated by Google
RCMOS - Multidisciplinary Scientific Journal The Knowledge.
ISSN: 2675-9128. São Paulo-SP.

Year VII, v.1 2026 | Submission: April 25, 2026 | Accepted: April 28, 2026 | Publication: May 1, 2026

(2020, p. 97), this scenario contributed to consolidating judicial protagonism, since “the
Judicial activism emerges as a response to the inertia of the other branches of government, but also as a risk of...
"Institutional imbalance." Thus, the judicialization of politics, associated with judicial activism,
It has become a characteristic feature of the Brazilian constitutional system.

However, the increased protagonism of the judiciary also raises relevant discussions.
Regarding the limits of the Judiciary's role in a democratic state governed by the rule of law. The distinction between
The difference between legitimate judicialization and excessive judicial activism is a recurring theme among legal scholars.
and scholars of constitutional law. For Lima (2024, p. 45), when the Judiciary oversteps its bounds
The function of interpreting and applying legal norms takes over, replacing the legislator in the drafting of...
In public policies, the principle of separation of powers may be compromised.
From this perspective, judicial intervention in political matters should be analyzed with caution, in order to
to avoid the undue concentration of powers that belong to other democratic bodies.

Despite these concerns, some authors defend the legitimacy of a more...
The role of the Judiciary in certain situations, especially in the face of omission or inefficiency of...
other state powers. Gomes (2019) argues that judicial activism can be justified when
The Legislative Branch fails to fulfill its role in realizing fundamental rights.
as provided for in the Constitution. In these cases, judicial action would function as a mechanism of
protection of the constitutional order and guarantee of citizens' rights. Even so, the author
emphasizes that such action must occur responsibly and within limits, observing the parameters.
constitutional principles and the institutional limits of the judicial function.

Another element that contributes to strengthening the judicial protagonism is the increase
of the social trust placed in the Judiciary. In many societies, the courts are
perceived as more stable and reliable institutions compared to other branches of government.
politicians, which encourages the judicialization of conflicts. In this context, Souza (2022, p. 28) highlights
that judicial protagonism is influenced by social trust in the Judiciary, leading many
judges to see themselves as agents responsible for promoting social justice.
Perception can stimulate more active participation in protecting fundamental rights and reducing [relevant issues].
of social inequalities.

However, this stance can also produce problematic effects when it goes beyond the...
The institutional limits of the Judiciary. By assuming an excessively active role in defining
In matters of public policy or in conducting political debates, the Judiciary can be accused of interfering.
the sphere of competence of the other branches of government. According to Souza (2022, p. 28), this tendency may
to generate crises of institutional legitimacy, especially when judicial decisions become
interpreted as manifestations of a political nature. In this scenario, the risk increases that the

This article is published in open access under the Creative Commons Attribution license, which permits unrestricted use, distribution, and reproduction in any medium, provided the original work is properly cited.

Machine Translated by Google
RCMOS – Multidisciplinary Scientific Journal The Knowledge.
ISSN: 2675-9128. São Paulo-SP.

Year VII, v.1 2026 | Submission: April 25, 2026 | Accepted: April 28, 2026 | Publication: May 1, 2026

The judiciary should cease to be seen as an impartial arbiter and instead be perceived as a participant in... political disputes.

According to Azevedo (2021, p. 119), “the judicialization of politics, in conjunction with the Judicial activism must therefore be analyzed in a critical and balanced manner, considering both "Their contributions as well as their potential negative impacts on democracy." On the one hand, the Judicial action can promote the protection of fundamental rights and remedy state omissions. On the other hand, the excessive expansion of judicial protagonism can compromise the balance between to gain power and weaken other democratic institutions.

3.4 Judicial Independence and Democratic Control in the Constitutional State

Judicial independence is widely recognized as one of the central foundations of A democratic state governed by the rule of law, as it guarantees that judges can perform their duties with... autonomy and freedom of decision-making, without suffering external pressures or undue interference from of a political or economic nature. As Barros (2021, p. 102) points out, “independence cannot to be confused with isolation; judges must be accountable to society without compromising their "decision-making autonomy".

In the context of contemporary democracies, the independence of the judiciary needs to be... reconciled with institutional mechanisms of control and public accountability. The Power The judiciary performs functions of great social importance, frequently deciding issues that... They involve fundamental rights, public policies, and institutional conflicts between the branches of government. State. Therefore, the actions of judges require not only autonomy, but also institutional responsibility. Gomes (2020, p. 86) argues that judicial independence must be balanced with accountability mechanisms, especially in situations involving judicial decisions. They produce significant impacts on the organization of the State and on the formulation of public policies.

Another important aspect in this debate is the role of transparency as an instrument of Strengthening the legitimacy of the Judiciary. In democratic societies, public institutions They must act in an open and accessible manner, allowing society to understand and follow their actions. decisions and procedures. Transparency, in this sense, contributes to increasing social trust. in the justice system and strengthen the institutional credibility of the Judiciary. Souza (2022) It emphasizes that transparency and social control do not represent threats to judicial independence. but rather fundamental conditions for consolidating its legitimacy before society.

Accountability refers to the need for public institutions to be accountable for their actions. their actions, allowing for evaluation and control by society and institutional structures.

This article is published in open access under the Creative Commons Attribution license, which permits unrestricted use, distribution, and reproduction in any medium, provided the original work is properly cited.

Machine Translated by Google
IRCMOS – Multidisciplinary Scientific Journal The Knowledge.
ISSN: 2675-9128. São Paulo-SP.

Year VII, v.1 2026 | Submission: April 25, 2026 | Accepted: April 28, 2026 | Publication: May 1, 2026

competent. In the case of the Judiciary, the challenge lies in building forms of control that do not compromise the decisional autonomy of magistrates. In this sense, Lima (2023, p. 57) emphasizes Countries like Brazil face the challenge of developing models of judicial accountability. capable of guaranteeing public trust, without allowing undue political interference in decisions. of the judges.

From this perspective, the existence of clear ethical standards and institutional oversight mechanisms becomes fundamental to ensuring the integrity of judicial action. Bodies such as Inspectorates, judicial councils, and disciplinary bodies play an important role in Supervision of the conduct of magistrates and promotion of good institutional practices. According to As Azevedo (2020, p. 91) observes, “judicial independence must be accompanied by ethical standards.” "Clear and auditable, capable of demonstrating impartiality and functional integrity."

Another relevant point concerns the necessary balance between decisional autonomy and Public responsibility in the exercise of the judicial function. Judicial independence must be understood as the freedom to interpret and apply the law in accordance with the Constitution and the current legal norms, but always accompanied by adequate justification and respect for... democratic values. In this context, Barros (2021, p. 102) emphasizes that accountability to Society does not weaken judicial independence, but contributes to strengthening the legitimacy of... decisions rendered by judges.

When society realizes that the Judiciary acts independently, ethically and Transparency increases acceptance of judicial decisions and strengthens the role of the Judiciary as guardian of the Constitution. In this sense, Gomes (2020, p. 86) states that judicial independence It must always be associated with mechanisms of institutional accountability, because only in this way is... It is possible to ensure that the actions of judges remain aligned with democratic values and with... public interest.

3.5 The role of the Electoral Court and the preservation of impartiality in scenarios of political polarization

The Brazilian Electoral Court plays a central role in guaranteeing the legitimacy of the process. democratic, especially in contexts of strong political polarization. Its institutional function. It involves not only organizing elections, but also overseeing their regularity. campaigns, the trial of electoral offenses, and the guarantee of equal conditions among the candidates. In this context, judicial impartiality becomes an essential requirement to ensure the Public trust in institutions is compromised, as any perception of bias can undermine it.

This article is published in open access under the Creative Commons Attribution license, which permits unrestricted use, distribution, and reproduction in any medium, provided the original work is properly cited.

Machine Translated by Google
RCMOS – Multidisciplinary Scientific Journal The Knowledge.
ISSN: 2675-9128. São Paulo-SP.

Year VII, v.1 2026 | Submission: April 25, 2026 | Accepted: April 28, 2026 | Publication: May 1, 2026

To undermine the credibility of the electoral system and weaken the legitimacy of election results. (Goltzman; Ramos Neto, 2023) .

In recent years, the Brazilian political environment has become marked by strong polarization. ideological, which intensified the debate about the role of judicial institutions in the process. electoral. Amid intense political disputes, decisions handed down by bodies such as the Electoral Court. The Superior Electoral Court (TSE) and the Supreme Federal Court have been frequently interpreted from a partisan perspective by certain sectors of society. This phenomenon demonstrates that, in polarized contexts, even legally sound decisions can be perceived as politically motivated, which represents a significant challenge for maintaining the judicial impartiality and institutional trust (Ponsi, 2024).

Furthermore, the judicialization of electoral politics has broadened the scope of the Judiciary's role. in matters that were previously resolved predominantly in the political sphere. The growing The reliance on judicial decisions to resolve electoral disputes reinforces the need for Strict criteria for neutrality and justification of decisions. When the Judiciary assumes a A more active role in resolving political conflicts makes it even more necessary to demonstrate... Transparency, decisional consistency, and respect for the constitutional principles that guide the process. democratic (Mascarenhas, 2023).

In this scenario, the Supreme Federal Court also plays a relevant role by acting as guardian of the Constitution and final instance for reviewing decisions related to the process electoral. Although the Electoral Court has institutional autonomy, several controversies involving electoral rules, campaign financing, and freedom of expression in contexts Electoral matters end up being analyzed by the Supreme Federal Court. This action reinforces the importance of preserving the The image of neutrality of the Court is problematic, since its intervention can directly influence the balance. between political actors and the public perception of electoral justice (Luiz, 2023).

Another relevant aspect concerns the impact of misinformation and denialism. Electoral discourse on trust in democratic institutions. Narratives that question, without Fundamentally, the legitimacy of elections can generate political instability and reduce confidence. social issues within the Electoral Justice system. In this context, the Judiciary faces the challenge of combating practices that compromise the integrity of the electoral process, while at the same time preserving the fundamental rights and avoid interventions that could be interpreted as undue restrictions. to political freedom (Fachin, 2021).

Therefore, maintaining the impartiality of the Electoral Court is an essential element. indispensable for democratic stability. In a political environment marked by polarization and In narrative disputes, the legitimacy of judicial decisions depends not only on their correctness.

This article is published in open access under the Creative Commons Attribution license, which permits unrestricted use, distribution, and reproduction in any medium, provided the original work is properly cited.

Machine Translated by Google
RCMOS – Multidisciplinary Scientific Journal The Knowledge.
ISSN: 2675-9128. São Paulo-SP.

Year VII, v.1 2026 | Submission: April 25, 2026 | Accepted: April 28, 2026 | Publication: May 1, 2026

legal, but also the capacity of institutions to demonstrate independence, transparency and commitment to constitutional principles. Only through this institutional stance will it be It is possible to preserve public confidence in the electoral system and guarantee the continuity of the regime. democratic (Goltzman; Ramos Neto, 2023).

The publicity of procedural acts, the clear justification of decisions, and access to Institutional information allows citizens to better understand how things work. judicial system. Souza (2022) emphasizes that social control and transparency contribute to Strengthening the democratic legitimacy of the Judiciary, as it allows society to monitor the... Analyze the performance of judges and assess the consistency of their decisions.

Despite these criticisms, it is important to recognize that, in periods of institutional crisis, the The judiciary often plays a prominent role in protecting fundamental rights and in preservation of democratic rules. Lopes Jr. (2020, p. 87) warns, however, that this The leading role must be exercised with caution and balance, to avoid judicial action exceed its constitutional limits and encroach upon the proper sphere of the Legislative Branch.

In this sense, judicial impartiality must be understood not only as a formal legal principle provided for in article 5, item XXXVII, of the Federal Constitution, but also as an essential element for building social trust in institutions.

3.6 Judicialization of electoral disputes and its impacts on institutional credibility of Judiciary

The judicialization of political and electoral disputes is a growing phenomenon in contemporary democracies, especially in contexts of high political polarization. In In Brazil, this trend has intensified in recent decades, leading the Judiciary to assume... an increasingly important role in defining electoral rules and resolving conflicts between political actors. Although this process may strengthen the protection of fundamental rights, it also This raises questions about the limits of judicial action and the risks of politicizing decisions. judicial (Mascarenhas, 2023).

In the field of Electoral Law, judicialization occurs when political or electoral disputes... disputes are now predominantly resolved by courts, rather than through other means. of traditional political mechanisms. This phenomenon can be observed in topics such as Campaign financing, electoral propaganda, ineligibilities, and control of disinformation. during elections. Although judicial action is necessary to ensure compliance with

This article is published in open access under the Creative Commons Attribution license, which permits unrestricted use, distribution, and reproduction in any medium, provided the original work is properly cited.

Machine Translated by Google
RCMOS - Multidisciplinary Scientific Journal The Knowledge.
ISSN: 2675-9128. São Paulo-SP.

Year VII, v.1 2026 | Submission: April 25, 2026 | Accepted: April 28, 2026 | Publication: May 1, 2026

Regarding electoral legislation, increased judicial intervention can generate perceptions of interference.
excessive in the political process, especially during periods of strong ideological polarization.
(Goltzman; Ramos Neto, 2023) .

In this context, the Supreme Federal Court has frequently been called upon to decide.
Relevant electoral issues, which reinforces its leading role in the political and institutional landscape. A
The expansion of the Supreme Federal Court's role stems, to a large extent, from the constitutionalization of electoral law.
and the possibility of judicial review of the constitutionality of norms and decisions related to
electoral process. However, this action also exposes the Court to criticism and narrative disputes.
which can affect public perception of their neutrality and independence (Ponsi, 2024).

Political polarization intensifies this phenomenon by turning judicial decisions into objects of discussion.
of symbolic disputes between political groups. In highly polarized contexts, decisions
judicial decisions cease to be analyzed exclusively under legal criteria and begin to be interpreted.
as favoritism towards a particular political group. This process contributes to the erosion of
institutional trust and the construction of narratives that question the legitimacy of
judicial institutions, especially when their decisions directly impact the outcome or the
Election rules (JusBrasil, 2025).

Another relevant factor concerns the need for institutional mechanisms that reinforce
The transparency and accountability of the Judiciary. In constitutional democracies, the
Judicial independence must coexist with forms of democratic control and accountability.
Institutional. The adoption of clear parameters for judicial action and the justification of decisions.
It contributes to reducing perceptions of arbitrariness and strengthening public trust in institutions.
those responsible for conducting the electoral process (Dinis, 2025).

Given this scenario, it becomes essential to balance the necessary role of the Judiciary in
Protection of electoral legality while respecting the autonomy of the political process. The preservation of
Judicial impartiality and institutional credibility depend on the ability of the courts to maintain
decisions that are legally sound, transparent, and consistent with constitutional principles.
Only in this way will it be possible to ensure that the judicialization of politics does not compromise the
legitimacy of the democratic process nor social trust in the justice system (Ponsi, 2024).

The debate about the impartiality of the Judiciary proves to be fundamental to the
Consolidation of the Democratic Rule of Law. The credibility of judicial decisions is...
directly linked to public trust in the neutrality of judges.

Democratic control should not be seen as an obstacle to judicial independence, but
as a necessary element for its preservation and strengthening. The coexistence between
Institutional autonomy and responsibility ensures that the Judiciary can exercise its functions.

This article is published in open access under the Creative Commons Attribution license, which permits unrestricted use, distribution, and reproduction in any medium, provided the original work is properly cited.

Machine Translated by Google
RCMOS – Multidisciplinary Scientific Journal The Knowledge.
ISSN: 2675-9128. São Paulo-SP.

Year VII, v.1 2026 | Submission: April 25, 2026 | Accepted: April 28, 2026 | Publication: May 1, 2026

functions with decision-making freedom, but always committed to constitutional values and with public morality. As Azevedo (2020, p. 91) points out, the presence of clear ethical standards and oversight mechanisms strengthen the functional integrity of magistrates and contribute to To consolidate public trust in the justice system.

The legitimacy of the justice system depends on the public perception that the magistrates They act independently, guided exclusively by the Constitution and the laws, without ties. with specific political or ideological interests.

CONCLUSION

The analysis developed throughout this study allowed for a more comprehensive understanding. the role of judicial impartiality in contexts marked by intense... Political polarization. In constitutional democracies, judicial neutrality is one of the... essential pillars for maintaining the legitimacy of institutions and for guaranteeing balance. between the powers of the State. When society finds itself divided by ideological disputes and In heightened political conflicts, the role of the Judiciary becomes even more sensitive, as its decisions can be interpreted not only from a legal perspective, but also from... political and social perspectives.

In this scenario, preserving judicial impartiality proves fundamental to To ensure society's trust in the institutions responsible for enforcing the law. The credibility of the Judiciary depends directly on the public perception that its decisions... They are based on objective legal criteria, guided by the Constitution and the laws, and not based on political preferences or circumstantial interests.

In the context of Electoral Law, this discussion takes on even greater relevance, since... The Electoral Court plays a central role in the organization, oversight, and legitimization of elections. electoral processes. In periods of intense political polarization, the decisions made by bodies such as the Superior Electoral Court and, in certain situations, the Supreme Federal Court, They begin to have a direct impact on the stability of the democratic process.

Throughout the research, it was possible to identify that the judicialization of political conflicts and Electoral bias represents a growing phenomenon in contemporary democracies. Although this Judicial intervention is necessary to guarantee compliance with the constitutional order and the In addition to protecting electoral rules, it also requires institutional caution in order to avoid perceptions of Excessive interference in the political process.

This article is published in open access under the Creative Commons Attribution license, which permits unrestricted use, distribution, and reproduction in any medium, provided the original work is properly cited.

Machine Translated by Google

Year VII, v.1 2026 | Submission: April 25, 2026 | Accepted: April 28, 2026 | Publication: May 1, 2026

In light of these reflections, it can be stated that the present study achieved its objective by... to analyze the impacts of political polarization on the impartiality of the Judiciary and its consequences for institutional credibility and public trust in the justice system. The research It demonstrated that preserving judicial neutrality is an indispensable element for stability. democratic and for the proper functioning of the institutions responsible for conducting the electoral process.

This work makes a significant academic and legal contribution by offering an analysis. A critique of the relationship between political polarization, the judicialization of politics, and the role of the judiciary. in the electoral context. By integrating perspectives from Constitutional Law and Electoral Law, the This study contributes to broadening the legal understanding of the challenges faced by the Judiciary. The Judiciary in Contemporary Times.

REFERENCES

ARANTES, Rogério Bastos. **Judiciary and politics in Brazil.** São Paulo: Editora Unesp, 2020. Available at in: https://www.academia.edu/RegisterToDownload/academicWelcomeFlow/Welcome?auto=downlo ad. Accessed on: September 8, 2025.

AZEVEDO, Mariana L. **The public ethics of judges and institutional self-control.** Rio de Janeiro: Forense, 2022.

AZEVEDO, Mariana L. **Judiciary and Democracy:** challenges of impartiality in polarized contexts. São Paulo: Atlas, 2021.

BARCELLOS, Ana Paula de. **The Open Constitution and Fundamental Rights.** Rio de Janeiro: Lumen Juris, 2020.

BARROS, Luiz R. **Independence and judicial accountability:** democratic dilemmas. São Paulo: Saraiva, 2021.

BARROS, Luiz R. **Judicialization and judicial activism in contemporary Brazil.** Belo Horizonte: Del Rey, 2019.

BARROSO, Luís Roberto. **The dignity of the human person in contemporary constitutional law.** São Paulo: Saraiva, 2020. Available at: https://luisrobertobarroso.com.br/wp-content/uploads/2016/06/Dignidade_texto-base_11dez2010.pdf. Accessed on: March 9, 2026.

BARROSO, Luís Roberto. **Course on Contemporary Constitutional Law:** the fundamental concepts and the construction of the new model. 9th ed. São Paulo: Saraiva, 2022. Available at: https://siacrid.com.br/repositorio/2020/direito-constitucional-contemporaneo-i.pdf. Accessed on: August 30, 2025.

CANOTILHO, José Joaquim Gomes. **Constitutional Law and Theory of the Constitution.** 8th ed.

This article is published in open access under the Creative Commons Attribution license, which permits unrestricted use, distribution, and reproduction in any medium, provided the original work is properly cited.

Machine Translated by Google

Year VII, v.1 2026 | Submission: April 25, 2026 | Accepted: April 28, 2026 | Publication: May 1, 2026

Coimbra: Almedina, 2021.

CARVALHO, Salo de. Precautionary measures and fundamental guarantees: critical reflections. **Brazilian Journal of Criminal Sciences, v. 30, n. 176, p. 215-238,** 2022. Available at: https://sisbib.emnuvens.com.br/direitosegarantias/issue/view/55. Accessed on: February 29, 2026.

CNJ. National Council of Justice. **Judiciary study details the impact of litigation against the Public Sector and proposes solutions.** Available at: https://www.cnj.jus.br/estudo-do-judiciario-detalha-impacto-da-litigancia-contra-o-poder-publico-e-propoe-solucoes/. Accessed on: March 5, 2026.

COUTINHO, Jacinto Nelson de Miranda. **Judicialization and democracy.** Curitiba: Juruá, 2022.

DIDIER JR., Fredie. **Course on civil procedural law.** 21st ed. Salvador: JusPodivm, 2022.

DINIS, Melillo. Code of conduct returns to debate and exposes ethical issues at the Supreme Court. **Correio Braziliense,** in: 2025. Available at https://www.correiobraziliense.com.br/direito-e-justica/2025/12/7311333-codigo-de-conduta-volta-ao-debate-e-expoe-questoes-de-etica-no-stf.html. Accessed on: March 13, 2026.

GOMES, Ricardo A. **Judicial impartiality as a democratic guarantee.** Brasília: Editora Universa, 2019.

GOMES, Ricardo A. **Judicial virtues and institutional ethics.** Rio de Janeiro: Lumen Juris, 2020.

GOLTZMAN, Elder Maia; RAMOS NETO, Newton Pereira. Judicial activism and Electoral Justice in its non-judicial functions: a critical analysis. **Revista Direito GV,** 2023. Available at: https://periodicos.fgv.br/revdireitogv/article/view/89830. Accessed on: March 13, 2026.

GRECO, Rogério. **Course on Criminal Law:** General Part. 23rd ed. Rio de Janeiro: Forense, 2023.

JUSBRASIL. From technical constitutionalism to political activism: the transformation of the STF (2000-2025). 2025. **JusBrasil,** Available at: https://www.jusbrasil.com.br/artigos/do-constitucionalismo-tecnico-ao-ativismo-politico-a-transformacao-do-stf-2000-2025/4270801080. Accessed on: March 13, 2026.

LIMA, Carlos E. **Impartiality and legitimacy of the judiciary.** Curitiba: Juruá, 2022.

LIMA, Carlos E. **Judicialization and separation of powers in the 1988 Constitution.** Recife: UFPE, 2023.

LIMA, Renato Brasileiro de. **Manual of Criminal Procedure:** single volume. 10th ed. Salvador: JusPodivm, 2022.

LOMAN. **Organic Law of the National Judiciary. Brasília:** Federal Senate, 1979.

LOPES JR., Aury. **Criminal Procedural Law.** 19th ed. São Paulo: Saraiva, 2022.

LUIZ, Alexia Geovana Ribeiro. Critical analysis of the performance of the Supreme Federal Court in light of judicial impartiality. **Jus Navigandi,** 2023. Available at: https://jus.com.br/artigos/107349. Accessed on: March 13, 2026.

This article is published in open access under the Creative Commons Attribution license, which permits unrestricted use, distribution, and reproduction in any medium, provided the original work is properly cited.

Machine Translated by Google

Year VII, v.1 2026 | Submission: April 25, 2026 | Accepted: April 28, 2026 | Publication: May 1, 2026

MASCARENHAS, Caio Gama. The structural self-restraint of the Judiciary: legitimacy and institutional capacities. **Electronic Journal of the Attorney General's Office of the State of Rio de Janeiro,** 2023. Available at https://revistaeletronica.pge.rj.gov.br/index.php/pge/article/view/ in: 358. Accessed on: March 13, 2026.

MENDES, Gilmar Ferreira; BRANCO, Paulo Gustavo Gonet. **Course on Constitutional Law.** 15th ed. São Paulo: Saraiva, 2021.

NUCCI, Guilherme de Souza. **Annotated Code of Criminal Procedure.** 18th ed. Rio de Janeiro: Forense, 2023.

PONSI, Gastão Bertim. **The counter-majoritarian function of the Supreme Federal Court in the current legislative context.** Jus.com.br, https://jus.com.br/ **Brazilian** 2024. Available in: artigos/115871. Accessed on: March 13, 2026.

SARLET, Ingo Wolfgang. **The effectiveness of fundamental rights.** 13th ed. Porto Alegre: Livraria do Advogado, 2016.

SARLET, Ingo Wolfgang; MARINONI, Luiz Guilherme; MITIDIERO, Daniel. **Course on Constitutional Law.** 4th ed. São Paulo: RT, 2022.

SOUZA, Fernanda R. **Institutional trust and transparency in the Brazilian Judiciary.** Porto Alegre: Fabris, 2020.

SOUZA, Fernanda R. **Judicial ethics and public accountability.** Salvador: JusPodivm, 2023.

STF. **Supreme Federal Court. AP 2668:** Minister Alexandre de Moraes highlights the independence of the STF and the conduct of a technical and transparent trial. Available at: https://portal.stf.jus.br/noticias/verNoticiaDetalhe.asp?idConteudo=XXXX. Accessed on: February 15, 2026.

STRECK, Lenio Luiz. **Constitutional Jurisdiction and Hermeneutics.** 12th ed. São Paulo: Revista dos Tribunais, Available at https://www.univem.edu.br/storage/arquivos_new/livro_jurisdicao_const_mestrado.pdf. 2018. in: Accessed on: March 8, 2026.

This article is published in open access under the Creative Commons Attribution license, which permits unrestricted use, distribution, and reproduction in any medium, provided the original work is properly cited.