

# SAFEGUARDING HUMAN RIGHTS IN THE AGE OF TECHNOLOGICAL PROGRESS\*

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**Summary:** Introduction. 1. Corporate responsibility and AI: a human rights perspective. 2. AI and society: challenges and opportunities. 2.1 The Italian Constitution and the value of human dignity. 2.2 Transparency, ethics, and data protection in Brazil. Final remarks. References.

## **Introduction**

The regulation of AI is a topic that has been widely debated in academic circles, given the impact of emerging technologies on human rights. Discriminatory algorithms pose a risk to ethics in business and public administration innovation, considering the need to promote greater

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transparency and explainability for a considered analysis of the risks and benefits of a given digital product or service.

This research aims to foster a critical awareness of the implementation of artificial intelligence systems and their impact on the protection of human rights. The first chapter explores the Universal Declaration of Human Rights (UDHR) of 1948, as well as the Guiding Principles on Business and Human Rights (2011), highlighting the responsibility of corporations in promoting human dignity. The methodology used is hypothetical deductive, using specialized doctrine in the areas of constitutional and administrative law, as well as consulting articles and reports on the subject.

### **1. Corporate responsibility and AI: a human rights perspective**

The 1948 Universal Declaration of Human Rights (UDHR)<sup>3</sup> was responsible for the expansion of human rights principles in international treaties and inspired the drafting of the 1988 Constitution of the Federative Republic of Brazil to protect human dignity.

International human rights are an important tool for identifying, preventing and repairing historical inequalities imposed on vulnerable groups. With the advance of emerging technologies, especially to bring efficiency to production processes, as well as the implementation of Artificial Intelligence systems to offer products and services in the public and private spheres. However, it is necessary to be concerned about the current impacts of AI on the protection of human rights, for the protection of privacy, equality, algorithmic transparency and the principle of non-discrimination.

Human rights are guided by fundamental principles that are also enshrined in the constitutional systems of Brazil and Italy. The documents under discussion include the principle of universality, which stipulates that human rights apply to all individuals, regardless of their origin, nationality,

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<sup>3</sup> UN. *Universal Declarations of Human Rights*. Available at: <https://www.un.org/en/about-us/universal-declaration-of-human-rights>>. Accessed on: March 13, 2025.

social and economic status, ethnicity, gender and other factors. The principle of non-discrimination is therefore protected.

Technology companies have a fundamental role to play in protecting human rights, such as guaranteeing effective channels of communication with society, identifying the positive demands and risks of products and services, as well as ensuring that there is greater gender participation in the design of artificial intelligence systems to reduce discriminatory biases.

The Guiding Principles on Business and Human Rights, also known as the Ruggie Principles, were devised by John Ruggie and approved by the United Nations Human Rights Council in 2011. They are considered an important soft law instrument to address the obligations of companies and states in relation to human rights protection. The principles are based on three pillars: (i) States' duty to protect against human rights abuses; (ii) Companies' responsibility to respect human rights and prevent their economic activity from affecting the communities where they operate, thinking about strategic forms of protection, protection against discrimination, environmental protection, among others; (iii) Access to redress for individuals who are affected by violations. In this way, John Ruggie identified that the UNGPS principles are norms that strategically influence corporate policies and good business practices.<sup>4</sup>

From a gender perspective, the evolution of international human rights law can be seen as having evolved in favor of promoting equal opportunities in the formal labor market and seeking greater participation in politics and leadership positions, based on the principle of non-discrimination. This enables the implementation of policies aimed at safeguarding women against violations and promoting peace and human dignity. Moreover, public authorities are obligated to furnish sufficient support to combat gender-based violence and effectively repress these

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<sup>4</sup> RUGGIE, John Gerard. *The Social Construction of the UN Guiding Principles on Business & Human Rights*. Cambridge: John F. Kennedy School of Government, Harvard University, 2017. (Corporate Responsibility Initiative Working Paper No. 67).

criminal acts, as outlined in the commitments made by the signatory states of the United Nations (UN) treaties.<sup>5</sup>

States have been given the responsibility of safeguarding and promoting human rights, and companies and civil society are also committed to contributing to sustainable development, with a view to building a fairer and more equitable society. In this context, companies have not only legal duties, but also political and community roles, and are responsible for ensuring compliance with human rights standards in the places where they operate<sup>6</sup>. Inadequate disclosure of personal data by companies is a violation of human rights and occurs more frequently in regions with weak governance, where control and inspection mechanisms are insufficient to guarantee the protection of individuals.

In this scenario, Big Techs such as Amazon, Facebook and Google can be held responsible for using discriminatory algorithms that shape predictions and influence consumers, users and public opinion. These systems can reproduce existing prejudices, affecting the way information is distributed and consumed.

## **2. AI and society: challenges and opportunities**

Although Italy does not have a specific regulation on the use of artificial intelligence, it is linked to the new European regulation on artificial intelligence. On May 21, 2024, the European Council approved the Regulation on Artificial Intelligence 2024/1689 (AI ACT), which aims to develop a single AI market for the sale of products and services in support of fundamental rights. In this way, it defines safe and reliable AI systems<sup>7</sup>, whether in the

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<sup>5</sup> VENTURINI, G. Diritto internazionale umanitario e diritti umani: una prospettiva di genere. In: DI STEFANO, Adriana; SAPIENZA, Rosario. La tutela dei diritti umani e il diritto internazionale. Napoli: Scientifica, 2012, p. 93-114.

<sup>6</sup> KARP, David Jason. *Responsibility for human rights: Transnational corporations in imperfect states*. Cambridge University Press, 2014, p. 116-161.

<sup>7</sup> COUNCIL OF THE EUROPEAN UNION. *Artificial intelligence (AI) act: Council gives final green light to the first worldwide rules on AI*. Brussels, 2024. Available at: <<https://www.consilium.europa.eu/en/press/press-releases/2024/05/21/artificial-intelligence-ai-act-council-gives-final-green-light-to-the-first-worldwide-rules-on-ai/>>. Accessed on: March 13, 2025.

private or public sphere, in order to respect the protection of European citizens' rights and encourage the ethical use of emerging technologies.

The problem is not just cognitive-behavioral manipulation, but the predictive use, for example, of biometric data to categorize specific issues such as race, religion or sexual orientation. To this end, the importance of transparency with the creation of strategic organizations: a) an AI office in the Commission to enforce common rules across the European Union; b) a Scientific Panel of independent experts; c) an AI Council with representatives of the Member States to advise and assist the Commission and the Member States in the coherent and effective application of the Artificial Intelligence Act. The new law also provides for the creation of regulatory testing environments for AI, in order to identify the risks of products and services before their adoption on the European market.<sup>8</sup>

The Artificial Intelligence (AI) regulation sets a limit on the levels of risk that are acceptable or not for AI systems. For example, the minimum risk is not subject to the obligations of the AI ACT, but companies must follow codes of conduct and good practices, such as spam filters, AI-based games, etc. As for limited risks, it should be noted that companies must clearly inform users about the interaction with the machine and whether the content was generated by AI.<sup>9</sup>

As far as high-risk AI systems are concerned, present in clinical and hospital data applications, human supervision and clear information to patients are required. However, when the risks are unacceptable<sup>10</sup>, given the

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<sup>8</sup> For more information on this topic, see: COUNCIL OF THE EUROPEAN UNION. *Artificial intelligence (AI) act: Council gives final green light to the first worldwide rules on AI*. Brussels, 2024. Available at: <<https://www.consilium.europa.eu/en/press/press-releases/2024/05/21/artificial-intelligence-ai-act-council-gives-final-green-light-to-the-first-worldwide-rules-on-ai/>>. Accessed on: March 13, 2025.

<sup>9</sup> COUNCIL OF THE EUROPEAN UNION. *Artificial intelligence (AI) act. The EU's AI act is the world's first law on artificial intelligence. It aims to ensure AI systems are safe, ethical and trustworthy*. 2025. Available at: <<https://www.consilium.europa.eu/en/policies/artificial-intelligence/>>. Accessed on: March 13, 2025.

<sup>10</sup> UN. *El Reglamento de Inteligencia Artificial entra en vigor*. Available at: <[https://commission.europa.eu/news/ai-act-enters-force-2024-08-01\\_es](https://commission.europa.eu/news/ai-act-enters-force-2024-08-01_es)>. Accessed on: March 13, 2025.

offense to human rights, these systems are therefore prohibited at European level.

## 2.1 The Italian Constitution and the value of human dignity

Article 3 of the Constitution of the Italian Republic states that all citizens have social dignity and are equal before the law<sup>11</sup>, and therefore prohibits discrimination in all forms, such as based on sex, religion, race and socio-economic conditions. It is therefore the state's duty to remove barriers that limit citizens' freedom and equality, with the aim of promoting equal participation in society.

In relation to gender discrimination, particularly cases involving technology companies in the recruitment of job applicants. Art. 51 of the Italian Constitution establishes a commitment to equal opportunities for women and men in public office and elective positions, and it is the duty of the Italian Republic to adopt measures to promote material equality. As for the private sphere, art. 4 establishes the right to work for all citizens, providing for the possibility of measures to guarantee this commitment.

The Italian legislator guarantees the right to freedom and confidentiality, these rights are provided for in Article 15 of the Italian Constitution. The Personal Data Protection Code (Legislative Decree no. 196/2003)<sup>12</sup> reinforces this guarantee, stating in Article 1 that everyone has the right to protect their personal data. AI systems must respect fundamental rights such as privacy, personal identity and human dignity (Article 2).

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<sup>11</sup> ITALY. Constitutional Court of the Italian Republic. (2023). *Constitution of the Italian Republic*. General Secretariat, Rome. Available at: <[https://www.cortecostituzionale.it/documenti/download/pdf/The\\_Constitution\\_of\\_the\\_Italian\\_Republic.pdf](https://www.cortecostituzionale.it/documenti/download/pdf/The_Constitution_of_the_Italian_Republic.pdf)>. Accessed on: March 10, 2025.

<sup>12</sup> PARLAMENTO ITALIANO. *Decreto Legislativo 30 giugno 2003, n. 196 "Codice in materia di protezione dei dati personali"*. pubblicato nella *Gazzetta Ufficiale n. 174 del 29 luglio 2003 - Supplemento Ordinario n. 123*. Available at: <[https://www.cortecostituzionale.it/documenti/download/pdf/The\\_Constitution\\_of\\_the\\_Italian\\_Republic.pdf](https://www.cortecostituzionale.it/documenti/download/pdf/The_Constitution_of_the_Italian_Republic.pdf)>. Accessed on: March 13, 2025.

Legislative Decree no. 196/2003 has been updated to comply with the European Union's General Data Protection Regulation (GDPR) 2016/679<sup>13</sup>, with the aim of minimising the use of personal data information and implementing a new culture of data protection in Italy, both in the public and private sectors.

Failure to comply with the GDPR (EU) entails legal liability, including administrative fines that may reach up to 20 million euros for serious violations of fundamental rights, such as the processing of data revealing racial or ethnic origin, political ideology, religion, sexual orientation and among others.<sup>14</sup>

In Italy, the Court of Bologna ruled against an app company for using a discriminatory scoring system that disadvantaged workers and their earnings, without considering plausible justifications such as mobility difficulties and health issues.<sup>15</sup>

As a result of globalization, new social dilemmas arise, disruptive innovations bring efficiency to states and organizations, but on the other hand, there is a growing risk to fundamental rights. This imposes an obligation on states to improve their regulatory systems in the face of a constantly changing scenario and contemporary forms of human rights violations, ranging from unequal access to education and information to digital discrimination against vulnerable and marginalized groups.

To this end, in addition to imposing the necessary sanctions on companies to comply with the regulations of the countries in which they operate, there is a growing demand for greater civil society participation in the

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<sup>13</sup> EU-LEX. *Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (Text with EEA relevance.* Available at: <<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32016R0679>>. Accessed on: March 13, 2025.

<sup>14</sup>EUROPA. EU. *Reglamento general de protección de datos.* Available at: <[https://europa.eu/youreurope/business/dealing-with-customers/data-protection/data-protection-gdpr/index\\_es.htm](https://europa.eu/youreurope/business/dealing-with-customers/data-protection/data-protection-gdpr/index_es.htm)>. Accessed on: March 14, 2025.

<sup>15</sup> EUROFOUND. *Italian Court rules that the Deliveroo Algorithm Discriminates Workers (Court ruling), Record number 2271, Platform Economy Database, Dublin.* Available at: <<https://apps.eurofound.europa.eu/platformeconomydb/italian-court-rules-that-the-deliveroo-algorithm-discriminates-workers-106121>>. Accessed on: March 13, 2025.

oversight of new technologies<sup>16</sup>. This can be done through user feedback, using opinion channels directed at the governments and corporate compliance departments, promoting greater transparency and accountability.

In a similar situation, the Court of Palermo found that the selection system of a certain food delivery platform was discriminatory because it gave better job opportunities to workers with excellent ratings, to the detriment of those with health problems. In this way, the rewarded distribution workers were able to choose in advance vacancies in subsequent services. This meant that the disadvantaged workers had no real autonomy over their working hours and were at the mercy of the platform's algorithmic system.<sup>17</sup>

Based on the cases analyzed by the Italian Courts of Justice, the need for algorithms to be explainable stands out, ensuring that selection criteria are not used to mask indirect discrimination, disadvantaging individuals with personal, family, physical, or health restrictions.

Another aspect that affects human dignity is the precariousness of work, since many workers have no control over their working hours and must constantly respond to requests to maintain good ratings in automated systems. This dynamic imposes excessive pressure that limits the autonomy of professionals and reinforces structural inequalities.

## 2.2 Transparency, Ethics, and Data Protection in Brazil

The 1988 Constitution of the Federative Republic of Brazil<sup>18</sup> was an essential instrument in the construction of anti-discrimination public policies.

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<sup>16</sup> DOMINGOS, I.; CRISTÓVAM, J. S. S. El uso de las TICs para la participación ciudadana y el control de la corrupción en la Administración Pública Brasileña. *CONPEDI LAW REVIEW*, XI ENCONTRO INTERNACIONAL DO CONPEDI CHILE – SANTIAGO, v. 8, n. 1, p. 297 – 316, jul-dez., 2022. Available at: <[http://dx.doi.org/10.26668/2448-3931\\_conpedilawreview/2022.v8i1.9069](http://dx.doi.org/10.26668/2448-3931_conpedilawreview/2022.v8i1.9069)>. Accessed on: March 13, 2025.

<sup>17</sup> AVVENIRE. *Rider discriminati dall' algoritmo*. Lo dice anche il tribunale di Palermo. Economy section. Milan, 2023. Available at: <<https://www.avvenire.it/economia/pagine/rider-algoritmo-discriminatorio-tribunale-palermo>>. Accessed on: March 13, 2025.

<sup>18</sup> See the following link for more information on this topic: BRAZIL. *Constituição da República Federativa do Brasil de 1988*. Available at: <[https://www.planalto.gov.br/ccivil\\_03/Constituicao/Constituicao.htm](https://www.planalto.gov.br/ccivil_03/Constituicao/Constituicao.htm)>. Accessed on: March 10, 2025.

Article 5, item XLI, establishes that the law should punish any discrimination against fundamental rights and freedoms.

Article 7, item XXX, prohibits differences in pay and positions based on sex, age, color, or marital status. Article 3, item IV, defines the promotion of collective well-being as one of the fundamental objectives of the Republic and guarantees the prohibition of any form of discrimination. In addition, the Constitution guarantees equality between men and women (Article 5, item I) and provides special protection for women in the labor market (Article 7, item XX). Likewise, the Public Administration must guarantee equal access to positions and functions, without discrimination (Article 37, item VIII).

The General Personal Data Protection Law (LGPD) (Law No. 13,709/2018)<sup>19</sup> establishes principles for the ethical and transparent processing of personal information. The right to data protection in Brazil had its starting point in the Federal Constitution of 1998, Article 5, item X, establishes the right to inviolability of intimacy, protection of private life, honor and image, so that offense to these guarantees can generate legal liability<sup>20</sup>. To adapt to the LGPD, article 5, item LXXIX, was inserted by Constitutional Amendment 115/2022, defining data protection as a fundamental right, especially in the digital environment.

Personal data cannot be used for discriminatory purposes and must have legitimate and appropriate purposes, as determined by Article 6 (IV) of the LGPD. Article 6(X) establishes that processing agents must demonstrate responsibility and accountability by demonstrating that they have complied effectively with data protection rules. Similarly, Article 20 establishes that data subjects can request a review of decisions made exclusively by automated systems.

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<sup>19</sup> BRAZIL. *Lei Geral de Proteção de Dados Pessoais (LGPD)*. (Redação dada pela Lei nº 13.853, de 2019). Available at: <[https://www.planalto.gov.br/ccivil\\_03/\\_ato2015-2018/2018/lei/113709.htm](https://www.planalto.gov.br/ccivil_03/_ato2015-2018/2018/lei/113709.htm)>. Accessed on: March 13, 2025.

<sup>20</sup> CRISTÓVAM, José Sérgio da Silva; HAHN, Tatiana Meinhart. Administração Pública orientada por dados: Governo aberto e infraestrutura nacional de dados abertos. *Revista de Direito Administrativo e Gestão Pública*, v. 6, n. 1, p. 1-24, 2020; CRISTÓVAM, José Sérgio da Silva. *Administração Pública democrática e supremacia do interesse público: novo regime jurídico-administrativo e seus princípios constitucionais estruturantes*. Curitiba: Juruá, 2015.

In Brazil, the Senate approved the AI Regulatory Framework (Bill No. 2.338/2023) on December 10, 2024<sup>21</sup>, setting a standard for the ethical use of artificial intelligence in the country. AI systems must comply with the General Data Protection Law (LGPD) in order to prevent the misuse of personal information and preserve the fundamental rights guaranteed by the Brazilian Federal Constitution.

In the business world, where profit is often prioritized at any cost is often the priority, ethics tend to be applied only when it doesn't affect the company's bottom line. The lack of solid regulation in technology contributes to increased risks in terms of social impact, allowing the negative effects of algorithms and mass surveillance to be ignored.<sup>22</sup>

The challenge is to strike a balance between innovation and the prohibition of discrimination, considering that algorithmic prejudices can be present not only in the products and services offered by major technologies, but also in predictive justice systems, monitoring, and biometrics.

This is why it is essential to invest in research in this area, because as new ethical dilemmas arise, regulation must evolve to keep pace with societal demands and, above all, to guarantee the protection of human dignity. In fact, technology companies operating in a regulated environment face legal, ethical, social, and economic pressures, which is why they adopt compliance practices to remain more solid in the market and to avoid administrative, civil and criminal liability.

Legal liability for non-compliance with laws regulating artificial intelligence may significantly impact a company. It can lead to substantial asset loss, undermine incentives granted by the state and international organizations, and erode consumer confidence. Consequently, the company

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<sup>21</sup> MINISTÉRIO DA CULTURA. *Senado Federal aprova marco regulatório da inteligência artificial*. Brasília, 2024. Available at: <<https://www.gov.br/cultura/pt-br/assuntos/noticias/senado-federal-aprova-marco-regulatorio-da-inteligencia-artificial>>. Accessed on: March 10, 2025.RE

<sup>22</sup> MOSS, Emanuel; METCALF, Jacob. The Ethical Dilemma at the Heart of Big Tech Companies. *Harvard Business Review*, 14 nov. 2019. Available at: <<https://hbr.org/2019/11/the-ethical-dilemma-at-the-heart-of-big-tech-companies>>. Accessed on: March 13, 2025.

may struggle to maintain its market sustainability due to the violation of human rights.

### **Final Remarks**

The regulation of artificial intelligence law, both in Latin America and Europe is important to limit the power of big techs, in line with the principles of social responsibility and the safeguarding of human rights.

Since the COVID-19 pandemic, there has been an increase in the implementation of new technologies to maintain essential public services, generating the hyper-connectedness of society, with the offer of products and services through apps. This rapid development of generative artificial technology has also used biased information and algorithms with discriminatory biases, a phenomenon that has created contemporary forms of human rights violations.

Consequently, despite the important step in regulating AI, as evidenced by the examples from both the European Union and Brazil, it is possible to see that regulation alone is not enough to mitigate significant risks. To tackle this issue, it is necessary to create value and protect human rights in the digital sphere through a holistic approach that involves collaboration between the state, companies and international organizations, as well as the development of citizens' skills in online spaces. The public agenda for the implementation of artificial intelligence should address the following key issues:

a) Citizens' digital competencies. The state should promote the training of society in new technologies from elementary school onwards, on the risks of AI for human dignity, with the aim of creating a culture of good practices in the digital field.

b) Compliance in Public Administration. Human rights training should be incorporated into the Public Administration, covering both civil servants and outsourced workers;

c) Training companies. The implementation of courses and certifications aimed at companies is essential to broaden understanding of the impacts of discriminatory algorithms in the social, political, legal and economic contexts. Promoting good practices in the development and application of AI contributes to greater transparency and ethical practices in the technology sector;

These measures are designed to promote the development of society that is aware of the use artificial intelligence. They establish practical, political and legal tools for the effective protection of human rights in the virtual environment.

Regarding data protection rules, there are similarities between Brazil and Italy, which seek to establish standards for the ethical and responsible use of citizens' personal information, as well as transparency in the implementation of technologies, prohibiting any form of discrimination and the misuse of sensitive data.

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