LUMEN ET VIRTUS
ISSN: 2177-2789

THE ROLE OF ARTIFICIAL INTELLIGENCE IN PROCEDURAL SPEED: IMPACTS IN THE CONTEXT OF THE BRAZILIAN JUDICIARY[1]

https://doi.org/10.56238/levv16n47-083

Submitted on: 03/22/2025 **Publication date:** 04/22/2025

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ABSTRACT

Artificial Intelligence is considered the most recent and innovative bet of the Judiciary to improve the context of procedural speed. The use of Artificial Intelligence software can be relevant when combined in the search for faster and more effective provision of jurisdictional decisions. Therefore, the objective of the study is to verify the main impacts generated by Artificial Intelligence within the scope of the Brazilian Judiciary. To achieve this objective, an exploratory and descriptive research was carried out, using bibliographic and documentary methods, through works, articles, doctrines and legal norms. The method of approach chosen was the dialectical-deductive. The results pointed out that artificial intelligence to provide greater coherence, security, equality, discourage contrary litigation to decisions and precedents of repetitive appeals, and thus contextualize the jurisprudence that has been consolidated, as well as ensure and give rise to constitutional and procedural guarantees, such as speed, reasonable duration of the process, and efficiency. Many courts have already established their own intelligent tools such as the Victor program, Synapse and radar, providing greater efficiency in procedural decisions.

Keywords: Judiciary. Technology. Artificial Intelligence.

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INTRODUCTION

The indices pointed out by the Justice taking into account Numbers report, implemented by the National Council of Justice CNJ in mid-2019, reveal that procedural speed continues to be a problem to be solved and faced by the Brazilian Judiciary. However, in the search for strategies and solutions, the planning and association of technological tools with legal culture and practice have been noticed over the last few years.

The computerization of electronic judicial processes was established by the enactment of Law 11.419/06, which brought collaboration to reduce the time that was used in the processing of processes, especially with regard to the planning and development of bureaucratic actions. At certain stages, the processes were accumulating as a result of structural factors, such as the shortage ratio in the demand for human resources.

Therefore, the use of programs involving Artificial Intelligence is considered the most recent and innovative bet of the Judiciary to improve in the context of procedural speed. Thus, several courts already establish their own applications and programs and many of them are already in operation. In this context, the question arises: what are the impacts generated by artificial intelligence (AI) in the Brazilian judiciary?

Therefore, the objective of the study was to verify the main impacts generated by Artificial Intelligence within the scope of the Brazilian Judiciary. Its specific objectives are: to analyze the positive and negative aspects of Artificial Intelligence within the Judiciary in the Brazilian context, to verify the existence of regulation within the Judiciary in the application of Artificial Intelligence in the Electronic Judicial process and to identify the benefits that Artificial Intelligence programs provide in the Brazilian Judiciary.

The research work was based on an investigation method with an exploratory and descriptive approach, using bibliographic and documentary methods, through works, articles, doctrines and legal standards. The method of approach chosen was the dialectical-deductive.

This article is structured in three chapters where the first addresses the positive and negative aspects of Artificial Intelligence within the scope of the Brazilian Judiciary, the second brought the survey on the regulation within the judiciary in the application of Artificial Intelligence in the Electronic Judicial process, the third contextualized the benefits provided by Artificial Intelligence within the scope of the Brazilian Judiciary

POSITIVE AND NEGATIVE ASPECTS OF ARTIFICIAL INTELLIGENCE WITHIN THE SCOPE OF THE BRAZILIAN JUDICIARY

Artificial Intelligence (AI) has a wide range of advantages and benefits in its applicability, especially in the Brazilian legal context, covering judicial proceedings and hearings (LAGE, 2021). In this scenario, its ability to reduce the occurrence of errors stands out, as it helps prevent failures and increases the accuracy of decisions, providing greater accuracy in procedures. Identifying mistakes early in the development of systems or machines is essential to make the process less costly and more efficient.

Artificial intelligence has proven to be an effective tool in identifying changes and inconsistencies in information systems, production and technology, contributing to the prediction and minimization of errors (CASTRO; SILVA; BROTTI, 2014).

The introduction of AI has significantly transformed work in the legal environment. This technology collaborates in legal research and studies, optimizing the search for relevant information for judicial decision-making, preparation of procedural documents and clarification of doubts. It also allows for faster contractual review, through the decomposition of contractual clauses, extraction of relevant data, and comparison with pre-established standards (BURLE, 2020).

Another important aspect is the intelligent automation of document processes, as well as the offer of legal advice through interactive systems based on questions and answers, providing more personalized advice adapted to the user's needs (LAGE, 2021).

In this way, Artificial Intelligence systems demonstrate great potential and relevance for legal practice in Brazil, especially by automating repetitive tasks and ensuring greater agility and efficiency in the execution of activities. Such benefits are especially notorious in the scenario of growing litigation and accumulation of lawsuits in the Judiciary (NUNES; MARQUES, 2018).

However, as Medeiros (2019) warns:

> All this unstoppable movement alluded to, which is called the technological turn in law, has been imposed without jurists adequately worrying about it or with generating only an enchantment with the gains in efficiency and productivity in the activities to be carried out, especially because its virtues are presented by suppliers of products and services that avoid disclosing the risks in the use of these technologies for correction and legitimacy (MEDEIROS, 2019 apud MARQUES, 2021, p. 04).

It should be noted that AI-based systems do not guarantee, by themselves, exclusively positive results. In this context, it is essential that the Law and its operators face the challenges of these innovations, incorporating assumptions that ensure the adequate adaptation of the Brazilian legal system to new technologies.

According to Lage (2021), the adoption of AI in Law increases the effectiveness of judicial decisions, strengthens jurisprudence in different instances of the Judiciary, and contributes to reducing the overload of cases. In addition, such systems are useful for conflict mediation, through the analysis of profiles and similar factors, and can even assist magistrates with suggestions for resolving complex cases.

However, as Lee (2019) ponders, legal reasoning requires consideration and sensitivity that go beyond analytical logic. This implies that, in decision-making processes, the machine must be supervised by a human judge, who is responsible for filtering and validating the parameters provided by the algorithms.

Thus, the concern arises that the use of algorithms may influence or even modify the jurisdictional function, causing the judge to abandon the classic legal syllogism and start to base his decisions on the results of algorithmic searches (CUEVA, 2021).

Another point of criticism present in the doctrine refers to the risk that the recurrent use of algorithms may generate a certain conformism on the part of magistrates. This could lead to the so-called performative effect, as explained by Minister Marques (2021), characterized by the "idea of a self-fulfilling prophecy practice". In this hypothesis, there would be a tendency to freeze jurisprudence, anchored in outdated interpretations, without the necessary evolutionary advance of the Law.

With this scenario in mind, Resolution No. 332/2020 of the National Council of Justice (CNJ) determines the need to preserve fundamental principles such as the dignity of the human person and non-discrimination in judicial decisions based on algorithmic models. According to article 7, caput:

> Judicial decisions supported by Artificial Intelligence tools must preserve equality, non-discrimination, plurality, and solidarity, assisting in fair trial, with the creation of conditions that aim to eliminate or minimize oppression, the marginalization of human beings, and errors of judgment resulting from prejudice (BRASIL, 2020, p. 23).

In this sense, the right to explanation emerges as an instrument to mitigate the opacity of algorithms and improve the prevention of harm and discriminatory biases. It is the right to be informed, in a clear and accessible way — either personalized or automatically — about the reasons that led to a certain decision.

Burle (2020) highlights that, when issuing a sentence, the judge can use AI tools to obtain additional data about the case. The algorithmic assistant starts its analysis from information such as the defendant's criminal history, his age group and the damage caused. The system then scans millions of court records for similar cases, providing

recommendations on penalties or fines to be imposed. This action is based on vast databases and allows for a greater basis for the judicial decision.

CHALLENGES AND LIMITATIONS OF ARTIFICIAL INTELLIGENCE IN PROCEDURAL SPEED

Considering the definition of Artificial Intelligence (AI) and its current contributions, it is possible to move on to the analysis of its challenges, limitations, and expectations related to its application in the forensic field, especially with regard to the promotion of procedural speed.

Regarding the challenges and limitations, Silva et al. (2019) highlight that algorithms are developed by humans and fed with data from social relationships. Thus, they become reflections of the very society that created them. The authors explain that the developers' previous concepts (known as human bias) can be transmitted to the algorithms through the data used in training, generating automated biases (machine bias). Thus, without adequate training in data analysis, minority social groups can become even more vulnerable to biased AI systems.

Another relevant challenge is related to accountability for unfair decisions originating from AI-based systems. It is important to note that, currently, the AI used in courts does not have the autonomy to make final decisions. In this context, Mulholland (2020) points out that the decisions generated by this technology are reviewed by a human professional. In the case of a rejection considered unfair, the legal system provides for the right to file an appeal against the decision. Exceptionally, the responsibility could fall on the State, due to failure in the judicial act.

Although the use of AI occurs through a unified national platform — Sinapses — there are still different models implemented in Brazilian courts, which can generate inconsistencies. This reality refers to difficulties already faced during the implementation of the Electronic Judicial Process (PJe). From this perspective, Tiago Rabelo (2020) argues that the fragmentation of the PJe resulted in a more bureaucratic process and a lack of integration between the systems, making communication between the various units of the Judiciary difficult.

In addition, it is essential to consider the issue of transparency in AI systems applied to the Judiciary. Soares et al. (2019) emphasize that, many times, the systems used do not make it clear how the decisions were reached, which compromises legal certainty. Another relevant point is the impact of AI on the performance of magistrates: if, on the one hand, it

can contribute to the reduction of the workload, on the other hand, it raises concerns about the possible loss of autonomy in the reasoning of judicial decisions.

REGULATION WITHIN THE JUDICIARY IN THE APPLICATION OF ARTIFICIAL INTELLIGENCE IN THE ELECTRONIC JUDICIAL PROCESS

When a computerized device, software, or even an application is capable of logically simulating the thinking and reasoning of a legal operator — such as judges, prosecutors, lawyers, or other legal professionals — we are facing the application of Artificial Intelligence (AI) in the legal context. This process involves the replication of the so-called judicial reasoning, characterizing, therefore, the use of technologies aimed at AI in the field of Law (BUENO, 2017).

AI instruments, by simulating cognitive functions of legal professionals, are designed to consider the specificities and particularities of the legal universe. From this unique scenario, they seek to propose solutions aligned with the values, demands and expectations of the client. Thus, the development of these technologies is not generic, but customized and oriented to the needs of the justice system.

In this sense, Artificial Intelligence applied to the legal context promotes the reproduction, by technological means, of the reasoning and performance of the Judiciary's servers. It is, therefore, a convergence between the logic of AI and legal thought. For Cheliga (2020), this integration favors the expansion of the cognitive capacity of legal professionals, contributing to making the decision-making and acting processes in daily forensic life less complex.

In the governmental sphere, especially in the Brazilian Judiciary, there is a consensus that traditional structures have proven to be insufficient to deal with the growing and exponential volume of lawsuits. Given this reality, the use of Artificial Intelligence tools has not only been well accepted, but is essential and effective to ensure greater efficiency and contribute significantly to the realization of the principle of reasonable duration of the process.

ARTIFICIAL INTELLIGENCE AND THE JUDICIARY

Based on the legal understanding that justice is essentially a human value, the incorporation of technological resources based on Artificial Intelligence (AI) within the scope of the Judiciary should be guided by a relationship of synergy, and not of subjection. AI should be understood as a tool to support judicial activity and not as a substitute for human decision-making function. However, given the complexity and quantity of demands that fall

on the justice system, it would be illogical and unconstitutional to allow judicial decision-making to be transferred entirely to technology, under penalty of compromising the fundamental principles of the Democratic Rule of Law and blocking access to qualified decisions (DI SANCTIS, 2020).

One of the main purposes of Artificial Intelligence in the Judiciary is precisely to make procedural procedures faster and more organized, contributing significantly to the efficiency of jurisdictional provision and to the improvement of the administrative management of Brazilian Justice. In this scenario, there is a global trend towards the application of intelligent systems not only in the organization and control of the procedural flow, but also in the decision-making phase, that is, in the formulation of judgments and judicial orders.

As Ferreira (2020) points out, AI has been increasingly used in the preparation of documents, in the systematization of information, and in support of judicial decisions, acting in activities that require legal reasoning based on precedents, interpretation of legal language, and formulation of formal arguments. This application aims to provide greater comfort and efficiency to the work of magistrates, while freeing them from repetitive or less complex tasks.

In this regard, Ferreira (2020) observes:

> Maintaining the needs of the human factor, the method of attributing meaning, especially for the relationship of singularization of real legal situations, because the scheme of decisions in law can increase the cost of information necessary for a qualified decision-making process, in addition to directing and reserving intellectual and cognitive capacity for what is really important (FERREIRA, 2020, p. 67).

In this way, from the execution of routine activities to the performance of complex analyses that support decision-making, Artificial Intelligence has been consolidating itself as a strategic ally of the Brazilian Justice, optimizing the performance of judicial functions. At the same time, it contributes to the reduction of costs and procedural slowness, ensuring greater effectiveness and promoting stability in judicial decisions.

ARTIFICIAL INTELLIGENCE REGULATIONS IN BRAZILIAN LEGAL PRACTICE

When analyzing the conveniences brought to the Judiciary by the first generation of computerized systems and, later, by the implementation of the electronic process, it is essential to consider an unavoidable aspect: the high and constant volume of cases that arrive daily at the judicial districts. This reality has made information technology an indispensable resource for the production of legal work and the reduction of operational failures. In this scenario, Artificial Intelligence (AI) emerges as the most promising

innovation, consolidating itself as an expanding trend in the global context, both in the management and procedural processing and in the final execution of jurisdictional actions (GABRIEL, 2018).

In the normative field, the most relevant initial milestone was the enactment of Law No. 13,709/2018, known as the General Law for the Protection of Personal Data (LGPD). Although it does not specifically deal with Artificial Intelligence, the legislation addresses the processing of personal data within the scope of "digital technologies", therefore applying to any operational means of virtual processing. Considering that AI systems are based precisely on large volumes of digital data for their learning and operation, it is clear that the LGPD regulates a significant part of the functional structure of these technologies, when dealing with the raw material that feeds the algorithms (BRASIL, 2018).

The regulatory improvement more directed to AI in the Judiciary emerged in 2019, with the publication of Ordinance No. 25 of the National Council of Justice (CNJ), which created the Innovation Laboratory – InovaPJe –, aimed at the treatment of the Electronic Judicial Process and the development of Artificial Intelligence centers applied to this context. The regulation aimed to consolidate AI models in the electronic processing of cases, although reality pointed to the existence of a multiplicity of systems in use in Brazilian courts, such as ESAJ, EPROC and PROJUDI (BRASIL, 2019).

In 2020, the CNJ took an important step by issuing Resolution No. 332, which established guidelines for transparency, ethics, and public policies in the use and production of AI-based solutions within the Judiciary. This regulation was later complemented by Resolution No. 395, issued in 2021, which instituted the Innovative Management Policy in the Judiciary, formally repealing Ordinance No. 25/2019 and consolidating the institutional commitment to technological innovation (BRASIL, 2020).

At the legislative level, Bill No. 21/2020, approved by the Chamber of Deputies and the Senate in October 2021, also stands out. The proposal aimed to regulate the use of Artificial Intelligence in court hearings and decisions, with the aim of systematizing the information contained in the records and establishing principles, foundations, and legal guidelines for the use of AI in the Brazilian justice system (SALOMÃO, 2020).

Given this panorama, it is possible to identify a significant normative and institutional evolution, in which Artificial Intelligence is now recognized as a strategic tool for strengthening and modernizing the Judiciary. In this sense, the programs that will be presented below not only prove this transformation, but also evidence the level of technological development already achieved by AI solutions applied to Justice in Brazil.

BENEFITS PROVIDED BY ARTIFICIAL INTELLIGENCE PROGRAMS WITHIN THE SCOPE OF THE BRAZILIAN JUDICIARY

The application of tools based on Artificial Intelligence (AI) is already a reality in the Brazilian Judiciary, especially with regard to procedural speed, through diversified programs that aim to optimize workflows. As of 2018, the Federal Supreme Court (STF) announced the creation of a project focused on research and technological development, focusing on machine learning systems aimed at organizing and analyzing judicial information from resources with general repercussion. This innovative project, developed in partnership with the University of Brasília (UnB), gave rise to the AI program called "Victor", whose main purpose is to assist magistrates in reducing the voluminous procedural collections (BODAS, 2019).

The "Victor" system has the technological capacity to automate the treatment of approximately one-eighth of the extraordinary appeals sent to the STF. Its operation stands out for allowing the automatic return of these resources to the instances of origin, in cases where the issue has already been analyzed in the context of general repercussion, which considerably speeds up their identification and referral (TEIXEIRA, 2019).

In addition, the program is able to identify, verify and organize essential procedural elements, such as the judgment of origin of the appeal, the judgment under appeal, the petition for the extraordinary appeal, the aggravated decision and other related documents. Currently, these activities are performed by employees of the General Repercussion Center (NRG), with an estimated time of up to 30 minutes per process (TEIXEIRA, 2018, p. 87).

According to Gabriel (2018), another relevant feature of the "Victor" program is the conversion of image files to textual format, allowing the extraction of fragments through the "copy and paste" technique. This function favors the preparation of judgments, by enabling the direct use of relevant parts of the process.

The STF management report (2019), signed by Minister João Otávio de Noronha, highlighted the importance of technological innovations, considering AI a fundamental resource for obtaining more agile responses to the demands of the Judiciary. The expectation is that such cybernetic instruments will contribute to the automatic collection of information and identification of repetitive demands, promoting faster and more reasoned decisions, in line with the policy of encouraging the use of innovative technologies provided for in the Code of Civil Procedure (META, 2020).

Despite the initial resistance from the doctrine and the judiciary, there is a gradual overcoming of these barriers, especially in view of the proven benefits in the resolution of procedural slowness. The advance of AI is not restricted to the STF: several state courts

have also adopted their own systems. An example is the Court of Justice of Minas Gerais (TJMG), which developed the "Radar" program. According to information available on the court's official website, the tool has provided significant speed, economy and security to judicial activities (ASCOM, 2018).

In the 8th Civil Chamber of the TJMG, the Radar program made it possible to judge more than 290 cases in approximately five seconds, through the identification and grouping of appeals with identical requests. From this screening, the rapporteurs prepare standardized votes, based on theses previously signed by the higher courts or incidents of resolution of repetitive demands (IRDR) in the TJMG itself. The standard vote, then, is extended to all other cases that deal with the same topic, and can also be adjusted by the magistrates. The tool also allows intelligent searches in the system, identification of repetitive cases in the digital collection, grouping of similar actions and the elaboration of paradigm decisions. Another highlighted feature is the automatic transcription of audio files.

At the Court of Justice of Rio Grande do Norte (TJRN), three software programs were developed in partnership with the Federal University of Rio Grande do Norte (UFRN), named Clara, Poti and Jerimum. Among them, the Poti system is already in full operation and has helped in the execution of online seizures, by allowing automatic searches and blocking of amounts in bank accounts. According to Magistrate Keity Saboya, judge of the 6th Tax and Tax Execution Court of the District of Natal, the servers carried out about 350 blocking orders per month, a number that can be processed in just 35 seconds with the help of the system (BAETA, 2019).

Another relevant initiative is the "Sinapse" program, created in 2018 by the AI laboratory of the Court of Justice of Rondônia (TJRO). The system has an "office module" that offers magistrates suggestions for texts and phrases, in addition to indicating the next procedural steps, optimizing the preparation of sentences (SOARES, 2019).

Currently, seven other courts (Acre, São Paulo, Ceará, Alagoas, Mato Grosso do Sul, Amazonas and Santa Catarina) are in the study and development phase of AI systems aimed at the initial reading of judicial documents. The expectation is that, in the future, these resources will be able to suggest jurisprudence, norms, and decision models to magistrates, further optimizing jurisdictional activity (CUEVA, 2021).

FINAL CONSIDERATIONS

In view of the above, it can be seen that Artificial Intelligence has been consolidated as a strategic tool in the digital transformation process of the Brazilian Judiciary. In a scenario marked by a high case load, procedural slowness and bureaucratic structure, the

use of advanced technologies represents a viable and necessary alternative to achieve greater efficiency and effectiveness in the provision of jurisdiction.

Throughout this work, it was possible to analyze the positive and negative aspects of the use of AI in the judicial system, the existing regulations for its application in the electronic judicial process, as well as the benefits that have been perceived with its implementation in different courts. Systems such as VICTOR, SINAPSE, and RADAR show that, when well structured, artificial intelligence resources can assist in the screening of demands, the identification of precedents, the standardization of decisions, and compliance with the constitutional principles of efficiency and reasonable duration of the process.

However, it is important to recognize that, although the gains are significant, the adoption of AI also raises relevant concerns. Among them, the risks related to the lack of transparency of algorithms, the possibility of reproducing discriminatory biases, the absence of motivation in automated decisions, and the threat to the figure of the natural judge as a legitimate authority for judging cases stand out. In addition, it is necessary to reflect on the social and institutional impacts resulting from the reduction in the need for human labor in the legal sector, which can generate an imbalance in labor relations and compromise the plurality of interpretations in the exercise of jurisdiction.

For this reason, the incorporation of Artificial Intelligence into the judicial system requires not only technological innovation, but also institutional maturity and ethical commitment on the part of the actors involved. The creation of regulatory frameworks, such as Resolution No. 332/2020 of the Chamber of Deputies, is an important step in this direction, but it must be accompanied by inspection mechanisms, auditing of algorithms, training of servers, and transparency of the criteria used by automated tools.

Thus, it is concluded that Artificial Intelligence should not be seen as a substitute for human jurisdictional activity, but rather as an ally capable of enhancing the Judiciary's response capacity. The key to the success of its application lies in the ethical, responsible, and legally oriented use of these technologies, so that not only procedural management is optimized, but also legal certainty, impartiality, justice, and the fundamental rights of citizens are safeguarded.

Therefore, the future of the Judiciary lies not only in the computerization of its procedures, but in the construction of a justice model that unites artificial intelligence and human sensitivity, ensuring that innovation goes hand in hand with democracy, ethics and the dignity of the jurisdictional function. Only with this harmonious integration will it be possible to transform technology into an instrument for strengthening citizenship and social trust in the justice system.

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