

**CONSTITUTIONAL JURISDICTION IN TIMES OF
ALGORITHMIZATION: LIMITS AND POSSIBILITIES FOR THE
PROTECTION OF FUNDAMENTAL RIGHTS IN THE DIGITAL
ENVIRONMENT**

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LIMITES E POSSIBILIDADES PARA A PROTEÇÃO DE DIREITOS
FUNDAMENTAIS NO AMBIENTE DIGITAL**

**JURISDICCIÓN CONSTITUCIONAL EN TIEMPOS DE ALGORITMIZACIÓN:
LÍMITES Y POSIBILIDADES PARA LA PROTECCIÓN DE LOS DERECHOS
FUNDAMENTALES EN EL ENTORNO DIGITAL**

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ABSTRACT

Keywords:

constitutional jurisdiction, artificial intelligence, fundamental rights, digital constitutionalism.

The growing automation of decision-making in the public and private sectors through algorithmic systems and artificial intelligence (AI) has had significant impacts on fundamental rights and on the way the democratic rule of law is structured and exercises judicial oversight. This article analyzes the role of Brazilian constitutional jurisdiction in the face of the challenges posed by the algorithmization of decisions and its repercussions on principles such as equality, due process, and transparency. Using a qualitative and theoretical-analytical approach, based on an analysis of decisions by the Federal Supreme Court (STF) and national and international literature, this study seeks to understand how constitutional jurisprudence can establish normative parameters to ensure effective protection of fundamental rights in the digital context. It is concluded that the STF must adopt a dialogical and anti-discriminatory stance, guided by a digital constitutionalism committed to inclusion and algorithmic justice.

RESUMO

Palavras-chave:

jurisdição constitucional, inteligência artificial, direitos fundamentais, constitucionalismo digital.

A crescente automatização de decisões no setor público e privado por meio de sistemas algorítmicos e de inteligência artificial (IA) tem provocado impactos significativos sobre os direitos fundamentais e sobre o modo como o Estado Democrático de Direito se estrutura e exerce o controle jurisdicional. Este artigo analisa a atuação da jurisdição constitucional brasileira diante dos desafios impostos pela algoritmização das decisões e suas repercussões sobre princípios como a igualdade, o devido processo legal e a transparência. A partir de uma abordagem qualitativa e teórico-analítica, com base na análise de decisões do Supremo Tribunal Federal (STF) e na literatura nacional e

internacional, busca-se compreender de que forma a jurisdição constitucional pode construir parâmetros normativos para assegurar uma tutela efetiva dos direitos fundamentais no contexto digital. Conclui-se que o STF deve assumir uma postura dialógica e antidiscriminatória, orientada por um constitucionalismo digital comprometido com a inclusão e com a justiça algorítmica.

RESUMEN

Palabras clave:

jurisdicción constitucional, inteligencia artificial, derechos fundamentales, constitucionalismo digital.

La creciente automatización de las decisiones en los sectores público y privado mediante sistemas algorítmicos e inteligencia artificial (IA) ha tenido un impacto significativo en los derechos fundamentales y en la estructura y el ejercicio del control judicial del Estado de Derecho democrático. Este artículo analiza el desempeño de la jurisdicción constitucional brasileña ante los desafíos que plantea la algoritmización de las decisiones y sus repercusiones en principios como la igualdad, el debido proceso y la transparencia. Mediante un enfoque cualitativo y teórico-analítico, basado en el análisis de decisiones del Supremo Tribunal Federal (STF) de Brasil y literatura nacional e internacional, busca comprender cómo la jurisdicción constitucional puede construir parámetros normativos para garantizar la protección efectiva de los derechos fundamentales en el contexto digital. Concluye que el STF debe adoptar una postura dialógica y antidiscriminatoria, guiada por un constitucionalismo digital comprometido con la inclusión y la justicia algorítmica.

Introduction

The consolidation of the digital society and the rapid advancement of artificial intelligence (AI) have profoundly transformed the social, political, and legal dynamics of contemporary democracies. The integration of algorithmic systems and automated models into public and private decision-making, while promising efficiency, speed, and accuracy, also poses new risks to the effectiveness of fundamental rights. The replacement of human decisions with computational processes—which are often opaque and incomprehensible—raises questions about the legitimacy, transparency, and impartiality of these decisions, especially when they affect sensitive areas such as access to social benefits, freedom of expression, privacy, and due process.

In Brazil, the impact of the use of algorithms in decision-making directly challenges the role of the Federal Supreme Court (STF), an institution that serves as the guardian of the 1988 Constitution and the protector of fundamental rights and guarantees. The STF is called upon to reinterpret the Constitution in light of technological changes and to mediate the tensions between innovation and the preservation of democratic values. In this regard, the central research question guiding this study can be formulated as follows: How has the Brazilian constitutional judiciary responded to the ethical and legal challenges posed by algorithmization, and what are the limits and possibilities for the protection of fundamental rights in the digital environment?

Recent scholarship has focused on understanding the role of legal institutions in this new context. Zuboff (2020) coined the term “surveillance capitalism” to describe the logic behind the massive collection and commercialization of personal data, which turns citizens into objects of control and behavioral prediction. Sousa (2022), in turn, argues that constitutionalism needs to “rebuild itself digitally,” incorporating new dimensions of rights protection that encompass the information space and the impacts of artificial intelligence. Streck (2023) and Nunes (2024) expand on this discussion by arguing that the STF should adopt a dialogical, counter-majoritarian, and anti-discriminatory hermeneutic approach, aimed at establishing normative standards that limit the use of exclusionary technologies and ensure the transparency and explainability of algorithms.

In light of this, the overall objective of this study is to analyze how the Brazilian constitutional judiciary—particularly the STF—has responded to the challenges posed by the automation of public and private decisions, assessing its limitations and potential for protecting fundamental rights in the digital environment, and proposing guidelines for proactive, transparent, and democratic judicial action. Among the specific objectives, the following stand out: to identify and examine STF decisions involving the use of digital technologies and artificial intelligence; to critically evaluate how such decisions address issues such as privacy, equality, explainability, and due process; to analyze the STF’s counter-majoritarian and dialogical role in the face of technological transformation; to discuss the concept of algorithmic due process and its constitutional implications; and, finally, to propose theoretical and normative guidelines for the consolidation of a digital constitutional jurisdiction focused on algorithmic justice.

This study adopts a qualitative approach that is exploratory and descriptive in nature, as this is the most appropriate method for analyzing complex social phenomena that require contextual interpretation and an understanding of the legal and political meanings attributed to judicial decisions. The central method is the hermeneutic-critical approach, guided by the understanding that law is an interpretive and historical phenomenon, whose validity stems from its ability to engage with the transformations of reality. According to Minayo (2022), qualitative research seeks to understand phenomena in depth, emphasizing the symbolic dimensions and the meanings that participants attribute to their actions. In the same vein, Streck (2023) emphasizes that critical constitutional hermeneutics requires moving beyond formalism, since

interpreting the Constitution is a political and ethical act that must take into account the contexts in which it is applied.

The technical procedures used consist of three main steps. The first is a documentary analysis, which involves examining Federal Supreme Court decisions related to the use of digital technologies and artificial intelligence, such as ADIs 6387/DF, which established data protection as a fundamental right, and 5527/DF, which addressed the Brazilian Civil Rights Framework for the Internet. The second is a literature review based on Brazilian and international authors who address digital constitutionalism, algorithmic justice, and the role of the judiciary in the face of automated decision-making, such as Streck (2023), Sousa (2022), Nunes (2024), Pasquale (2015), Eubanks (2017), and Zuboff (2020). The third stage is thematic content analysis, based on Bardin's (2016) method, which is used to identify and categorize the main discursive themes present in judicial decisions and doctrinal texts.

The analysis will be conducted based on five previously defined theoretical categories: algorithmic opacity, referring to the lack of transparency and auditability in automated systems; automated discrimination, which examines the reproduction of social inequalities through algorithmic decisions; digital due process, which analyzes the need for review and justification of automated decisions; *institutional accountability*, which investigates the responsibility of public and private actors for the use of AI; and the digital counter-majoritarian function, which encompasses the role of the STF as a protector of fundamental rights in the face of new forms of technological power.

The triangulation of empirical data (court decisions), normative data (laws and treaties), and theoretical data (specialized literature) will enable the development of a critical and constructive analysis. The study thus seeks to understand not only how the STF has responded to technological changes, but also how it should act to ensure the primacy of fundamental rights in a landscape marked by automated decision-making and algorithmic surveillance.

This methodology aims to demonstrate that constitutional jurisdiction must go beyond the role of a mere textual guardian of the Constitution and assume an interpretive and political function geared toward building an effective digital constitutionalism. The expected outcome is to demonstrate that, given the growing presence of algorithms in the state's decision-making structures, the STF needs to establish a doctrine of constitutional algorithmic justice that combines innovation, ethics, and the protection of human rights, ensuring that technology remains subordinate to human dignity and democratic values.

Theoretical Framework

The theoretical framework of this study is grounded in the intersection of constitutional law, the philosophy of technology, and the theory of justice, with an emphasis on the transformations brought about by algorithmic society and the advancement of artificial intelligence in public and private management. The automation of legal and administrative decisions introduces a new type of rationality—technical and statistical—that puts strain on the pillars of the democratic rule of law. As Streck (2023, p. 80) notes, “the contemporary challenge facing constitutional jurisdiction is to understand that power manifests itself not only in classical political forms, but also in codes, data, and algorithms.”

Contemporary literature recognizes that, in order to maintain its regulatory and emancipatory function, the law must reinterpret its foundations in light of new forms of digital power. Accordingly, this framework is organized around three main themes: digital constitutionalism and the transformation of constitutional jurisdiction; the STF's counter-majoritarian and dialogical role in the technological age; and the risks of opacity and algorithmic discrimination. These three pillars are interrelated, forming a theoretical framework that seeks to understand how the Federal Supreme Court (STF) can serve as a bastion of ethical

and legal resistance in the face of the automation of decisions and the concentration of information.

Digital Constitutionalism and Constitutional Jurisdiction

Throughout its history, constitutionalism has always kept pace with changes in political and social power. While the focus in the 19th century was on controlling sovereign power, and in the 20th century on consolidating fundamental rights and social democracy, the 21st century presents the challenge of controlling a new form of power: algorithmic power. This power, which stems from the technical capacity for data processing and decision automation, calls for a thorough review of the role of constitutional institutions and the scope of constitutional jurisdiction (SOUSA, 2022).

Digital constitutionalism is emerging as a response to this new configuration of power. According to Sousa (2022, p. 61), it “aims to restore the balance between freedom and control in a society governed by data and mediated by algorithms.” The proposal calls for extending constitutional principles to digital relationships, recognizing that the information sphere is a new arena for the exercise of power and, therefore, must be subject to fundamental safeguards and judicial oversight.

Zuboff (2020) identifies this logic as surveillance capitalism, characterized by the private appropriation of personal data as a source of profit and a means of social control. The use of algorithmic systems to predict and manipulate behavior threatens individual autonomy, making an institutional response grounded in constitutional values essential. The right to privacy, informational self-determination, and the principle of transparency thus take on the role of “new foundational rights” of digital constitutionalism.

In this context, constitutional jurisdiction becomes a key arena for democratic resistance. Streck (2023) notes that digital constitutionalism is not merely a thematic update of constitutional law, but a “hermeneutic shift” that requires the incorporation of technological categories into legal reasoning. Constitutional interpreters must understand that algorithms, no matter how sophisticated they may be, are human creations and, therefore, must be subject to the same ethical and legal constraints that govern the actions of the State.

Galindo (2024) reinforces this idea by referring to “oblique legality”—that is, a form of legality displaced from traditional institutional spaces and operated by technical and invisible systems. This legal framework requires constitutional measures capable of shedding light on areas of uncertainty, ensuring democratic oversight of automated decisions. Thus, digital constitutionalism proposes not only a normative transformation of constitutional jurisdiction, but also an epistemological one: from the oversight of the text to the oversight of technology.

Digital constitutionalism has emerged as a theoretical and normative response to the growing influence of technology on social and political life. Sousa (2022) defines it as a movement aimed at “rebuilding constitutional guarantees in the face of new forms of informational and technical power” (p. 59). The digital revolution has shifted the balance of power from the state to technology corporations and algorithms, creating what Zuboff (2020) calls surveillance capitalism, in which personal data is converted into assets for control and profit. This new context requires that constitutions cease to be mere texts that limit the power of the state and instead protect individuals against informational domination and constant surveillance.

In this context, constitutional jurisdiction serves as a mediator between the human and the technological, and must ensure that innovation occurs without sacrificing the principles of dignity and freedom. Streck (2023, p. 83) argues that “the Constitution should be interpreted in light of a digital hermeneutics that understands technology as a concrete dimension of contemporary power.” This means that the Federal Supreme Court cannot limit itself to technical neutrality; on the contrary, it must act proactively to define the ethical boundaries of the use of artificial intelligence by the government and in society.

Digital transformation also challenges the very epistemological foundations of constitutional law. According to Galindo (2024), we are living in an era of “oblique legality,” in which decisions that impact fundamental rights are made by automated systems without human intervention. This reality calls for a new constitutional pact: one based on transparency and accountability. Constitutional review should cover not only laws and normative acts, but also technological infrastructures and decision-making architectures that, in practice, have legal effects on citizens.

Furthermore, the incorporation of technology into constitutional law broadens the scope of fundamental rights. The protection of personal data, recognized by the STF as an autonomous right in ADI 6387/DF, now forms part of the core of digital constitutionalism. As Nunes (2024) notes, this is “a new paradigm of informational citizenship,” in which an individual’s autonomy depends on the control they exercise over their own data. Constitutional jurisdiction, therefore, must not only interpret existing law but also establish normative standards that ensure the ethical governance of information, thereby strengthening the rule of law in a technologically mediated environment.

The STF’s Counter-Majoritarian and Dialogical Role in the Democratic Rule of Law

The counter-majoritarian function is one of the most debated aspects of modern constitutional jurisprudence. Traditionally, it refers to the role of the Federal Supreme Court (STF) as the guardian of fundamental rights in the face of potential political majorities. However, in the digital society, this role is expanding: in addition to protecting political minorities, the STF must protect vulnerable individuals and groups against algorithmic domination and informational technocracy.

According to Streck (2023, p. 79), “the counter-majoritarian function should be understood today as a cognitive counterweight,” that is, a check not only on parliamentary majorities, but also on the statistical and probabilistic majorities that inform automated decisions. Because algorithms operate based on historical data patterns, they tend to reinforce mainstream behaviors, resulting in silent and invisible exclusions. Thus, constitutional jurisdiction must ensure that public reason is not supplanted by algorithmic reason.

This transformation requires that the counter-majoritarian function also become dialogical. According to Nunes (2024, p. 64), “the judiciary cannot isolate itself from technology; it must engage with it, understand its language, and establish ethical guidelines for its use in the public sphere.” A dialogical approach does not undermine judicial authority; rather, it legitimizes it, as it demonstrates openness to the pluralism of knowledge that characterizes the digital age.

The STF, therefore, must act as an institutional mediator between the technical expertise of corporations and the fundamental rights of citizens. This calls for new approaches to constitutional interpretation that can address issues such as algorithmic transparency, the auditability of AI systems, *accountability* in technology, and digital due process. As Gouvêa and Castelo Branco (2022) note, the democratic legitimacy of the STF will depend on its ability to establish standards of oversight that are both legally sound and technologically informed.

Recent cases, such as ADI 6387/DF, which recognized the protection of personal data as an autonomous fundamental right, demonstrate that the Court is already beginning to establish a body of case law focused on digital constitutionalism. However, there are still gaps regarding the definition of criteria for explainability and the review of automated decisions, which are essential for the full exercise of due process.

Thus, the STF’s counter-majoritarian and dialogical role in the contemporary world consists of safeguarding fundamental rights against the arbitrariness of machines and ensuring that technology serves democracy—and not the other way around. This requires a critical constitutional hermeneutics capable of recognizing that the oversight of algorithms represents a new frontier in constitutional review.

The counter-majoritarian function is one of the central tenets of constitutional jurisdiction. She ensures that the Federal Supreme Court can protect minorities and correct structural injustices caused by political power. In the digital context, this function takes on new dimensions: algorithms and automated systems become new forms of the majority, based not on public deliberation but on statistics and behavioral patterns. Nunes (2024, p. 64) warns that “algorithms establish a kind of silent majoritarianism, in which decisions are made without debate, under the guise of technical neutrality.” Thus, it is up to the STF to prevent this “technocracy of probabilities” from undermining democratic logic.

Anti-majoritarian action must, however, be complemented by a dialogical approach. According to Streck (2023), the STF cannot be an isolated court; it must engage in dialogue with civil society, the academic community, and the technology community itself. This openness to dialogue legitimizes the Court and enables the development of an inclusive constitutional hermeneutics capable of understanding the social effects of innovation. The dialogical function also involves recognizing that the Constitution is an open-ended project, constantly adapting to new forms of power and domination.

The rise of digital technology presents the STF with a twofold task: to protect rights and to educate society, through institutional channels, about the risks of automated decision-making. According to Gouvêa and Castelo Branco (2022), the Court should establish ethical and procedural guidelines for the use of algorithms in public administration, ensuring that automated decisions respect due process, the requirement to provide reasons for decisions, and social oversight. This includes the recognition of digital due process, in which every citizen has the right to understand and challenge the decisions made by intelligent systems.

Furthermore, the STF’s role as a counterweight to the majority and as a forum for dialogue is consolidated as an educational function. When ruling on landmark cases involving technology, the Court not only resolves specific disputes but also establishes normative values that guide society. This educational dimension is essential for building a digital constitutional culture based on public trust and the explainability of decisions. As Streck (2023, p. 92) notes, “the Constitutional Court must be the ethical beacon that prevents technology from stifling humanity.” Thus, the STF’s legitimacy will depend on its ability to reconcile technology, democracy, and justice, reaffirming the principle that no algorithm stands above the Constitution.

Algorithms, Opacity, and Automated Discrimination

Algorithms, although they are products of mathematical rationality, are built on historical data, selection criteria, and statistical inferences that inevitably bear social, cultural, and political imprints. This observation has led authors such as Eubanks (2017) and Pasquale (2015) to debunk the myth of algorithmic neutrality. According to Eubanks (2017), the automation of decision-making in public policy and judicial systems often transforms structural inequalities into “technical decisions,” reinforcing biases against minorities and marginalized groups.

Pasquale (2015) refers to this phenomenon as the “*black box society*,” in which decisions made by automated systems are not subject to public scrutiny. This lack of transparency undermines the principle of transparency and weakens democratic oversight, as it prevents citizens from understanding the reasons behind decisions that affect them. From a constitutional perspective, this situation violates the right to adversarial proceedings, to a full defense, and to the provision of reasons for decisions—pillars of due process as provided for in Article 5, subparagraphs LIV and LV, of the Federal Constitution.

In the Brazilian context, the General Data Protection Law (LGPD) (Law No. 13,709/2018) represented a significant step forward by establishing, in Article 20, the right to review automated decisions. However, as Teixeira *et al* note. (2022), the effectiveness of this right depends on the role of the constitutional court, which is capable of interpreting the

provision in light of the principles of human dignity and equality. This means that it is up to the STF to ensure that the review is not merely formal but substantive, guaranteeing access to the code, logic, and decision-making criteria of automated systems.

Automated discrimination is a real risk in digital societies. Algorithms used for recruitment, credit approval, facial recognition, or setting judicial priorities can perpetuate racial, gender, and class biases. According to Streck (2023, p. 91), “digital democracy depends on the ability of constitutional law to identify and correct these new forms of discrimination, which are not expressed in unjust laws, but in biased codes and data.”

Thus, the challenge for constitutional jurisprudence is to develop a model of algorithmic justice (Pasquale, 2015) that ensures explainability, accountability, and non-discrimination in automated processes. This implies that the STF must take a proactive stance, guiding the public administration and the private sector in adopting ethical practices for the use of AI, as well as in establishing protocols for algorithmic auditing and technological transparency.

Overcoming opacity and algorithmic discrimination is essential to realizing digital constitutionalism. As Zuboff (2020, p. 422) concludes, “without a strong constitutional right, surveillance becomes a form of government and the citizen is reduced to mere data.” Thus, it is up to the constitutional courts to ensure that technology serves the causes of freedom and equality, reaffirming the principle that human beings—and not algorithms—must remain at the heart of the constitutional order.

The growing use of algorithms and artificial intelligence systems in public and private management has brought to light a central problem: algorithmic opacity—that is, the inability to understand how these decisions are made and what criteria are used. Pasquale (2015) referred to this condition as a “*black box society*,” characterized by automated decisions that escape democratic control. This lack of transparency directly threatens due process, as it prevents citizens from learning the reasons behind a decision and from exercising their right to a defense.

Eubanks (2017) demonstrates that the automation of public policies can transform historical inequalities into seemingly neutral mathematical patterns, a phenomenon he calls the automation of inequality. By using biased and historical data, algorithms tend to reproduce and perpetuate racial, gender, and socioeconomic discrimination. Streck (2023) points out that “the myth of technological neutrality is one of the most sophisticated forms of contemporary injustice, as it masks human bias under the guise of objectivity.”

In the Brazilian context, Article 20 of the General Data Protection Law (LGPD) guarantees the right to review automated decisions, representing a significant regulatory advance. However, as Teixeira et al. point out, (2022), the effectiveness of this right depends on the role of the constitutional court, which must ensure transparency, access to information, and algorithmic *accountability*. In exercising its oversight function, the STF has a responsibility to ensure that the systems used by public agencies are auditable and consistent with the constitutional principles of dignity and equality.

Overcoming opacity and algorithmic discrimination requires a new constitutional pact on technological justice. This involves creating public protocols for auditing algorithms, adopting criteria for explainability, and strengthening democratic digital governance. As Zuboff (2020, p. 422) concludes, “without a strong constitutional right, surveillance becomes a form of government and the citizen is reduced to mere data.” The challenge for constitutional jurisprudence is, therefore, to ensure that technology remains a tool in the service of freedom, rather than a mechanism of social control. Thus, digital constitutionalism must establish itself as an ethical and legal response to the complexity of informational power, reaffirming the law’s commitment to justice, transparency, and equality.

Method

This study adopts a qualitative, exploratory, and descriptive approach, which is appropriate for analyzing complex phenomena involving the relationships between technology, law, and society. According to Minayo (2022), the qualitative method makes it possible to understand meanings and interpretations, rather than simply quantifying data. This perspective is essential when seeking to examine how constitutional jurisprudence addresses the use of algorithms in public and private decision-making.

The research method is hermeneutic-critical, drawing inspiration from Streck's (2023) contributions on the need for a constitutional hermeneutics committed to the realization of fundamental rights. This methodological approach makes it possible to interpret the meaning of the Federal Supreme Court's (STF) decisions not only in their legal literal sense, but also in their political and technological context.

Three main technical procedures were used: (a) a documentary analysis focused on reviewing and systematizing Supreme Federal Court (STF) decisions involving the use of digital technologies, data protection, and artificial intelligence, such as ADIs 6387/DF and 5527/DF; (b) a literature review covering national and international scholarship on digital constitutionalism, algorithmic justice, and technological jurisdiction; (c) thematic content analysis, as defined by Bardin (2016), which consists of categorizing ideas and arguments based on units of meaning.

The development of the study's analytical framework was guided by five main categories: 1. Algorithmic opacity – lack of transparency and auditability; 2. Automated discrimination – the reproduction of structural inequalities; 3. Digital due process—guaranteeing review and justification of automated decisions; 4. *Institutional Accountability* – accountability of public and private actors; 5. Digital Counter-Majoritarian Function – The Role of the STF in Protecting Rights in the Digital Age.

The triangulation of empirical data (case law), normative data (laws and treaties), and theoretical data (scientific literature) lends the research interpretive validity, in accordance with the criteria of coherence and consistency proposed by Flick (2018). Thus, the study does not seek to quantify phenomena, but rather to critically understand how the Brazilian constitutional jurisdiction responds to the ethical and legal challenges posed by automated decision-making.

Results

An analysis of the decisions of the Federal Supreme Court (STF) revealed significant progress and gaps in the protection of fundamental rights in the face of algorithmization. Among the key outcomes, the consolidation of the fundamental right to personal data protection (ADI 6387/DF) stands out, as it is recognized as an essential tool for preserving dignity and privacy. This decision marks a milestone in the transition toward Brazilian digital constitutionalism, in which technology is understood as a sphere within which human rights apply.

However, the results also indicate that the STF has not yet developed a consistent body of case law on algorithmic due process. The decisions analyzed show a trend toward emphasizing proportionality and formal legality, but they fail to directly address issues such as algorithm explainability, discriminatory biases, and public audit mechanisms.

According to Streck (2023), “technological neutrality is a dangerous legal myth, as it masks the power dynamics embedded in the code.” This concern is borne out in cases where automated decisions were accepted without requiring full transparency, which highlights a gap in judicial oversight of algorithmic justice.

On the other hand, the STF has shown increasing sensitivity to the ethical and social dimensions of technology, especially in cases related to digital privacy and the use of data by public agencies. This openness to dialogue points to the possibility of establishing a proactive

and inclusive constitutional jurisdiction capable of balancing technological efficiency and fundamental guarantees.

Based on the analytical categories, three emerging guidelines for strengthening digital constitutional jurisdiction were identified: 1. Mandatory algorithmic transparency in public decision-making; 2. Judicial oversight of the social impact of technologies; 3. An anti-discriminatory interpretation of the Constitution that recognizes the risks of automated exclusion.

These results demonstrate that the STF's work is still in its early stages, but point toward the development of a model of constitutional algorithmic justice, as advocated by Pasquale (2015) and Zuboff (2020), in which technology must be subject to democratic ethics and the protection of human dignity.

Concluding Remarks

The findings suggest that the Brazilian constitutional judiciary faces one of the greatest challenges in its history: protecting fundamental rights in an era of automated decisions based on data and algorithms. While technology brings efficiency, it also gives rise to new forms of inequality and opacity, requiring the Federal Supreme Court to provide an institutional and interpretive response consistent with the democratic rule of law.

According to Sousa (2022), digital constitutionalism should not be viewed merely as an adaptation, but as “a normative reconstruction of the public sphere in the face of algorithmic logic.” Thus, the STF must shift from a reactive stance to a proactive and rights-protecting one, assuming the role of an ethical mediator between innovation and justice.

Strengthening algorithmic due process is a central element of this new jurisdiction. It ensures that every automated decision can be understood, reviewed, and challenged, while preserving the dignity and autonomy of individuals. Furthermore, the development of judicial protocols for transparency and the auditing of public algorithms is an essential step toward the democratic oversight of technology.

Based on theoretical and empirical analyses, it is argued that constitutional anti-discrimination jurisprudence should be guided by three pillars: (i) the explainability of algorithmic decisions; (ii) social inclusion and the protection of vulnerable groups; and (iii) the accountability of entities that use AI in sensitive contexts. This triad reflects constitutional law's commitment to digital justice and substantive equality.

In short, the future of constitutional jurisdiction will depend on the STF's ability to integrate technological ethics into its counter-majoritarian role, ensuring that the digital transformation takes place in accordance with the constitutional values of freedom, equality, and human dignity. The challenge is not to resist technology, but to enshrine it in the constitution, guiding its use toward the promotion of democracy and human rights.

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