

Law And Technology: Artificial Intelligence Applied To Law In The Delivery Of Judicial Decisions

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Abstract:

The objective of this article is to examine the constitutionality of judicial decisions made using artificial intelligence. In particular, the article considers the potential for this type of technology to contravene the principle of the Natural Judge in the Brazilian legal system. To this end, the methodology is based on a qualitative approach, of an exploratory nature, and is understood as bibliographical. Data was collected from previous studies in articles, theses, dissertations and normative documentation. The conclusion is that the application of artificial intelligence in judicial decisions in Brazil is unconstitutional in light of the principle of the Natural Judge.

Key Word: *Keywords: Constitutionality, Judicial decision, Artificial intelligence, Natural judge.*

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I. Introduction

The main theme of this article is the use of artificial intelligence and its application to judicial decisions in Brazil. The general objective is to analyze the constitutionality of judicial decisions made using artificial intelligence.

In summary, news about the use of artificial intelligence (AI) in the Judiciary has been circulating in Brazil for the last five years, with the Supreme Court's Victor project having been implemented in an attempt to make it more constitutional.

Victor project has been implemented in an attempt to speed up the analysis of cases in the legal system. However, even with the expansion and advancement of technology that can be used in favor of fairer and faster decisions, as already occurs in other countries such as China and the USA, the use of AI in Brazil is on the agenda for discussion of unconstitutionality, given that its use affronts the principle of the Natural Judge.

To this end, in addition to the general objective, this article seeks to answer the following research question: can the making of decisions using artificial intelligence violate the principle of the Natural Judge, and therefore be considered an unconstitutional tool? Therefore, the specific objectives are: to describe what is meant by artificial intelligence and the notion of interest; to address the use of artificial intelligence in Brazil in terms of the projects already implemented in the Judiciary; to analyze the application of the Judge as the protagonist of judicial decisions in terms of the concept of the principle of the Natural Judge.

Finally, it is worth mentioning that this study is an exploratory and descriptive research, in which the bibliographic review methodology was based on articles, theses, dissertations and other documents linked to digital platforms.

II. Artificial Intelligence And The Notion Of Interest

At present, the deployment of initiatives designed to integrate and promote the use of artificial intelligence (AI) through decision-making algorithms is becoming increasingly prevalent within the judicial system. These initiatives aim to enhance the efficiency and efficacy of judicial services, while also assisting the judiciary in making more informed decisions. This is being done with a view to addressing the challenges currently facing the judiciary, which have been described as a "crisis." In this way, one of the factors that has precipitated the commencement of this transformative milestone is a phenomenon that has become a defining moment in global history: the international response to the covid-19 pandemic.

Reforms of the courts and judicial processes generally take place at a glacial pace. Not only is the law inherently conservative, but courts are complex systems. The implications of change need to be carefully considered to ensure that relevant protections are maintained and cherished goals promoted. All of this makes the

dizzying transition to 'virtual courts' in response to COVID-19 at once terrifying, thrilling, worrying and exciting. Necessity is forcing changes, especially in the use of remote and online hearings, that were impossible to imagine just a few months ago. The challenge of this transition is to find the right balance in protecting the short- and long-term rights and interests of the parties and the public. Not only can bad practices adopted in emergency conditions be difficult to reverse later, but vital protections can be unnecessarily denied in the coming months (MCINTYRE; OLIJNYK; PENDER, 2020).

The international Covid-19 pandemic has indeed disrupted people's social, economic and professional lives, and this transformation has taken place all over the world:

As with many of our social institutions, the courts were initially unprepared to respond to the emerging crisis. On March 11, 2020, the World Health Organization (WHO) declared a pandemic. In the United Kingdom (UK), the government's initial reluctance to impose social distancing requirements meant that jury trials were still scheduled to begin at a point when more than 300 people had already died as a result of COVID-19 in that country. Faced with mounting pressure, the Lord Chief Justice (the head of the judiciary in England and Wales) eventually made the call on March 23 to 'pause' all jury trials in his jurisdiction. In Australia, by mid-March 2020, most courts were postponing hearings in all but the most urgent cases. Subsequently, most Australian courts began using digital solutions to enable virtual hearings (perhaps better described as emergency remote hearings). Even the Supreme Court has adapted: *Cumberland v The Queen* was the first case to be heard entirely electronically. While there have been many challenges, the speed with which the judiciary and the profession have managed to adapt to the all-digital landscape is impressive. There is already High Court jurisprudence on when it is appropriate to hold virtual hearings, and the Judicial College of Victoria is usefully collating emerging jurisprudence and judicial institutional responses to the pandemic (OLIVEIRA, 2021).

In addition to the aforementioned external factor, the Brazilian Judiciary is also affected by a number of internal factors. These include administrative, economic and political issues. As a result, it is clear that the Brazilian Judiciary has been the subject of numerous criticisms. These include concerns about the slow pace of proceedings, legal uncertainty, failures in the delivery of justice and, as a background factor, the broad discretionary powers of judges in a post-positivist context.

It is possible that the issue of the Brazilian Judiciary is only visible when examining the most visible aspect, namely the procedural slowness evidenced by the exponential growth in the congestion rate of the Brazilian Judiciary.

There are many causes of this problem: growth in the number of lawsuits filed - the result of the socio-economic crisis, exacerbated in the last year by the pandemic the gradual and significant reduction in the number of judges and civil servants, the abundance of appeals provided for in the legislation, the excess of repetitive demands, the lack of a conciliatory culture and instruments that encourage the out-of-court resolution of small or low-complexity conflicts, among others (OLIVEIRA, 2021).

The sheer volume of court cases is evidenced by the Judiciary's statistics, as can be seen in the 2020 Justice in Numbers Report, which provides detailed information on the procedural flow in the Brazilian justice system collected in 2019, including case processing times, performance and productivity indicators, statistics by area of law, as well as figures on expenses, collections, structure and human resources.

The Judiciary ended 2019 with 77.1 million pending cases awaiting a definitive solution. This figure represents a reduction in the procedural stock, compared to 2018, of approximately 1.5 million cases in progress, the largest drop in the entire historical series recorded by the CNJ (National Council of Justice), starting in 2009.

The average productivity of judges was also the highest in the last eleven years. The report points out that, despite the vacancy of 77 judgeships in 2019, there was an increase in the number of cases disposed of and, consequently, an increase in the average productivity of judges by 13%, reaching the highest value in the observed historical series, with an average of 2107 cases disposed of per judge.

On the other hand, the productivity index of the judicial staff grew by 14.1%, which means an average of 22 more cases per server than in 2018. The increase in productivity occurred in a coordinated manner, as it was seen at both levels of jurisdiction. This effort culminated in a congestion rate of 68.5%, the lowest rate seen in the entire historical series (CONSELHO NACIONAL DE JUSTIÇA, 2020, p. 5).

In 2019, only 12.5% of cases were resolved through conciliation. Compared to 2018, there was an increase of only 6.3% in the number of homologatory sentences and settlements, despite the provisions of the new Code of Civil Procedure (CPC), which, in force since 2016, made it mandatory to hold prior conciliation and mediation hearings.

As recorded in this 2020 Justice in Numbers Report, approximately 31.5% of all cases heard by the Judiciary were resolved. In relation to the duration of a case, the 2020 Justice in Numbers Report used three indicators: the average time from the start of the case to the sentence, the average time from the start of the case to the dismissal and the average duration of cases that were still pending on 12/31/2019. And as an average, the following duration ranges are concentrated in the time of the pending case, specifically in the execution phase of

the Federal Court (7 years and 8 months) and the State Court (6 years and 9 months) (CONSELHO NACIONAL DE JUSTIÇA, 2020, p. 168).

Currently, many of the processes associated with the Judiciary are already in electronic form or are in the process of being transmuted to digitalized form, but judgement still continues to be made personally by the judging body and Irineu Mariani notes that the problem is greater since there is no point in increasing the bottleneck if there is a bottleneck in the decision phase resulting from the provision of judicial services.

It is clear that the increase in judicial services in its various areas through the use of artificial intelligence is something that cannot be introduced with just a single objective, since it is essential to have a major discussion on the subject, which already comes with prejudices and established beliefs.

It is important to mention that the Judiciary is moving towards the use of electronic judicial processes and systems, in the latest report provided by the National Council of Justice with data from 2019, there is still a backlog of 27% of cases being processed in physical means (CONSELHO NACIONAL DE JUSTIÇA, 2020, p. 258).

In this vein, with the concern for faster justice in line with the precept of art. 5, item LXXVIII of the Federal Constitution of 1988, the diversification of judgments by algorithms has been considered as a way of speeding up judgments and as a way of limiting the figure of judicial activism, but so far there has been no more detailed analysis of these effects in terms of their legal validity and compliance with constitutional precepts.

Among the numerous solutions being considered is the idea of implementing a system of robot judges in Brazil, something that already exists in several countries, including Brazil, but such an analysis is essential since it is an increasingly close reality.

Although there is still much to be revealed about technological judgments through the use of artificial intelligence, William Gibson provocatively puts forward the premise that "the future has arrived, it's just not evenly distributed yet" (SUSSKIND, 2019).

This uniform distribution is still far from being achieved since, even in a globalized world, economic, political and social inequalities are widespread, which imposes a gradual but inevitable implementation.

The challenges posed to society by technological advances in general, and artificial intelligence in particular, are currently a new challenge with paradigm shifts. First, the effects of the exponential acceleration of the scale of data processing that converge in the optimization of various activities are analyzed, and then the incorporation of these new technologies will necessarily imply the emergence of a new approach to enable their adaptation to a compatible system in various sciences, including.

On this point, it should be noted that asymmetries in development must be accompanied by the need to protect and enforce rights, with which it will be necessary for technological advances to be oriented towards inclusive innovations through an optimized interface system that is attentive to the development of digital links. There is no doubt that, in addition to promoting the positive development of artificial intelligence, there is also concern about the lack of full integration of the concepts of such systems. The current challenge is to think about the necessary principles in the structure of artificial intelligence and their correct application.

With the aforementioned advances in technology, more essential decisions about a person's life are being made automatically by algorithms run by Artificial Intelligence (AI). In theory, these algorithms are programmed to produce a better result, using techniques such as machine learning and deep learning (MARRAFON; MEDON, 2019).

The concept of artificial intelligence began with a seminar proposed by John McCarthy, Marvin Minsky, Nathaniel Rochester and Claude Shannon, which would address the theory of automata, neural networks and the study of intelligence.

We propose that a 2-month, 10-man artificial intelligence study be conducted during the summer of 1956 at Dartmouth College in Hanover, New Hampshire. The study is to proceed on the conjecture that every aspect of learning or any other feature of intelligence can, in principle, be described so accurately that a machine can be made to simulate it. An attempt will be made to discover how to make machines use language, form abstractions and concepts, solve types of problems now reserved for humans and improve themselves. We believe that significant progress can be made on one or more of these problems if a carefully selected group of scientists work together over the course of a summer. The following are some aspects of the problem of artificial intelligence: Automatic Computers, How a Computer Can Be Programmed to Use a Language, Neuron Networks, Theory of the Size of a Computation, Self-Improvement, Abstractions and Randomness, and Creativity. Artificial intelligence is the science of making machines do things that would require intelligence if they were done by men (MCCARTHY, 1995). Our translation.

It is worth noting that this research proposal had the financial support of the Rockefeller Foundation, which paid a salary of R\$1,200.00 (one thousand two hundred reais) to each organizer, except for those who already had financial support from the IBM Corporation (MCCARTHY, 1995).

Thus was coined the now widespread concept of artificial intelligence "the science and engineering of producing intelligent machines and making the machine behave in such a way that it would be called intelligent if it were the behavior of a human being" (MCCARTHY, 1995).

Artificial intelligence began with the "conjecture that every aspect of learning or any other characteristic of intelligence can, in principle, be described so accurately that a machine can be made to simulate it" (...) and has rapidly changed from this vision to great promises for human-level general artificial intelligence within a few decades.

This vision of general artificial intelligence has now become only a long-term guiding idea for most current artificial intelligence research, which focuses on specific scientific and engineering problems and maintains a distance from the cognitive sciences (MCCARTHY, 1995). A small minority believe that the time has come to pursue general artificial intelligence directly as a technical goal with traditional methods - these usually use the label "general artificial intelligence" (JASPER et al., 2012).

The purpose of artificial intelligence (AI) is not to obtain a replica of human intelligence as a whole with all its functions and resources, but rather to reproduce or emulate some specific functions, such as problem-solving skills through inferential procedures, in order to obtain qualitative performance comparable to that of the human mind, but superior from the point of view of quantity and in a considerably shorter time. More than intelligence operations, therefore - which could evoke inappropriate anthropological references - we can speak of rationality operations, which optimize the results of specific operations - which previously could only be carried out by human operators - minimizing execution times and vastly expanding the number of problems analysed and solutions identified in the unit of time (AMIGONI; SCHIAFFONATI; SOMALVICO, 2008).

It could be added that artificial intelligence deals with a very diverse (potentially unlimited) range of research problems, continually expanding the limits of its abilities. It follows that a certain function, which today may seem to be the sole responsibility of human intelligence, could in the future be commonly performed by an artificial intelligence system.

Currently, all systems connected in some way to the Internet network have forms of artificial intelligence connection, from communication systems to social networks, making each citizen's life something "public to whom it may concern", making micro-segmentation possible, as Schiffman and Kanuk (2010) state.

Given the breadth of possible applications of algorithmic decision-making systems, they can produce all kinds of risks that are well known from research into consumer and user behavior, such as functional, physical, social and financial risks. In a broader perspective, one can also include diverse risks, such as violation of property rights, damage to privacy and abuse of market power. However, as the focus is on algorithmic liability, the most worrying risks are those that are directly linked to decision-making and the consequences resulting from it, i.e. given the range of usefulness of the system, the range and scope of possible damages and liabilities are consequently maximized (SCHIFFMAN; KANUK, 2010, p. 80)

When assessing the implications of artificial intelligence for the workforce, it is important to fully understand the transformative power of these new technologies. Moreover, the demand for labor in the ICT (Information and Communication Technology) sector will not remain unchanged. Whereas in the past, creating a new computer program required significant input from computer programmers, machine learning algorithms can now produce computer codes and programs that are more accurate and of better quality than those developed by humans (MEURS; RUDZICZ, 2019). At the same time, maintenance costs can also be reduced and the updating of new software can be drastically reduced. Lower costs mean fewer obstacles to experimenting and exploring the potential of computerizing activities and will stimulate the development of computer systems capable of automating many types of routine workflows, with little or no need for human intervention.

There are eight identifiable key criteria for identifying work activities suitable for automation:

- a) It is possible to build a learning function that associates well defined inputs to equally well defined outputs;
- b) There are relevant and relevant data sets that allow the machine to learn and become more efficient than humans in providing activities;
- c) The activity provides clear feedback with definable precise goals and metrics;
- d) The delivery of the task does not require long chains of logical steps that require excessively diverse basic knowledge;
- e) There is no need to provide a detailed explanation of how the decision was made;
- f) There is a quantifiable margin for error;
- g) The learning function should not change rapidly over time;
- h) Specialized physical skills or team mobility are not required (BRYNJOLFSOSN; MITCHELL, 2017).

One of the great challenges associated with artificial intelligence is the ability to respond interactively with human emotions and feelings. Social interaction robots and cybernetic agents can interact with people and can even show affective states (emotions) (SKILLICORN; ALSADHAN; BILLINGSLEY, 2020). However, they

are still unable to recognize affective states and emotions derived from tone of voice and body language. There are still those emotions that are already conventionalized that robots cannot detect either. Another difficulty is that emotions have sub-emotions and this is difficult to identify.

Even though artificial intelligence is something that is fully present in every citizen's day-to-day life, you only have to access a mobile phone or the internet to come into contact with some form of artificial intelligence and its interfaces.

Faced with the profound changes that artificial intelligence technologies can bring about, the pressure for "more" and "stricter" regulations is probably inevitable. Misunderstandings about what artificial intelligence is or isn't can fuel opposition to technologies with the potential to benefit everyone. Inadequate regulatory activity would be a tragic mistake. Ill-informed regulation that stifles innovation or relocates it to other jurisdictions would be counterproductive (CRAWFORD, 2016).

Regardless of the degree to which human beings interact and act in artificial intelligence systems, it is essential to develop ethical criteria and transparency with the appropriate support from government measures.

In the long term, artificial intelligence can be considered a radically different mechanism for creating wealth, in which everyone should be entitled to a share of the treasures produced by the world's artificial intelligence. It's not too early for social debate on how the economic fruits of artificial intelligence technologies should be shared.

And in another sector where there is a need to discuss the effects of artificial intelligence is on the structure of the entire Judiciary and on the judicial system as a whole, in the face of what has colloquially come to be called the crisis of the Judiciary.

III. Judicial Decisions And Transparency In The Use Of Artificial Intelligence

In May 2018, the artificial intelligence system used by the Federal Supreme Court was made public. Named Victor, the artificial intelligence tool is the result of the Federal Supreme Court's initiative, under the management of Justice Cármen Lúcia, to learn about and deepen the discussion on the applications of artificial intelligence in the Judiciary. It is the largest and most complex artificial intelligence project in the Judiciary and, perhaps, in the entire Brazilian Public Administration (STF, 2012).

The naming of the system Victor is a tribute to Victor Nunes Leal, STF minister from 1960 to 1969, author of the work "Coronelismo, Enxada e Voto" and the main person responsible for systematizing the STF's jurisprudence into precedents, which facilitated the application of judicial precedents to appeals, basically what Victor did.

The memory of Victor Nunes Leal as the baptismal name for the artificial intelligence system in the Federal Supreme Court is significant, because we can't forget that the figure of the Precedents and then Binding Precedents were seen as a claim for Reform of the Judiciary, in which the common discourse of all these actors was speed and procedural effectiveness, in order to stop acts of improbity and corruption; one group wanted to establish greater control over the members of the Judiciary; for another, greater participation by its members in the administration of the Judiciary (SCHÄFER, 2012, p. 21). 21).

Under the guidance of Victor Nunes Leal, the Precedents were conceived as a working method with a persuasive effect, which briefly set out what the STF had been deciding repeatedly, both in federal law and in constitutional matters, which at the time were being judged by the Supreme Court (LEAL, 1982, p. 46).

It was only on September 26, 2018 that the Victor project was officially presented by the Supreme Court at the II International Congress on Law, Government and Technology. It is an artificial intelligence tool, the result of a partnership between the court and the University of Brasilia (UnB), which is currently being used at the Court to separate and classify court documents and identify the main topics of general repercussion (STF, 2019).

In the initial phase of the project, Victor will read all the extraordinary appeals that come before the STF and identify which ones are linked to certain topics of general repercussion. This action represents only a (small but important) part of the initial phase of processing appeals at the Court, but it involves a high level of complexity in machine learning (STF, 2019).

The Victor System was programmed so that its neural networks could learn from thousands of decisions already handed down at the STF regarding the application of various topics of general repercussion; the system is currently analyzing 27 specific topics. The aim at the moment is for it to be able to achieve high levels of accuracy, which is the machine's measure of effectiveness, so that it can help the civil servants in their analysis (STF, 2019).

Tasks that take court employees an average of 44 minutes can be done in five seconds by Victor análises (STF, 2019). The project is being developed in partnership with the University of Brasilia - UnB, which also makes it the most relevant Brazilian academic project related to the application of artificial intelligence in law. UnB has put high-level researchers, teachers and students on the team, many with academic training abroad, from 3 research centers in Law and Analytical Technologies.

The basic standard system for developing the software is the Agile methodology, which is a new form of culture and communication network in innovation according to Peixoto (2020). The Victor System aims to speed up and improve the quality of the flow of legal case analysis, making it an appropriate solution for the needs of the Supreme Court's civil servants and legal professionals (INAZAWA et al., 2019).

The project team is made up of a Law team and the Machine Learning Research Group (INAZAWA et al., 2019). The multidisciplinary work methodology of these teams will also be part of the final delivery of the research to the academic community and the STF, as it will serve to develop other tools or solutions. As a result of this work, there have already been some publications in the legal and technology fields and a Best Paper award at a conference. The project has also been featured in major media portals (NUNES; MEDEIROS, 2018).

The Victor artificial intelligence system will not be limited to its initial purpose. Like any technology, its growth can become exponential and various ideas for expanding its capabilities have already been discussed. The initial objective is to increase the speed with which cases are processed by using technology to assist the work of the Supreme Court. The machine doesn't decide, it doesn't judge, that's human activity. It is being trained to act in layers of case organization to increase the efficiency and speed of judicial evaluation.

According to the STF (2019), the Victor Project was implemented in 2018 and was the result of a partnership between the University of Brasilia (UnB) and the Court of Justice of the Federal District and Territories. Therefore, the main objective of this artificial intelligence is based on the reading of extraordinary appeals and their possible connection with themes of general repercussion, which acts as a neutralized and effective network modality.

The proposal is that in the future all courts in Brazil will be able to use Victor to pre-process extraordinary appeals as soon as they are filed, with the aim of bringing forward the admissibility judgment as to whether they are linked to issues with general repercussion, the first obstacle to an appeal reaching the Supreme Court. This could have the effect of reducing this phase by two or more years.

The Victor System is the first artificial intelligence project applied to courts in Brazil and the first in the world in a Supreme Court, thus paving the way for innovation (INAZAWA et al., 2019).

As Justice Dias Toffoli says, "the Victor System has the potential to be expanded to all courts in the country, which will be able to use it to carry out the first admissibility judgment of extraordinary appeals as soon as they are filed, thus preventing appeals concerning matters with general repercussion from reaching the STF" (STF, 2021). Thus, with the STF's pioneering system, artificial intelligence began to be adopted and researched by other Brazilian courts.

In 2021, the Superior Labor Court (TST) and the Superior Council of Labor Justice (CSJT) launched the "Cooperari Award - Strategies to evolve" competition. The purpose of the competition is to identify initiatives carried out by Labor Justice bodies that can be replicated as a national strategy to boost the Objectives and Goals of the Strategic Plan for 1st and 2nd degree Labor Justice, with the award criteria established in CSJT Resolution 259/2020 (JUSLABORIS, 2020).

The Cooperari Award aims to provide better conditions for achieving the strategic goals and objectives of the Labor Courts, as well as optimizing the quality of public spending. In addition, it aims to encourage innovation and the standardization of judicial and administrative practices, provide a better quality of life at work and encourage the participation of society in improving the justice system.

Along the same innovative path, the Federal Public Prosecutor's Office is already using the artificial intelligence system HALBERT Corpus, which classifies the opinions given in Habeas Corpus as to their admissibility (knowledge, non-knowledge, if it is prejudiced, etc.) and merit (granting, denial, without examination of merit, etc.).

Also in Brazil, there are already several cases of successful use of artificial intelligence systems in public bodies, among which stand out at the state level, such as in the Rio de Janeiro Court of Justice, as Porto (2020) points out.

As can be seen, there is already a broad understanding in the public sector of the opportunities that AI offers to improve the provision of services in different sectors, such as urban traffic and health, as well as the challenges inherent in its use, especially those related to the transparency of decision-making processes and the protection of personal data.

It is recognized that public authorities have an important role to play in promoting the adoption of artificial intelligence, creating an enabling environment for its full development. This must begin with the adoption of responsible artificial intelligence technologies in the public sector, in order to improve the quality of the service offered to citizens, promote transparent and efficient interaction, increase the level of public trust in government and generate better results for citizens. In fact, digital technologies based on artificial intelligence create opportunities to explore new service delivery models, improve resource management through smarter spending and link investment in programs and services to the results they produce for citizens, increasing accountability and trust.

On September 30, 2020, as president of the National Council of Justice (CNJ) and Federal Supreme Court (STF), Justice Luiz Fux highlighted his interest and focus on implementing artificial intelligence in all areas associated with the Judiciary "We have the ultimate goal of imprinting the power of artificial intelligence, of digital justice in all courts. We are going to make judicial action simple and simplify access to justice" (CNJ, 2020).

The constant use of artificial intelligence in the specialized services of practical lawyers associated with the entire legal area and even in the process of formalizing a decision characterizes the figure of disruption, since undoubtedly, legal practice around the world has already been affected for some time by the global and widespread impact of information technologies, which have greatly facilitated the intellectual work of legal professionals. Despite all these benefits and the new horizons of opportunity that it has opened up in relation to access to justice, some considerations need to be made.

Analogically speaking, there is no point in having a very modern vehicle in our hands if we don't have the fuel or even know how to operate the machine. It is notorious that artificial intelligence in several countries was prepared for professionals and even society before it was implemented.

On the other hand, it seems that here in Brazil the use of artificial intelligence is little publicized, and when it is discovered there is a sudden fear of its effects on the system as a whole, with various professional classes fearing that they will be replaced by robotic artificial intelligence systems

IV. Violation Of The Principle Of The Natural Judge

For Darci Guimarães Ribeiro and Jéssica Cassol, in the legal field, the principle of due process supports the limitation of artificial intelligence in decision-making. This principle is logically derived from others, such as the natural judge, ample defense, adversarial proceedings and the reasoning of decisions. Artificial intelligence is restricted to the principle of the natural judge insofar as it will only be up to the magistrate, who is competent to prosecute and judge, to make decisions throughout the process, not the machine, which will be used to assist the competent authority, whether with analysis, research, suggestions and even drafting minutes, as well as interlocutory decisions and sentences (RIBEIRO; CASSOL, 2021).

The broad defense and the adversarial process also serve as a way of controlling the steps of the machine, since when analyzing the information in the case file, the system must pay attention to the rite adopted, make progress and prepare minutes respecting these principles (RIBEIRO; CASSOL, 2021).

Regardless of what percentage of the judicial sphere's activities will be replaced by artificial intelligence algorithms, the common good must prevail, along with other fundamental values such as legal certainty, adversarial proceedings, algorithmic transparency and the full justification of judicial decisions (REVERBEL, 2012).

Technological progress is currently brutal and irreversible, because it is the only instrument capable of satisfying an ever-increasing and more demanding demand. The problem with the future is that it is becoming the present. This is the natural course of our digital society at the beginning of the 21st century. We are living through a silent revolution. We are entering post-humanity. With artificial intelligence, it is possible to envision a new path for the judiciary to follow as a way of improving, in a broad sense, its work and management system. This new direction provided by technology promises effectiveness, speed, legal certainty, standardization of understandings, improvement in the quality of the service provided and savings in resources.

Of course, the discord between the three branches of government is what has made judicial activism the great villain to be beaten, while in reality there is a complex framework of interests behind this cyclorama.

There could be another way to avoid disruption or even to delay the immediate effects of a new world, since diversity has always existed and will always exist, but a harmonious and fraternal solution is the best alternative.

V. Final Considerations

Artificial intelligence is no longer something that society imagines, it is a reality that is already present in every citizen's daily life, from cell phones to children's toys.

The use of artificial intelligence is also a reality in various systems linked to the Judiciary throughout the world, and it already exists in the Brazilian Judiciary.

Currently, the Judiciary is using it both in the judicial system and in the extrajudicial sphere, which is still a blue ocean in Brazil.

Artificial intelligence has come with the purpose of being the panacea for all ills or as the discovery of the Holy Grail, to solve all the crisis linked to the Judiciary, but behind the cyclorama there is a whole framework to put an end to what is pointed out as one of the main evils of the Brazilian Judiciary, which is judicial activism.

Faced with the figure of legal insecurity, the politicization of decisions coming from the Judiciary has reflexively and pejoratively coined the expressions of judicialization and judicial activism.

Judicial activism has become the scapegoat for all the problems associated with legal insecurity, procedural slowness and, above all, the breakdown of harmony in the system of checks and balances, characterized as an abuse and preponderance of the Judiciary over the other Executive and Legislative branches.

The fact that judicial activism has always existed and that it is something inherent to the system of the Judiciary itself has been demonstrated.

As a way of containing this process, which has always existed, other technical terms have been coined, such as self-restraint and minimalism, but the solution to ending this institution is the immediate use of artificial intelligence and its decision-making algorithms as an element of having decisions based on legislation without confirmation biases foreign to the decision-making content.

It so happens that the use of artificial intelligence mechanisms is being used as a subterfuge to put an end to the figure of judicial activism. Judicial activism is not responsible for all the ills and socio-political conflicts that plague the entire Judiciary, ending up running counter to the principle of the Natural Judge, for example, as discussed in this study, which is placed as a kind of unconstitutionality.