

LEGAL CONSIDERATIONS ON ARTIFICIAL INTELLIGENCE
CONSIDERAÇÕES JURÍDICAS SOBRE A INTELIGÊNCIA ARTIFICIAL
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ABSTRACT

Artificial intelligence is a technology that has the capacity to greatly influence almost every aspect of human activity and therefore has the potential to transform social life in many ways. Law, as the discipline responsible for regulating social dynamics, faces the great challenge of establishing legal frameworks that promote the use of artificial intelligence to support human activity, as well as preventing uncontrolled and dangerous uses that could be harmful. This paper aims to provide a descriptive introduction to what is currently understood by this technology and to the progress made in its regulation at the international, supranational, and national levels in Mexico, as of the time of its publication.

Keywords: Artificial Intelligence. Law. Regulation. Risk.

RESUMO

A inteligência artificial é uma tecnologia que tem a capacidade de influenciar fortemente quase todos os aspectos da atividade humana e, por isso, tem o potencial de transformar a vida social de muitas maneiras. O Direito, como disciplina encarregada de regular as dinâmicas sociais, enfrenta o grande desafio de estabelecer marcos jurídicos que promovam o uso da inteligência artificial como apoio à atividade humana, bem como de impedir usos descontrolados e perigosos que possam ser prejudiciais. Este texto busca fazer uma introdução descritiva sobre o que se entende atualmente por essa tecnologia e sobre os avanços na sua regulamentação nos âmbitos internacional, supranacional e nacional, no caso do México, até o momento de sua publicação.

Palavras-chave: Inteligência Artificial. Direito. Regulação. Risco.

RESUMEN

La inteligencia artificial es una tecnología que tiene la capacidad de influir grandemente en casi todos los aspectos de la actividad humana y por ello tiene el potencial de transformar la vida social en muchos sentidos. El Derecho como disciplina que se encarga de regular las dinámicas sociales, tiene ante sí el gran reto de establecer los marcos jurídicos que fomenten el uso de la Inteligencia artificial para apoyo de la actividad humana, así como para impedir los usos descontrolados y peligrosos que puedan ser perjudiciales. En este escrito se trata de hacer una introducción descriptiva de lo que se entiende por esta tecnología en la actualidad y el avance en la regulación que, en el plano internacional, supranacional y nacional en México, se tiene al momento de emitirlo.

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Palabras clave: Inteligencia Artificial. Derecho. Regulación. Riesgo.

1 INTRODUCTION

The content of this paper is derived from a research project by the author, which has just been concluded. The issue of artificial intelligence is technical, specialized in areas of exact sciences, but its impact on a diversity of activities is so great that it necessarily has to be studied also from the legal perspective, where very important debates are generated to be addressed. The aim is to make a general overview of some of the main advances in artificial intelligence and relate it to some phenomena with legal relevance that could be generated by its application in social aspects.

2 PROBLEMS AND JUSTIFICATION:

The advancement of science and technology has given rise, among many other things, to what is now called artificial intelligence, an aspect in constant development that has to do with different aspects of the life of the human being individually and in societies. Different phenomena and problems are generated, which the law has to observe in order to regulate and better still it must investigate to try to foresee the harmful that can occur and issue proposals for solutions. It is the task that corresponds to Law very broad, diverse, which is why, in the research project, it has been intended to make general, introductory analyses of the relationship between artificial intelligence and law, proposing some contributions in this world of growing possibilities.

3 BACKGROUND

The exact sciences and technology have made great advances in recent decades, which have transformed human life in many ways, sometimes to facilitate it, make it more comfortable or sometimes causing unprecedented problems that have been difficult to solve or, even worse, have left a permanent mark. As these scientific contributions have a direct impact on human life, it is necessary that they have legal systems that regulate them in order to achieve the purpose of the law as a whole: to allow coexistence in a more or less peaceful way, guaranteeing the recognition of people's rights.

The issue of artificial intelligence is one of those that poses a revolution in social life, in various aspects due to its special characteristics, so the law must be attentive to regulate these phenomena in the most appropriate way and also allow scientific growth and development in harmony with human activity

It is necessary to emphasize that Artificial Intelligence is not a new topic, it has already been under construction for decades, but it is a few years to date that it has reached a level that is related, like much of technology, in many areas of life and therefore has been highlighted in the media, achieving great dissemination.

Due to its degree of development and the great progress achieved, it has been considered that apart from the great benefits that it can attract to humanity, it implies serious risks to the labor aspects of different activities, trades or professions.

4 DEFINITION OF ARTIFICIAL INTELLIGENCE

In UNESCO's 2022 publication Recommendations on the Ethics of Artificial Intelligence, it defines:

"AI systems are information processing technologies that integrate models and algorithms that produce an ability to learn and perform cognitive tasks, leading to outcomes such as prediction and decision-making in physical and virtual environments. AI systems are designed to operate with varying degrees of autonomy, through the modelling and representation of knowledge and the exploitation of data and the calculation of correlations" (UNESCO, 2022)

One of the main factors considered when analyzing AI is the problem that its indiscriminate use could cause to life in its various manifestations. There are those who consider that these fears are unjustified since for decades there has been software that humanity uses for very varied purposes, if the biggest problem in general. In relation to software, a machine does not "think"; He does exactly what he is ordered to do and therefore, everything is under control. So, we can say that the main difference (and revolutionary novelty) with Artificial Intelligence is that although it receives a feed of information or programming, through the collection of data, AI is capable of obtaining solutions by itself, doing operations that approximate the functioning of the human brain, this being the main characteristic that triggers fears about its existence and future development. In addition, the so-called generative AI enhances all these capabilities of the technology

It is precisely in this capacity, in this possibility of relating information, of integrating solutions, of emulating the mental processes of the human brain where the fears generated by Artificial Intelligence lie. So much so, that there have been expressions, requests from different organizations of society at the international level where governments are asked to regulate it effectively. All or at least the vast majority recognize its importance, the degree of

irreversible intervention it has in many aspects of life, the convenience of the support it can provide to human beings, but also the expectation is great that uncontrolled development can cause more harm than good.

It is said, sometimes with support and seriousness, sometimes with a bit of levity, that the use of AI will change the work schemes, the exercises of carrying out the different trades or professions. It is undeniable that it will impact some activities more than others, but in general it is considered that human beings must learn, adapt to using these technologies and do their job better, since they will have a tool that will provide great support to relieve them of repetitive tasks that would take a lot of time.

Some time ago I watched on the channel of the Federal Judiciary, a program hosted by the prominent jurist Miguel Carbonell, called: The legal profession and artificial intelligence, has the future caught up with us? (Justicia TV 2023) where the point of whether AI would displace lawyers, law graduates and the panel of experts agreed that it would not, since although the capabilities of artificial intelligence are so broad that they allow it to collect information, process it, provide solutions, even learn, the use of this tool implies great possibilities for the jurist to make his time more efficient since he will dedicate himself to the reasoning tasks with greater emphasis, since other tasks of support, of search, which represented a lot of time invested, will now be of very short duration

In general, some advantages and disadvantages of the use of AI are identified, among the first: Constant and unrestricted availability, fewer risks due to the automation of dangerous jobs, automation of repetitive jobs, constant learning through the development of AI. In terms of disadvantages, high implementation costs are mentioned, when it comes to large equipment or updated machinery, biased decision-making, since AI works based on algorithms with which it is fed and whoever does so can imprint their intentionality or ideology, very specialized skills that are concentrated in a few, possible substitution or displacement of human beings in some areas.

We dealt with the regulation that must be made on this technology, it is essential to create an advanced legal framework

5 REGULATORY FRAMEWORK

5.1 INTERNATIONALLY

In this regard, efforts have been made for years to achieve this regulation, but it was not until August 2024 that the regulation known as the European Union's Artificial Intelligence

Law came into force. Which is identified as a European-wide regulation that regulates this technology, "the first comprehensive regulation on AI from a major regulator anywhere in the world" (artificial EUA, 2023).

In the second half of 2024, the Council of Europe opened for signature the first Global Treaty on AI, called the Council of Europe Framework Convention on Artificial Intelligence and Human Rights, Democracy and the Rule of Law, which is the first legally binding international treaty whose objective is to establish that the use of AI is consistent with human rights. the rule of law and democracy.

"The treaty, which is also open to non-European countries, establishes a legal framework that covers the entire life cycle of AI systems and addresses the risks they may pose, while promoting responsible innovation. The agreement takes a risk-based approach to designing, developing, using and decommissioning AI systems, which requires careful consideration of any potential negative consequences of the use of AI systems." (European Council, 2025)

The agreement was signed by Iceland, Norway, the United Kingdom, the European Union and other non-European countries, such as the United States and Mexico.

For Mexico, which does not yet have a specific legal regime, it represents a challenge since companies and suppliers of AI systems will have to adapt to those prescribed by the treaty to operate in Europe and the other signatory countries.

The treaty provides a legal framework that covers everything related to the development of AI systems, promotes progress and innovation, and addresses the risks that their exercise may pose to human rights, the rule of law and democracy.

Returning to the European regulation, we said in previous paragraphs that this regulation on AI came into force as of August 2024 for some purposes and in a gradual process over two years, it will come into force in all its aspects.

For this regulation, what is identified as risk is fundamental. In general, when approaching the study of this technology, the risk, that is, the aspects of danger that the use of various manifestations of AI may represent for the population, is fundamental, since due to its particular characteristics it is necessary to address in order to prohibit or regulate the use of technology in certain areas of society's activity.

The regulation in question identifies four levels of risk:

- a) Unacceptable, that is, when the use of Artificial Intelligence technology involves a manipulative activity of human consciousness or involves systems of segregation or social discrimination. For example: exploiting vulnerabilities in which people find themselves, such as a disability or certain socioeconomic conditions; using people's biometric data to create systems to organize or classify people based on those natural identifiers; Classify people by social behaviors or other similar factors, among others
- b) High risk, which is extensively addressed in this Law, identifies as areas in which, if artificial intelligence is not properly regulated, it could represent serious dangers, areas such as education, access to health services, and even immigration procedures.
- c) Limited risk, although this regulation deals with it to a lesser extent than with high risk, if it considers above all in relation to the need for AI developers to make sure, take the necessary measures to inform and create awareness in users that communication and the relationship are being carried out with technology, not with human beings.
- d) Minimal risk. It is not regulated by this law (at least at the time of its issuance). It would include topics such as video games with AI, although the recent development of generative AI somewhat modifies the panorama

The organization called the Organization for Economic Cooperation and Development (OECD), has very relevant studies and documents on the subject and in 2019 issued the Principles of Artificial Intelligence, which were revised in 2024.

"The OECD AI Principles promote the use of innovative and trustworthy AI that respects human rights and democratic values. Adopted in May 2019, they set standards for AI that are practical and flexible enough to last over time." (OECD, 2025)

Among them are: Inclusive growth, sustainable development and well-being, Human rights and democratic values, transparency and explainability as well as accountability

5.2 LEGAL FRAMEWORK AT NATIONAL LEVEL

In our country, Mexico, several attempts have been made to reform the Constitution to incorporate the power to legislate on AI matters, so most attempts have been to reform Article 73 and expressly include that the Congress of the Union may legislate in this area. Currently section XVII." To enact laws on general communication routes, information and communication technologies, broadcasting, telecommunications, including broadband and the Internet, posts and postal services, and on the use and exploitation of waters under federal jurisdiction." (Political Constitution of the United Mexican States 2025) And what has

been intended is that it expressly says Artificial Intelligence, as another of the areas considered federal matter for its legislation.

Legislative attempts have also been made to regulate this technology, especially from 2020 to 2024 (CECO, 2025); We can identify four most prominent ones:

AI and Robotics Ethical Regulation Act 2023

Law regulating the use of AI 2023

Law that creates the Mexican Agency for the development of AI 2023

Federal Law Regulating AI 2024 (Meza, 2024)

The latter establishes in its first article, the object of regulation.

I.- To regulate the development, commercialization and use of artificial intelligence systems.

II.-Guarantee respect for the human rights of consumers and users and avoid any form of discrimination when using AI systems

III.-Protect Intellectual Property Rights

IV.-To facilitate the national development of artificial intelligence systems. (Chamber of Senators, 2024)

Already in the current year, 2025, on April 22, the initiative of the Federal Law for the Ethical, Sovereign and Inclusive Development of Artificial Intelligence was presented, which defines as its object:

Article 1. The purpose of this Law is to establish the general regulatory framework for the development, implementation, use, supervision and promotion of artificial intelligence in the United Mexican States, in accordance with the principles of universality, interdependence, indivisibility, and progressivity of human rights, ensuring an ethical approach and promoting technological sovereignty. In order to guarantee that everyone enjoys the benefits derived from development and innovation, in the field of Artificial Intelligence, in full observance and respect for Human Rights. (Chamber of Deputies, 2025)

In both initiatives, the most recent and complete presented in Mexico, the aim is to regulate the development of AI with a perspective of respect for human rights in its exercise, which must be carried out with the values that guide the Mexican legal system and a general scope of access to the use of this technology and its benefits.

The issue of harmonization between AI and respect for intellectual property rights is of particular interest at the international level since it is one of the areas in which the greatest impact is produced and that practices and even criteria have been generated, which are of

great concern to intellectual creators. because of the impact that may be caused or even generalized to their rights.

Likewise, we have administrative documents that deal with some aspects of the use of AI, for example, we will cite Recommendations for the Treatment of Personal Data derived from the use of AI, from the National Institute of Transparency and Access to Information and Protection of Personal Data INAI of June 2024, a document that being of high quality, defines some issues of great importance in AI, always within the orbit of its objective, which is the protection of people's data and information and which is certainly one of the areas that presents the greatest challenges.

In Mexico, work is being done on this issue, it has been on the table for some years. At least since 2019 we have already had texts, serious and sustained studies on Artificial Intelligence. There are areas such as the judiciary where it has been the object of particular attention and extremely valuable studies. The judicial sphere is one of the governmental spheres in which the greatest attention has been paid to the use of this technology to reduce its negative impact and take advantage of its enormous possibilities of benefit. In 2023, the House of Legal Culture of the Supreme Court of Justice of the Nation, held an academic event called "The vision of Artificial Intelligence on Justice" where the panorama of how AI was being incorporated into the exercise of judicial power was presented. The event was of enormous quality because of the speakers who discussed advanced points, describing the important actions that are already being carried out and identifying that even in relatively new areas, in Mexico there are scientific studies of great quality in this regard and above all put into practice, incorporated into the exercise of the work.

6 CONCLUSION

Artificial AI is a technology that surpasses what was known until its appearance and is under development. The challenge for human beings is to adapt, adapt, be able to get the most out of it without compromising the rights and stability of human beings, combining the support of AI with their own activity so that the world offers better opportunities, problem solving and better living standards to more people.

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