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**TECHNOCRACY IN THE
ERA OF ARTIFICIAL
INTELLIGENCE:
ETHICAL, LEGAL AND
POLITICAL CHALLENGES
FOR EFFECTIVE
“REGULATION”**

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Abstract: The development and use of artificial intelligence (AI) tools have been increasing exponentially, even in the context of the absence of regulation by the legislator. Due to the possibilities of applying this technology in different sectors of society, technocracy has gained even more relevance as an approach to deal with the ethical, legal and political challenges related to the so-called indirect or alternative regulation of AI. The objective of this essay is to analyze the main ethical, legal and political challenges that involve the use of technocracy for an indirect but effective regulation, without intending to exhaust the discussion. With the use of theoretical-bibliographical, documentary and qualitative research, using the deductive method, it is concluded that for an alternative and effective regulation of AI, an interdisciplinary approach is necessary that integrates technical expertise, ethical principles and political considerations. Regulatory policies must be flexible and adaptable, able to keep pace with rapid technological advances and adjust to changes in the social scenario.

Keywords: Technocracy. Artificial intelligence. Regulation. Challenges.

INTRODUCTION

The absence of regulation of artificial intelligence (AI) by the legislator contemplates, in particular, two different scenarios. In the first, there are questions about the aspects surrounding the elaboration of the future governing legislation, something that has already been the object of study on another occasion. In the other scenario, the subject of this investigation, questions arise regarding the solutions that can be adopted even in the absence of formal regulation of AI by the legislator. For the purposes of this investigation and with a purely educational objective, it

1. Although there is no specific governing rule, there are a few Brazilian laws that address issues related to AI: (a) General Data Protection Law (LGPD) - Law No. 13,709/2018; (b) Marco Civil da Internet - Law No. 12.965/2014; (c) Software Law - Law No. 9609/1998.

was decided to consider this framework as an indirect or alternative regulation of AI.

In fact, on the one hand, the law in the strict sense is not the only way of regulating the relationships arising from the use of AI. There are other alternatives for overcoming the lack of governing norms such as the decisions issued by the Federal Court of Justice (STF), *soft laws*, self-regulation and algorithmic regulation, for example.

The role of the STF (Federal Court of Justice) in the scenario of legislative gaps, that is, in the face of the lack of legal norms coming from the legislator, is a complex subject, but one that has been extensively investigated. It is outlined, in particular, in Barroso, Mendes, Toron, Rocha, Peluso, Paixão, Campos (2012) and Ávila.

In this step, as AI is a relatively new and rapidly evolving technology area in circumstances where current legislation is practically non-existent¹, the STF (Federal Court of Justice) can be urged to fill legislative gaps based on fundamental constitutional principles, notably through the following activities: (a) interpretation of existing legislation; (b) filling legislative gaps; (c) protection of fundamental rights; (d) setting precedents.

The action of the STF (Federal Court of Justice) in scenarios where there is no specific regulation is essential to ensure the proper application and interpretation of the Federal Constitution and the rights contained therein. However, this action may raise some questions, especially related to the use of the legislator's competence by the STF.

The limits of constitutional jurisdiction, in the scenario of a legislative gap, and the potential and undue *usurpation* of the legislative function by the STF (Federal Court of Justice), were the subject of studies

by Barroso, Streck, Vieira, Paixão, Garu, Mulatinho and Reis, Campos (2012) and Benvindo.

The Constitution of Brazil establishes a system of separation of Powers, in which the Legislative Power has the primary function of creating the laws. When the STF is called upon to act in the face of the legislator's inertia, doubts arise regarding the usurpation of legislative competence, which would be a violation of this separation.

Mendes (2002) is reluctant to admit the usurpation of the legislator's powers by the STF and maintains that the performance of the fundamental role of guardian of the Federal Constitution by the STF (Federal Court of Justice) does not imply a negative influence on the functions of the democratic legislator. One cannot speak of "judicialization of politics" when "political issues" are in fact "issues of law" and this has been the guideline adopted by the STF since the beginning of the Republic, points out Mendes.

According to the author, in modern constitutional States, it is up to the constitutional jurisdiction to be the protector of the Constitution, never harming the other Powers established democratically. In exercising this function, both the democratic legislator and the constitutional jurisdiction play roles of equal importance. The interpretation and application of the Constitution are the responsibility of all Powers as well as of society as a whole. As Professor Peter Häberle highlighted, all those who experience the Constitution are also its legitimate interpreters, concludes Mendes.

Another alternative for overcoming the non-existence of rules governing AI are *soft laws*.

According to Leslie *et. al.*, these are non-binding recommendations, guidelines, certifications or statements that consolidate common principles and standards of

recommended practices, which are often open to interpretation and do not imply legal sanctions. One can speak, then, of political and regulatory structures that oblige or restrict actions without the force of state sanctions or penalties.

According to Almeida, *soft laws*, although not binding, are flexible and require a governance system to ensure their recognition and validity. They play a crucial role in creating regulations for AI, being incorporated into codes of conduct, strategies, guidelines, certifications and standards. *Soft laws* can be implemented by an organization for its own management, or to guide other entities. In more advanced scenarios, regulatory agencies come into play, working together with research institutions and standardization bodies, in order to establish audit processes. These processes allow the certification of entire organizations or specific AI products, providing society with the ability to know and choose what gives them greater security.

Furthermore, *soft laws* emerge as an alternative to resolve the mismatch between legislation and the intense production of AI systems, without delaying technological advances and their benefits.

This way, international bodies, government entities and non-governmental organizations can issue guidelines and recommendations on the responsible and ethical use of AI. These guidelines can help fill in the gaps pending the formulation of formal regulations by the legislature.

Another option is self-regulation, which involves the creation of rules and norms of conduct by the private actors involved in the development or use of AI, that is, it contemplates the determination of content, applicability and execution of different rules (CLEYNENBREUGEL, 2022).

Jessop (2003) refers to self-regulation as a governance system that limits the role of

regulatory bodies and emphasizes that the conscious self-management of autonomous actors immersed in complex ties of mutual dependence characterizes this dynamic, in which self-administration is based on a continuous dialogue and in the joint allocation of resources. It seeks to encourage the execution of cooperative initiatives that provide mutual benefits as well as deal with the contradictions and impasses that inevitably emerge in these circumstances.

This way, companies, organizations and interest groups can develop standards and codes of ethics to guide their practices and promote responsibility and transparency in the development and application of technology.

Finally, O'Reilly (2013) popularized the concept of algorithmic regulation, which emphasizes the replacement of individuals by algorithmic systems in the execution and monitoring of government functions.

Yeung (2018) refers to algorithmic regulation as decision-making systems that regulate a domain of activity to manage risks or change behavior through continuous computational generation of knowledge, systematically collecting data (in real time and continuously) issued directly from various dynamic components belonging to the regulated environment to identify and, if necessary, automatically refine (or request refinement) system operations to achieve a pre-specified goal.

In turn, Morozov (2018) relates algorithmic regulation to the growing influence of algorithms in the governance and regulation of various aspects of life.

According to the author, algorithmic regulation refers to the use of algorithms and other data technologies to regulate and manage different spheres of society. For example, the application of algorithms in traffic, health, education and other sectors can be used to optimize resources, predict

behavior, and even make decisions that were previously made by humans.

Morozov highlights both the promises and pitfalls of algorithmic regulation. On the one hand, it can make public administration more efficient, transparent and responsive, automatically adjusting to changing circumstances and needs. On the other hand, there are legitimate concerns about the possibility of reduced transparency and lack of accountability, as algorithmic decision-making can be opaque and difficult for the general public to understand.

Furthermore, algorithmic regulation can also lead to a reduction in human autonomy and democratic participation. If decisions are taken automatically by machines, without due process of deliberation, human influence and control over governance can be diminished and this can create a technocracy in which decisions are made based only on efficiency and optimization, without fully considering the human and social values.

In this regard, Morozov warns that “algorithmic regulation, regardless of its immediate benefits, will give us a political regime in which all decisions will be taken by technology companies and state bureaucrats” (MOROZOV, 2018, p. 101).

In the same sense, there is the perception of O'Reilly for whom “the use of algorithmic regulation increases the power of regulators, and in some cases, could lead to abuses, or I'm conditions that seem anathema I'm us in a free society”.

These alternatives to the absence of formal regulation of AI by the legislator can be especially useful in contexts of rapid technological evolution, in which formal legislation may not keep pace with innovations. However, it is important to note that these approaches do not preclude the need for long-term formal regulations by the legislator. While these alternatives may

fill temporary gaps, it is critical that there is an ongoing effort to create specific laws and regulations that address the ethical, legal and political issues inherent in the use of AI, thereby ensuring the protection of individual rights, public safety and the promotion of a just and equitable society.

On the other hand, even with the use of these alternatives, it is perceived that technocracy has the potential to play a fundamental role in solving issues arising from this intelligent technology, especially due to the strictly technical aspects that involve it, which often escape perception. the legislator, jurists and public policy makers.

It cannot be denied, however, that, given the lack of regulation of AI by the legislator, the interdisciplinarity that entails the use of technocracy gives rise to challenges of an ethical, legal and political nature that deserve some reflection.

Thus, this essay seeks to answer the following research problem: in the AI era, given the lack of specific formal regulation of the matter by the legislator, what are the ethical, legal and political challenges that the use of technocracy can give rise to and how solve them?

The objective of this essay, in this context, is to analyze the main ethical, legal and political challenges that involve the use of technocracy for an alternative and effective regulation, without intending to exhaust the discussion.

To achieve this objective, the notions of technocracy (2) are first presented. Next, the ethical (3), legal (4) and political (5) challenges surrounding the theme are analyzed. At the end, conclusions are presented (6).

NOTIONS OF TECHNOCRACY, TECHNOCRATIC REGIME AND POLITICAL REGIME

The notions of technocracy, according to Bobbio, Matteuci and Pasquino, are among the most ambiguous in the conceptual body of modern social sciences. For this reason, the authors affirm the need to evaluate three points of view in the face of delimitation problems: (1) history; (2) structural; and (3) functional.

Regarding the historical aspect, the authors related the emergence of the expression with contemporary societies with a high level of industrial development, within the scope of the second industrial revolution, but add that in the third industrial revolution the emergence of new technocratic species was consolidated.

With regard to the second aspect, technocracy in its proper sense is discussed when approaching social systems in which the real power relations within the productive structures do not follow both the logic of property as the entitlement of the Law as well as a logic of control of structures and predominance of the moment of fact over the moment of law.

As for the third point, the issue is precisely to establish the differences between the technician and the technocrat.

A technician, the authors continue, is generally understood as a specialist, that is, an individual with skills in a given sector of collective experience, who performs his tasks following an efficiency program. Unlike the technician, who specializes in a specific field, the technocrat is not an expert. In other words, the technocrat also has competence and seeks efficiency, but his expertise is concentrated in the general scope. While the technician is an expert in a particular field, the technocrat is characterized as an expert in general ideas, having cross-functional skills and broad

knowledge of action variables.

The notion of the technocrat is extracted both from the set of attributes and from the likely forms of behavior, which is identified from the political regime, that is, it is a vague concept with limited descriptive value (CENTENO, 1993, p..

There is no lack of criticism of technocracy, according to Abbagnano, for whom care is taken of the use of technical skill as a power tool by economic, military and political leaders in the protection of their interests, which are perceived as aligned or unified, with the main goal of controlling society.

The excessive use of technology has long been disapproved by Marcuse, when he lectured on technological rationality and the logic of domination. According to the author, “technological rationality thus protects, instead of canceling, the legitimacy of domination, and the instrumentalist horizon of reason opens up on a rationally totalitarian society” (, that is, for the author, technology can be used to establish new mechanisms of control and social coercion that are more efficient and more acceptable.

From the lesson of Morozov (2018) concerns are also extracted with the consequences of thoughtless technological advances ², capable of reducing people’s ability to question the “how” of politics. The author draws attention to what he described as *solutionism*: “problems must be solved through applications, sensors and infinite feedback loops – all provided by *startups*”.

Even if there are irrefutations, the idea is

2. Reckless technological advances refer to the development and implementation of technologies without due consideration or analysis of their potential ethical, social, cultural and environmental implications.

3. Some examples help to elucidate this statement. In the 19th century, the Industrial Revolution brought profound changes to the economy and society, with the mechanization of production. There was widespread fear among workers that machines would replace them, leading to mass unemployment – an anxiety similar to the current one about automation and AI. In the late 19th and early 20th centuries, electricity was seen by many with fear and distrust. There were fears that electricity could cause fires, or that exposure to electric fields could have adverse health effects. These fears parallel the current fear that AI could get out of control and cause harm. In the early 20th century, air travel was viewed with a great deal of skepticism and fear. People feared for their safety when flying, similar to the fears some have about AI-powered autonomous vehicles today. In the 1990s, when the internet started to become popular, there were concerns about privacy, security and social impact. These fears persist today and have intensified with AI given the potential for surveillance and data manipulation.

considered opportune that “the technocracy controlled by a few humans with the help of artificial intelligence, at its maximum efficiency in search of physical, social and mental prophylaxis, will not be able to control the imponderable that characterizes humanity”.

It can therefore be said that the fear of technocracy in the AI era is part of a long tradition of human fears related to the unknown and the potentially disruptive impact of new technologies ³.

To overcome these fears, it is first necessary to know technocracy in depth and realize that the technological advances obtained with intelligent systems are a path of no return, but that they need to be allocated as one more tool available to human evolution in a democratic environment. One cannot continue conceiving technological advances as an end in itself, without questioning their ethical, socioeconomic, political and legal implications, as if they were a panacea.

A clear and well-informed understanding of the technology and its potential impacts can help alleviate fears. Educational programs for the general public, as well as policymakers, can promote deeper understanding and, consequently, more informed acceptance.

Including multiple stakeholders in the decision-making process regarding technology implementation and regulation can help ensure that different perspectives are considered, which is apt to promote trust and help ensure that public interests are served.

Organizations must incorporate ethical

considerations into their development process and be accountable for their impacts and include establishing ethics committees and adhering to recognized ethical standards.

Policy needs agility to face the challenges presented by technological innovations. This need can be translated into the implementation of new governance mechanisms and the modification of current laws, in order to keep up with changes in the technological scenario.

Ongoing monitoring and evaluation of technology impacts will help to identify and address emerging issues in a timely manner.

As such, overcoming fears related to technocracy in the AI age and reconciling technological advances with democratic and political systems requires a multifaceted approach that combines education, regulation, ethics, adaptive governance, and public participation. It is a complex challenge that requires the joint efforts of governments, industries, scientists and citizens.

In the scenario of the absence of AI regulation by the legislator, both the technocratic and political regimes have different approaches to decision-making and the definition of technology-related guidelines.

According to Bobbio, Matteuci and Pasquino, the technocratic regime is one in which the technocrat, based on his competence, determines both the means and the objectives of social action. In contrast, the political regime is one in which the politician determines both the means and the ends on the basis of his own criteria as well as one in which a competent individual is given the responsibility of appointing the means from which the politician chooses, having for politically determined purposes.

The technocratic regime is characterized by the predominance of technical and scientific experts in technology-related decision-making. In this context, technocrats, based on

their technical competence and specialized knowledge, assume a central role in indicating and formulating policies and guidelines for the use of intelligent systems. The idea is that these specialists are the most qualified to deal with the technical and scientific aspects of AI, ensuring efficiency and optimization in the development and application of the technology.

However, the technocratic regime can raise concerns about the lack of democratic representation, as it can exclude wider societal voices and perspectives from decision-making.

Furthermore, while technocrats may have in-depth knowledge of technical areas, they may lack expertise in other important aspects of public policy-making, such as the social, economic and ethical implications of decisions taken. Within AI, this lack of broader understanding can result in policies that fail to take into account all of the technology's potential impacts.

From this perspective, technocrats may tend to focus excessively on technical solutions to complex problems, neglecting more holistic approaches that take social, cultural, and political factors into account.

Furthermore, the most common view on technocracy is a variant of the theory of the elite, according to which the technocrat corresponds to those who received scientific, technical or managerial training in elite institutions (.

As a result, this finding may result in a lack of diversity in terms of gender, race, socioeconomic background, and other important characteristics. A lack of diversity can limit the range of perspectives and experiences that are brought to decision-making, which can result in policies that do not adequately consider the needs of all members of society.

Furthermore, the association of

technocracy with training in elite institutions can give rise to accusations of elitism and lead to a lack of trust in technocracy by the general public.

If the training they receive at elite institutions does not include adequate education about the need to avoid bias and the importance of ethical decision-making, technocrats may make decisions that are unfairly influenced by their own personal preferences or prejudices.

Then, there is concern about the potential supervenience of *techno-authoritarianism*, a form of governance in which technology is used to reinforce an authoritarian regime, increasingly attractive in a world where politics has effectively failed.

However, again this distrust of technocracy in the age of AI seems exaggerated.

While it is true that many political systems face crises and challenges, claiming that policy has “effectively failed” might be an exaggeration. Many democracies have shown remarkable resilience throughout history, adapting and reforming in response to crises.

The notion of *technoauthoritarianism* implies a lack of public control over AI. However, in many societies, there is a growing movement for greater transparency and accountability in the use of technology. This movement supports the idea that technology must be used to improve society, not to control it.

The political regime, in turn, relies on the power and authority of the government and elected representatives to establish AI-related policies and regulations. In this approach, politicians and legislators are responsible for making decisions that reflect the interests and values of society at large. The political regime seeks to balance AI's technical and scientific demands with broader ethical, political, and social considerations. However, policy can be influenced by different interests and agendas,

which can lead to challenges in making objective and well-informed decisions.

This political regime is not immune to drawbacks, as is the case with the technocratic regime.

Corruption is a serious problem that can undermine the effectiveness and legitimacy of a political regime. It can lead to the illicit enrichment of politicians and bureaucrats, favor nepotism and clientelism, and distort public policies in favor of particular interests.

In some regimes, political power can be concentrated in the hands of a small group and thus lead to human rights violations, lack of accountability, arbitrary governance, political paralysis, conflict and violence, and a weakening of social cohesion and governability.

Political regimes can perpetuate or even widen socioeconomic inequalities, whether through unfair public policies, systemic discrimination or lack of opportunities for marginalized groups.

Cumbersome state bureaucracies and lack of innovation can lead to significant inefficiencies in political regimes and result in wasted public resources, slow policy implementation and public frustration.

In the case of the absence of AI regulation by the legislator, therefore, both regimes have advantages and disadvantages.

The technocratic regime can provide an agile, technically solution-oriented approach, but it runs the risk of neglecting important ethical and political considerations. In turn, the political regime can ensure more democratic decision-making, but it can face challenges in dealing with complex technical issues and keeping up with technological advances.

At this point, the question arises: how to employ technocracy in the context of alternatives for indirect regulation of relations arising from the use of AI?

Indeed, technocracy can play an important role in making informed decisions based on technical expertise to deal with the complexities of AI, especially when formal regulation is still lacking.

Thus, it is essential to combine this technical approach with other fundamental aspects for an effective and ethical regulation of AI.

It means that the answer to the proposed question is complex, requires an interdisciplinary approach and does not dispense with the analysis of the ethical, legal and political challenges that face technocrats and public policy makers.

ETHICAL CHALLENGES

Technocracy in the AI era faces complex ethical challenges, after all, the creation and use of intelligent systems raise questions about privacy, personal data protection, algorithmic discrimination, algorithmic bias and transparency of decisions made by intelligent machines, aspects whose technical contours stand out and are often not within reach of full general understanding.

However, at the same time, it is essential to reflect on the social and human impact of these technologies, ensuring that ethical principles such as fairness, equality and respect for human rights are incorporated into AI regulatory policies.

So, given the absence of regulation by the legislator, how to harmonize the use of eminently technical notions, from technocracy, and, at the same time, ensure respect for these fundamental principles?

Ethical challenges are intrinsically related to political philosophy, since ethical issues involve reflections on values, principles, justice and collective decision-making, political phenomena that align with political philosophy.

Defining political philosophy is not an easy task, especially given the complexity of

political philosophy activity and the diversity of its own object, as Morgado (.

For Weil (1990) political philosophy is the systematic and reflective study of fundamental questions related to politics, the State and the organization of society. Eric Weil has developed an original philosophical approach to politics, emphasizing the importance of a rigorous and comprehensive analysis of the concepts and principles that underlie political life.

For the author, political philosophy is not limited to a mere description of political facts or empirical analysis of existing political systems. On the contrary, it seeks to understand the rational and normative foundations of politics, inquiring about the ethical, moral and philosophical principles that guide political action and the organization of society.

In addition, the conception of political philosophy as a deontologically oriented study includes both the rational elaborations of the ideal society, which inspired the genre of "utopias", and the idealizations or rationalizations of a viable or already existing political system, present in the works of the main thinkers modern politicians, such as Hobbes, Locke, Rousseau, Kant and Hegel.

Thus, political philosophy is a specific area of philosophy that focuses on the study of political and ethical issues related to the organization of society and government. It seeks to answer fundamental questions, such as what is the ideal State, what are the foundations of legitimate political authority, what are the rights and duties of citizens and how the relationship between individual and society must be.

In this context of lack of regulation, political philosophy is essential to guide reflection on ethical challenges, providing a theoretical framework that allows critically assessing the ethical implications of decisions related to AI and promoting fairer, more responsible and

inclusive governance. Political philosophy can contribute to the construction of ethical principles that guide the creation of policies and overcome the lack of formal norms to deal with emerging ethical dilemmas in the field of AI.

Furthermore, the need to employ an ethical technocracy seems intuitive.

Ethical technocracy refers to an approach to governance or decision-making that combines technical expertise with fundamental ethical considerations. In this context, technocracy seeks not only to optimize technical and scientific efficiency, but also to incorporate ethical and moral principles in the formulation of policies and regulations. Ethical technocracy recognizes that decisions related to technologies, science and society have significant ethical implications and therefore seeks to address these issues in a careful and responsible manner.

This kind of technocracy may be especially relevant in the universe where AI is not regulated by the legislator, in which technical complexities and ethical implications are intertwined.

In applying ethical technocracy to alternative AI regulation, technical and scientific experts consider ethical aspects along with technical challenges, seeking to ensure that technology is developed and used ethically and responsibly.

And how to make the use of ethical technocracy viable? The answer is complex, but encompasses (a) social impact assessment, (b) the inclusion of diverse perspectives from political science and public administration aimed at formulating public policies, (c) transparency and accountability, (d) adoption of ethical principles, (e) interdisciplinary approach.

Ethical technocracy considers the social and ethical impacts of AI-related decisions, seeking to identify and mitigate possible

negative consequences for society, such as algorithmic discrimination, privacy violations or concentration of power.

In addition, ethical technocracy promotes the inclusion of different perspectives and voices in decision-making, ensuring that regulation takes into account the values and interests of diverse groups in society.

Ethical technocracy also emphasizes transparency in decisions and processes, allows people to understand how public policies were formulated, and provides accountability of decision makers for their actions.

Therefore, fundamental ethical principles such as justice, equity, respect for human rights and beneficence must be incorporated to guide decision-making regarding AI.

Furthermore, ethical technocracy recognizes the importance of an interdisciplinary approach to dealing with the complex ethical challenges related to AI and involves collaboration between technical experts, philosophers, social scientists, jurists and other relevant professionals.

Ethical challenges, however, are not the only concern surrounding the lack of regulation of AI by the legislator, as there are legal challenges that also deserve attention.

LEGAL CHALLENGES

The disruptive nature of AI presents challenges for the solution of concrete cases, in the scenario of the absence of a specific rule of conduct and when talking about the use of technocracy, there are several issues that involve the theme.

In this court, the legal challenges in the environment of the absence of regulation of AI by the legislator are closely related to political thinking, as both deal with questions about power, governance, decision-making and the normative structure that guides society.

And what is political thought? How to

understand Brazilian political thought (PPB)?

Indeed, the classification of political thought can be done in several ways, according to different criteria and in Bobbio, Matteuci and Pasquino (1998) it is possible to identify a wide range of citations in this regard ⁴.

However, it is important to remember that these categories often overlap and interact and are not mutually exclusive. In this essay, due to the usefulness of the term to respond to the problem, Faoro's (1987) approach was initially chosen, ADDIN ZOTERO_ITEM CSL_CITATION {"citationID": "Ity9XP8E"; "properties": {"formattedCitation": "(1987)"; "plainCitation": "(1987)"; "noteIndex": 0; "citationItems": [{"id": 978, "uris": ["http://zotero.org/users/5729815/items/5MXK45RA"], "itemData": {"id": 978, "type": "article-journal", "container-title": "Estudos Avançados", "page": "9-58", "title": "Existe um pensamento político brasileiro?", "volume": "1", "author": [{"family": "FAORO", "given": "Raymundo"}], "issued": {"

4. Here are the forms of political thought mentioned by Bobbio, Matteuci and Pasquino (1998) : (1) Classic : Refers to political thoughts originating in ancient Greece and Rome. Notable thinkers include Socrates, Plato, and Aristotle. Classical political thought tends to focus on questions of justice, virtue, and the best form of government. (2) Traditional : Can encompass a variety of traditions of political thought, including both Western and non-Western ideas. Generally, it refers to thoughts that have a long history and are based on established customs and practices. (3) Christian : Christian political thought is based on the teachings of Christianity. Tends to focus on issues of morality, ethics, and the role of religion in politics. (4) Catholic : A subcategory of Christian political thought, Catholic political thought is based on the doctrine and teachings of the Catholic Church. (5) German : German political thought was heavily influenced by philosophers such as Kant, Hegel, and Marx, and may address topics such as dialectics, idealism, and Marxism. (6) European : Encompasses a variety of traditions of political thought originating in Europe, from Aristotle to Marx. (7) Brazilian : Brazilian political thought incorporates influences from a variety of other traditions of political thought, but is also reflected in Brazil's unique conditions and experiences. (8) Aristotelian : Based on the ideas of Aristotle, this political thought focuses on topics such as ethics, justice, democracy, and the nature of politics. (9) Greek : Greek political thought is often associated with classical political thought, given that many of the earliest and most influential political thinkers, such as Socrates, Plato, and Aristotle, were Greeks. (10) English : Incorporates a range of ideas and traditions, including the classical liberalism of authors such as John Locke and John Stuart Mill, the conservatism of Edmund Burke, and the utilitarianism of Jeremy Bentham. (11) Western : Refers to the tradition of political thought that originated in the West, which includes Greek, Roman, European, and North American thought traditions. (12) Medieval : Medieval political thought is often associated with the influence of the Church and philosophers such as Saint Augustine and Saint Thomas Aquinas. (13) Modern : Modern political thought emerged during the age of the Enlightenment and includes thinkers such as Hobbes, Locke, Rousseau, Montesquieu, Adam Smith, among others. (14) Contemporary : Contemporary political thought includes a wide range of theories and ideas that have emerged in the 20th and 21st centuries, from modern liberalism to feminism, postmodernism, and poststructuralism. (15) Liberal : Liberal political thought is concerned with issues of individual liberty, human rights, equality, democracy, and free markets. (16) Democratic : Democratic political thought is based on the idea that power must be exercised by the people, either directly or through elected representatives. (17) Socialist : Socialist political thought is concerned with issues of social and economic equality and with the idea that the means of production must be collectively owned and controlled. (18) Modern Philosophical : Refers to political thinking emerging during the modern period, characterized by a focus on reason, science, and secularization.

date-parts": [{"1987"}], "suppress-author": true}, "schema": "https://github.com/citation-style-language/schema/raw/master/csl-citation.json"} for whom political thought manifests itself almost invariably in two ways: as ideology and as philosophy or political science. However, it is important to note that it has its own autonomy.

Political thought refers to the set of ideas, theories and conceptions about political issues that have been developed throughout history. These ideas can be created by philosophers, politicians, intellectuals and thinkers in general, and seek to understand and explain the dynamics of power, the organization of society and the relationship between rulers and ruled.

Furthermore, political thought encompasses a wide range of perspectives, from ancient philosophical traditions to contemporary political theories. It is not limited to a specific methodology, allowing the inclusion of diverse approaches, such as

philosophical, historical and sociological.

Political thought regards legal challenges as one of the essential aspects of the functioning of society. Legal challenges include not only the formulation of laws that are fair, effective and enforceable, but also the balance between State authority and the protection of fundamental rights when governing norms are absent. What matters, then, are the legal challenges related to the interpretation, integration and application of the current legal system, especially in cases where conflicts between legal norms and political principles may arise.

In terms of its meaning, Lynch (2016) asserts that the concept of PPB refers to an object and a discipline.

As an object, it can be interpreted in a broad or narrow sense. In a broad sense, the PPB encompasses a set of ideological writings that represent Brazilian political culture, characterized by a peripheral form of reflection. In this step, the concept of ideology is used in its weakest sense, referring to a set of ideas and values related to public order, with the purpose of guiding collective political behavior. In a restricted sense, the term PPB refers to a more limited group of works that, with greater scope and systematicity, sought to describe our political reality more precisely and, thus, became part of a set considered as the “classics” of the PPB. So, the PPB is seen as a political theory and/or the “old” political science, developed before academic institutionalization. By this last expression, it is understood “any study of phenomena and political structures, conducted in a systematic and rigorous way, supported by a wide and careful analysis of the exposed facts with rational arguments”.

Within political thought, technocracy can be seen as a form of governance that can provide effective solutions to these legal challenges. However, it is essential that it is

balanced with democratic principles, to ensure that decisions are made in a transparent and accountable manner and that consider the various stakeholders affected by the use of AI.

Traditional political thinking is based on state sovereignty and the ability of elected representatives to make and implement laws. In a scenario of absence of regulation of AI by the legislator, there is a risk that political autonomy is undermined, especially if technocratic decision makers are not accountable to the public, that is, challenges arise regarding the legitimacy and transparency of decision-making of decision.

Historically, the PPB has been marked by a desire for commitment to democracy and citizen participation. The rise of technocracy can challenge these principles by prioritizing technical expertise over popular participation and democratic debate.

To strengthen legitimacy, it is crucial that technocrats are held accountable for their actions and decisions, something that can be achieved through adequate oversight and audit mechanisms.

Transparency requires that decisions taken by technocrats must be explained in a clear and understandable way, allowing the public to understand the reasons behind them. In this regard, increasing education and awareness about AI among the general public can also be an effective way to improve legitimacy. With a better understanding of AI, the public will be better able to evaluate decisions made by technocrats and question them if necessary.

As such, technocracy needs to be implemented with care and sensitivity to Brazilian political culture and must involve promoting ongoing dialogue between technocrats, politicians, civil society representatives and other stakeholders, to ensure that AI policies are technically sound, *but* also politically legitimate and socially just.

However, it is not just the ethical and legal

challenges, discussed above, that matter, it remains to assess the political challenges.

POLITICAL CHALLENGES

The use of technocracy in the AI era faces political challenges that are revealed in the environment of indirect regulation of intelligent technological systems. The identification of these problems and the viable alternatives to solve them does not dispense with some considerations referring to political science and public policies, after all, the political challenges concern issues such as governance, representativeness, political stability, citizen participation and conflict resolution.

Political science addresses political challenges as part of the study of political systems, government institutions and power dynamics. It seeks to understand how public policies are formulated, how decisions are taken in different political contexts and how power relations can influence these processes.

Bobbio, Matteuci and Pasquino (1998) maintain that political science can be understood in a broad sense and in a strict sense.

The expression *political science* can be used in a broad and non-technical way to describe any systematic and rigorous study of political phenomena and structures, carried out through a broad and meticulous analysis of the facts, supported by rational arguments. In this context, the term “science” is used in its traditional sense, as opposed to “opinion”. Thus, “approaching politics in a scientific way” means avoiding the adoption of popular opinions and beliefs, not issuing judgments based on inaccurate information, but, on the contrary, basing it on factual evidence.

In a more restricted and specific sense, encompassing a highly specialized area of studies, in part institutionalized, with professionals connected among themselves

who identify themselves as “political scientists”, the expression political science denotes a research approach that seeks to apply an analysis of *the* phenomenon using, as far as possible, the methodology of empirical sciences.

In short, political science, in a strict and technical sense, corresponds to the “empirical science of politics” or the “science of politics”, treated on the basis of the advanced methodology of empirical sciences, such as physics, biology, and so on. against.

It is an academic discipline that studies politics as an empirical and social phenomenon. It uses scientific methods such as observation, data analysis and empirical research to study political systems, decision-making processes, the political behavior of individuals and the mechanisms of power and governance.

With the continual increase in data collection, modern political science is able to conduct its operations with greater precision and obtain results characteristic of the empirical sciences. These results include the classification, the formulation of generalizations and the subsequent construction of comprehensive concepts, the determination of laws, even if they are statistical and probable laws, of regular or uniform trends, in addition to the development or proposal of theories (BOBBIO; MATTEUCCI);

Therefore, political science is a fundamental discipline in the formulation of public policies, as it offers theoretical frameworks and empirical tools to understand and influence the political process.

Political science helps in understanding the political environment where public policies are formulated and implemented, which includes the analysis of power structures, the role of political institutions, party dynamics, preferences and behavior of voters, among

others.

It provides several theories that help explain how public policies are developed, who are the key actors involved, how issues are placed on the political agenda and how decisions are made.

The discipline also offers empirical tools to assess the impact of public policies, which is crucial to improving these policies and ensuring that they are effective and meet the needs of citizens.

In addition, political science provides insights into how citizens can be more effectively involved in the policy-making process, promoting participatory democracy and ensuring that public policies reflect citizens' preferences and needs.

By studying different political systems, political science can help policymakers learn from experiences in other jurisdictions and adapt best practices to their own context.

In this scenario, there are many studies that deal with the various issues surrounding public policies, with emphasis on Souza, Weible, Howlett and Giest (2012) and Lindblom and Woodhouse.

Among these essays, Souza (2003) lists the main models or typologies that he considers the most widespread and empirically tested and that explain how and why the government takes or fails to take some action that will have repercussions on citizens' lives: (a) the typology from Lowi, which classifies public policies according to their possible points of veto or support; that of social networks; that of the public policy cycle; (b) Lindblom's incrementalism, Caiden and Wildavsky (1980) and Wildavsky (1992); (c) the *garbage model* can by Cohen, March and Olsen (1972); (d) Kingdon's multiple-current pattern (1997); (e) the defense coalition model of Sabatier and Jenkins-Smith (1993) and (f) the ideal of interrupted equilibrium of Baugartner and Jones.

This investigation does not intend to analyze all these theories, but to respond to the proposed research problem, it was identified that the typology of the public policy cycle provides subsidies for understanding the political challenges that involve technocracy in the AI era.

According to Souza, this perspective mainly highlights agenda setting *and* questions why certain topics are placed on the political agenda, while others are discarded. Some nuances of the public policy cycle focus more on those involved in the decision-making process, while others focus on the public policy formulation process. Each actor and each process can function as a stimulus or an impediment point.

In this typology, continues Souza, there are three types of answers to the question of how governments define their agendas. The first focuses on the problems, that is, the problems are included in the agenda when it is believed that action must be taken on them, that is, the identification and definition of the problems influence the results of the agenda.

The second answer focuses on the policy itself or how the collective perception of the need to deal with a specific problem is formed. This formation would occur through the electoral process, changes in governing parties or changes in ideologies (or in the way of seeing the world), together with the strength or weakness of interest groups. According to this view, the formation of a collective conscience about a given problem is a powerful and crucial factor in agenda setting. When public policy is initiated by politics, consensus is built more by negotiation than persuasion, whereas when public policy is based on the problem to be solved, the opposite process takes place, i.e., persuasion is the method for consensus building.

The third response focuses on participants, who are categorized as visible, ie politicians,

media, parties, lobby groups, etc., and invisible, such as academics and bureaucracy. According to this perspective, the visible participants define the agenda and the invisible ones, the alternatives.

Souza (2006) argues that this classification sees public policy as an intentional cycle, composed of several phases and represents an active procedure and knowledge acquisition. According to the author, the cycle of public policy is formed by the following steps: establishment of guidelines, recognition of alternatives, analysis of choices, determination of options, execution and evaluation or, in other words: identification of the problem; research and consultation; policy formulation; policy adoption decision; policy implementation; policy evaluation.

In this respect Souza (2003) asserts that in the process of determining public policies, societies and complex states tend to align themselves more closely with the theoretical view of those who propose the existence of a “relative state autonomy” that makes the state have a space of its own, although permeable to external and internal influences.

Technocracy, in this case, can be seen as a key component at various points in this cycle.

First, during the problem identification phase, technocrats – given their technical expertise – can play a key role in identifying and defining AI-related problems that need policy attention.

During the research and consultation phase, technocrats can provide valuable insights and technical data that can help formulate policies that are more effective and suited to the reality of AI.

In the policy-making phase, the expertise of technocrats can be useful to develop practical strategies and solutions that take into account the complex technical aspects of AI.

However, the use of technocracy can also bring significant challenges.

During the decision-making phase of policy adoption, the influence of technocrats can lead to policies that are overly technical and that ignore social, ethical, and cultural considerations.

Similarly, during policy implementation, technocrats may favor approaches that are technically efficient but that do not take social and cultural nuances into account.

Furthermore, in the policy evaluation phase, the technocratic perspective can lead to an evaluation that is overly focused on technical and efficiency criteria, ignoring the social, cultural and ethical impacts of policies.

It is therefore crucial that the technocratic approach is balanced with ethical, social and cultural considerations throughout the policy cycle.

Finally, Souza’s (2006) classification of “visible” and “invisible” participants is also relevant.

Technocrats can act both as visible participants – for example, in influencing the political agenda on AI issues – and as invisible participants in formulating and implementing policy. In the latter case, challenges include ensuring that technocrats are accountable and that there is transparency and democratic participation in the policy-making process.

Therefore, the participation of technocrats in the formulation of public policies must not replace the democratic process, but complement it, providing specialized knowledge and critical analysis.

This way, political science plays a key role in analyzing the political challenges related to the absence of AI regulation by the legislator.

CONCLUSIONS

Technocracy in the AI age represents an important approach to dealing with the ethical, legal and political challenges associated with alternative but effective regulation of this technology. For didactic purposes, alternative or indirect regulation was considered the set of actions adopted by the *stakeholders* involved with the subject, such as decisions handed down by the STF, *soft laws*, self-regulation and algorithmic regulation.

In the absence of AI regulation by the legislator, the alternatives must balance technological innovation with the protection of fundamental values, ensuring the participation and involvement of various actors in society to shape equitable and sustainable policies that benefit everyone.

Furthermore, for effective alternative regulation of AI, an approach that integrates technical expertise, ethical principles, and policy considerations is needed.

Regulatory policies must be flexible and adaptable, able to keep up with rapid technological advances and adjust to changes in the social scenario.

Technocrats, with their expertise in computer science, engineering and other AI-related fields, may be well placed to understand these issues and assist in the development of inclusive public policy.

However, effective AI governance, in the absence of specific regulation, does not rely solely on technical expertise.

An effective approach to dealing with the absence of AI regulation must

involve a combination of elements from the technocratic and political regimes, starting from the participation of technical and scientific experts in the public policy formulation process, but also the inclusion of politicians, representatives of the civil society and experts in ethics and human rights. Collaboration between these actors can lead to a more holistic and balanced approach to the indirect regulation of AI, ensuring that the technology is developed and applied in a way that is responsible, ethical and beneficial to all of society.

It implies recognizing that the challenges of AI require an interdisciplinary approach that includes not only science and technology, but also ethics, philosophy, sociology, law and politics.

Therefore, while technocrats can play a crucial role in shaping public policy for AI, they must work collaboratively with experts in other fields and the general public to ensure that the policies developed are ethical, fair, transparent and accountable.

In summary, harmonizing the use of technocracy in the context of the absence of AI regulation by the legislator requires a holistic approach that integrates technical expertise with ethical, social and political considerations. The combination of specialties and the inclusion of society in the decision-making process are fundamental to guarantee effective, fair and responsible regulation of AI, thus promoting the beneficial use of this advanced technology for the benefit of the whole society.

REFERENCES

- ABBAGNANO, Nicola. **Dicionário de Filosofia**. São Paulo: Martins Fontes, 1998.
- ALMEIDA, Patrícia Gomes Rêgo. Regulação da inteligência artificial: ação coletiva que requer governança. **Computação Brasil**, v. 7, p. 23–26, 2022.
- ÁVILA, Humberto. **Ativismo judicial: parâmetros dogmáticos**. São Paulo: Editora Revista dos Tribunais, 2018.
- BARROSO, Luís Roberto. Constituição, democracia e supremacia judicial: direito e política no Brasil contemporâneo. **Revista do Ministério Público. Rio de Janeiro: MPRJ**, v. 49, 2013.
- BARROSO, Luís Roberto. Judicialização, ativismo judicial e legitimidade democrática. **(Syn)thesis**, v. 5, n. 1, p. 23–32, 2012.
- BARROSO, Luís Roberto. Jurisdição constitucional: a tênue fronteira entre o direito e a política. **Migalhas Jurídicas**, 2014.
- BARROSO, Luís Roberto. **O direito constitucional e a efetividade de suas normas: limites e possibilidades da constituição brasileira**. Rio de Janeiro: Renovar, 2006.
- BARROSO, Luís Roberto. Os três papéis desempenhados pelas Supremas Cortes nas Democracias Constitucionais Contemporâneas. **Revista da EMERJ**, v. 20, n. 1, p. 39–62, 2018.
- BAUGARTNER, Frank; BRYAN, Jones. **Agendas and instability in American politics**. Chicago: University of Chicago Press, 1993.
- BENVINDO, Juliano Zaiden. **On the Limits of Constitutional Adjudication: Deconstructing the Brazilian Federal Supreme Court's Decisions on Health Policies in the Light of the Principle of Reserve of the Possible**. New York: Springer Science & Business Media, 2010.
- BOBBIO, Norberto; MATTEUCCI, Nicola; PASQUINO, Gianfranco. **Dicionário de política**. Tradução: Carmem C. VARRIALE *et al.* 11ªed. Brasília: Editora Universidade de Brasília, 1998. v. 1
- CAIDEN, N.; WILDAVISKY, A. **Planning and budgeting in developing countries**. New York: John Wiley, 1980.
- CAMPOS, Carlos Alexandre de Azevedo. **Dimensões do ativismo judicial do Supremo Tribunal Federal**. 2012. 378 f. Dissertação de mestrado (Direito) - Universidade do Estado do Rio de Janeiro, Rio de Janeiro, 2012.
- CENTENO, Miguel Angel. The New Leviathan: The Dynamics and Limits of Technocracy. **Theory and Society**, v. 22, n. 3, p. 307–335, 1993.
- CLEYNENBREUGEL, Pieter Van. EU By-Design Regulation in the Algorithmic Society: A Promising Way Forward or Constitutional Nightmare in the Making?. *Em: MICKLITZ, Hans-W. et al. (org.). Constitutional challenges in the algorithmic society*. Cambridge: Cambridge University Press, 2022. p. 202–218.
- COHEN, Michael; MARCH, James E.; OLSEN, Johan. A garbage can model of organizational choice. **Administration Science Quarterly**, v. 17, p. 1–25, 1972.
- FAORO, Raymundo. Existe um pensamento político brasileiro?. **Estudos Avançados**, v. 1, p. 9–58, 1987.
- GARAU, Marilha Gabriela Reverendo; MULATINHO, Juliana Pessoa; REIS, Ana Beatriz Oliveira. Ativismo judicial e democracia: a atuação do STF e o exercício da cidadania no Brasil. **Revista Brasileira de Políticas Públicas**, v. 5, p. 190–206, 2015.
- HOWLETT, Michael; GIEST, Sarah. The policy-making process. *Em: ARARAL, Eduardo et al. (org.). Routledge Handbook of Public Policy*. 1ªed. London: Routledge, 2012. p. 17–28.
- INNERARITY, Daniel. El impacto de la inteligencia artificial en la democracia. **Revista de las Cortes Generales**, v. 109, p. 87–103, 2020.
- JESSOP, Bob. Governance and meta-governance: on reflexivity, requisite variety and requisite irony. *Em: BANG, Henrik Paul (org.). Governance as social and political communication*. New York: Manchester University Press, 2003. p. 101–116.
- KINGDON, John W. **Agendas, alternatives, and Public Policies**. 2ªed. London: Pearson Education, 1997.
- LESLIE, David *et al.* **Artificial intelligence, human rights, democracy, and the rule of law: a primer**. The Council of Europe, 2021.

- LINDBLOM, Charles E. The science of muddling through. **Public Administration Review**, v. 19, p. 78–88, 1959.
- LINDBLOM, Charles E.; WOODHOUSE, Edward J. **The Policy Making Process**. 3ªed. New Jersey: Prentice Hall, 1992.
- LOWI, Theodor. American business, public policy, case studies and political theory. **World Politics**, v. 16, p. 677–715, 1964.
- LOWI, Theodor. Four systems of policy, politics, and choice. **Public Administration Review**, v. 32, p. 298–310, 1972.
- LYNCH, Christian Edward Cyril. Cartografia do pensamento político brasileiro: conceito, história, abordagens. **Revista Brasileira de Ciência Política**, p. 75–119, 2016.
- MARCUSE, Herbert. **A ideologia da sociedade industrial: o homem unidimensional**. Tradução: Giasone REBUÁ. 4ªed. Rio de Janeiro: Zahar Editores, 1973.
- MELO JÚNIOR, José Eustáquio de; OLIVEIRA, Gustavo Paschoal Teixeira de Castro. Contributos da legística para a elaboração do marco legal da inteligência artificial no Brasil. **Revista de Informação Legislativa**, v. 60, n. 237, p. 99–114, 2023.
- MENDES, Gilmar. **A Jurisdição constitucional no Brasil e seu significado para a liberdade e a igualdade**. 2002. Disponível em: Acesso em: 31 jul. 2023.
- MENDES, Gilmar Ferreira. **O controle de constitucionalidade no Direito brasileiro**. São Paulo: Saraiva, 2005.
- MORGADO, Miguel. Filosofia política e democracia. **Análise Social**, v. XLV, n. 196, p. 467–489, 2010.
- MOROZOV, Evgeny. **Big Tech: a ascensão dos dados e morte da política**. São Paulo: Ubu Editora, 2018.
- O'REILLY, Tim. Open data and algorithmic regulation. Em: GOLDSTEIN, Brett; DYSON, Lauren (org.). **Beyond transparency: open data and the future of civic innovation**. San Francisco: America Press, 2013. p. 289–300.
- PAIXÃO, Leonardo André. **A função política do Supremo Tribunal Federal**. 2007. 258 f. Tese (Doutorado em Direito) - Universidade de São Paulo, São Paulo, 2007.
- PELUSO, Antônio César. Constituição, direitos fundamentais e democracia: o papel das Supremas Cortes. Em: DIÁLOGO JUDICIAL BRASIL-EUA, 2014, Washington. **Anais [...]**. Washington: 2014.
- ROCHA, Cármen Lúcia Antunes. O Papel do STF na Consolidação da Democracia. 2017, Belo Horizonte. **Aula Inaugural da Faculdade Mineira de Direito da PUC Minas**. Belo Horizonte: 2017.
- SABATIER, Paul; JENKINS-SMITH, Hank. **Policy change and learning: the advocacy coalition approach**. Boulder: Westview Press, 1993.
- SOUZA, Celina. Estado da arte da pesquisa em políticas públicas. Em: FIOCRUZ (ed.). **Políticas públicas no Brasil**. Rio de Janeiro: Fiocruz, 2007. p. 65–86.
- SOUZA, Celina. Políticas públicas: questões temáticas e de pesquisa. **Caderno CRH**, v. 39, p. 11–24, 2003.
- SOUZA, Celina. Políticas públicas: uma revisão de literatura. **Sociologias**, v. 8, n. 16, p. 20–45, 2006.
- STRECK, Lênio Luiz. **Jurisdição constitucional e decisão jurídica**. São Paulo: Thomson Reuters, 2013.
- TORON, Alberto Zacharias. **Decisões controversas do STF: Direito Constitucional em casos**. Rio de Janeiro: Forense, 2020.
- VIEIRA, Oscar Vilhena. Supremocracia. **Revista Direito GV**, v. 4, p. 441–463, 2008.
- VILELA JÚNIOR, Guanis de Barros; PASSOS, Ricardo Pablo. Inteligência artificial, disrupção educacional e as margaridas do campo. **Internet Latent Corpus Journal**, v. 13, p. 88–97, 2023.
- WEIBLE, Christopher M. **Theories of the Policy Process**. 4ªed. Abingdon: Routledge, 2017.
- WEIL, Eric. **Filosofia política**. Tradução: Marcelo PERINE. 2ªed. São Paulo: Edições Loyola, 1990.
- WILDAVSKY, Aaron. **The policy of budgetary process**. 2ªed. Boston: Little and Brown, 1992.
- YEUNG, Karen. Algorithmic Regulation: A Critical Interrogation. **Regulation & governance**, v. 12, n. 4, p. 505–523, 2018.