

Artificial intelligence and the extrajudicial recognition of social security rights: The role of Brazil's Attorney General's Office in enhancing access to justice¹

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ABSTRACT

This study examines how artificial intelligence (AI) can support the extrajudicial and consensual resolution of disputes involving social security rights, thereby enhancing access to justice. It focuses on the role of Brazil's Attorney General's Office (Advocacia-Geral da União — AGU), particularly within the institutional framework established following the enactment of Law No. 13,140 of 26 June 2015. The study asks under what conditions AI-assisted screening of social security disputes may contribute to their consensual resolution and how the AGU may operate within this emerging institutional framework. A qualitative approach is adopted, combining a structured review of the literature with documentary analysis of the applicable legal framework and interinstitutional agreements, with particular attention to the PACIFICA pilot project conducted jointly by the AGU and the Federal Public Defender's Office (DPU). The findings indicate that AI-assisted screening has the potential to identify disputes suitable for consensual resolution at an earlier stage, reduce unnecessary judicialization, and facilitate the recognition of social security rights. However, this potential depends on institutional safeguards concerning legality, equality, data protection, transparency, human oversight, accountability, and accessibility for digitally vulnerable groups. The analysis further suggests that AI should operate as a decision-support mechanism rather than as a substitute for human legal judgment. The PACIFICA initiative illustrates an emerging model of interinstitutional cooperation in which technological tools may complement consensual mechanisms and contribute to a more responsive approach to access to justice.

Keywords: access to justice; artificial intelligence; social security rights; consensual dispute resolution; communicative rationality.

RESUMEN

Este estudio examina cómo la inteligencia artificial (IA) puede apoyar la resolución extrajudicial y consensual de controversias relacionadas con derechos de seguridad social, contribuyendo así a mejorar el acceso a la justicia. El análisis se centra en la actuación de la Abogacía General de la Unión (Advocacia-Geral da União — AGU), particularmente en el marco institucional desarrollado tras la promulgación de la Ley n.º 13.140, de 26 de junio de 2015. El estudio busca determinar bajo qué condiciones la selección de controversias de seguridad social asistida por IA puede contribuir a su resolución consensual y cuál puede ser el papel de la AGU en este marco institucional emergente. Se

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adopta un enfoque cualitativo que combina una revisión estructurada de la literatura con el análisis documental del marco normativo aplicable y de los acuerdos interinstitucionales, prestando especial atención al proyecto piloto PACIFICA, desarrollado conjuntamente por la AGU y la Defensoría Pública de la Unión (DPU). Los resultados indican que la selección asistida por IA presenta potencial para identificar de manera temprana controversias susceptibles de resolución consensual, reducir la judicialización innecesaria y facilitar el reconocimiento de derechos de seguridad social. Sin embargo, este potencial depende de salvaguardias institucionales relacionadas con la legalidad, la igualdad, la protección de datos, la transparencia, la supervisión humana, la rendición de cuentas y la accesibilidad para los grupos en situación de vulnerabilidad digital. El análisis también sugiere que la IA debe funcionar como un mecanismo de apoyo a la toma de decisiones y no como sustituto del juicio jurídico humano. La iniciativa PACIFICA ilustra un modelo emergente de cooperación interinstitucional en el que las herramientas tecnológicas pueden complementar los mecanismos consensuales y contribuir a un enfoque más eficaz del acceso a la justicia.

Palabras clave: acceso a la justicia; inteligencia artificial; derecho de seguridad social; resolución consensual de conflictos; racionalidad comunicativa.

1. INTRODUCTION

Not so long ago, court officers would call the parties into a conciliation hearing by announcing their names outside the courtroom. At the time, it would have been difficult to imagine that invitations to participate in settlement proceedings could one day be delivered through applications on a smartphone.

The United Nations 2030 Agenda for Sustainable Development places access to justice within a broader commitment to peaceful and inclusive societies and to the development of effective, accountable, and inclusive institutions (United Nations, 2015). In this sense, access to justice extends beyond access to courts and encompasses the institutional capacity to provide appropriate and effective mechanisms for resolving legal disputes.

In Brazil, the growth of litigation has prompted the National Council of Justice (Conselho Nacional de Justiça — CNJ) to adopt measures aimed at addressing judicial backlogs and reducing delays in the adjudication of cases (Urquiza & Correia, 2018, p. 316). Despite the progress achieved, structural and cultural factors continue to foster the judicialization of social and legal disputes (Asensi, 2013). This context raises a broader question about whether access to justice should remain predominantly associated with judicial adjudication or encompass alternative institutional pathways for the effective recognition of rights.

The predominantly adversarial structure of traditional litigation has encouraged scholars, policymakers, and public institutions to explore mechanisms that do not depend exclusively on adjudication, particularly mediation and conciliation as appropriate means of dispute resolution (Asensi, 2010; Sadek, 2014). Nevertheless, conciliation conducted only after judicial proceedings

have begun has produced relatively modest outcomes, with reported settlement rates ranging from 15% to 20% (Silva et al., 2022). This limitation has strengthened interest in a preventive approach to dispute resolution, based on the early identification of disputes that may be resolved consensually before litigation becomes necessary.

Many of these claims arise from difficulties or delays in the implementation of public policies concerning social rights, including healthcare, social assistance, and social security. Against this background, the efforts undertaken by Brazil's Attorney General's Office to prevent and reduce federal litigation, including social security disputes, reflect a broader transformation in the relationship between public administration, dispute resolution, and the recognition of rights. Although consensual mechanisms involving public authorities are expressly provided for in Brazilian legislation, their development challenges a legal paradigm predominantly centred on state-produced law and judicial adjudication (Hespanha, 2019).

Further research on the institutional role of the AGU in consensual dispute resolution is particularly relevant to understanding how public institutions can promote effective access to justice while preserving the democratic legitimacy and legality of public action. In parallel, studies on information and communication technologies (ICTs) have examined their potential to improve the efficiency of case processing while drawing attention to the ethical implications of technological change (Acevedo, 2022). Digital transformation in both public administration and the justice system may also improve the quality and accessibility of public services delivered to citizens (Banchio, 2024).

The increasing use of artificial intelligence (AI) in the Brazilian justice system and public administration nevertheless raises concerns regarding algorithmic bias, transparency, data protection, and the risk of deepening digital exclusion, particularly among socially vulnerable groups and older persons (Silva et al., 2022). These risks do not necessarily preclude the use of AI to enhance access to justice. Rather, they highlight the need to determine the institutional and legal conditions under which technological tools may assist public authorities in identifying disputes suitable for consensual resolution and facilitate the recognition of rights. In this context, the PACIFICA initiative — a pilot project conducted jointly by the AGU and the Federal Public Defender's Office (Defensoria Pública da União — DPU) — provides a relevant case for examining the emerging use of AI-assisted screening in disputes concerning social security rights.

This article examines the institutional potential of AI-assisted extrajudicial consensual dispute resolution as a means of enhancing access to justice, with particular attention to the role of the AGU following the enactment of Law No. 13,140/2015. More specifically, it investigates whether AI-

assisted screening can support the early identification of social security disputes suitable for consensual resolution and the conditions required for its legitimate use. Accordingly, the study addresses the following research question: *Under what institutional, legal, technological, and ethical conditions can the AGU use AI-assisted screening to support the extrajudicial consensual resolution of social security disputes and thereby enhance access to justice?* As a provisional answer to this question, the article advances the proposition that AI-assisted screening may enhance the extrajudicial recognition of social security rights and, consequently, access to justice, provided that its use incorporates human oversight, transparency, mechanisms through which individuals can challenge outcomes, and effective interinstitutional cooperation. This proposition is necessarily conditional. Technology alone cannot produce consensual solutions; its contribution depends on an institutional framework capable of preserving the conditions for informed participation and legitimate agreement.

The study adopts a qualitative methodological approach, detailed in Section 3, combining a structured review of the literature with documentary analysis of the applicable legal framework and relevant interinstitutional agreements. The PACIFICA pilot project is examined as a reference case for assessing the institutional possibilities and limitations of AI-assisted screening in social security disputes. Given the absence of consolidated public data on the outcomes of the pilot project, the analysis does not seek to measure its effectiveness empirically. Instead, it examines its institutional potential and the legal, technological, ethical, and organizational conditions necessary for such initiatives to contribute to access to justice.

The remainder of the article is structured as follows. Section 2 discusses access to justice and the extrajudicial recognition of rights within the democratic framework established by the 1988 Brazilian Constitution, drawing on the three waves of access to justice proposed by Cappelletti and Garth (1978/2002). Section 3 describes the methodological approach. Section 4 examines the legal framework governing the AGU's role in preventing litigation and promoting consensual solutions. Section 5 analyses the use of AI in screening social security disputes for consensual resolution, distinguishing AI from automation and examining the PACIFICA pilot project, as well as the risks and safeguards associated with these technologies.

2. THE EXTRAJUDICIAL RECOGNITION OF RIGHTS AS A MEANS OF ACCESS TO JUSTICE

In Brazil, the AGU plays an essential mediating role, placing the system of disputes and adversarial proceedings within a flexible framework of dialogue, mediated by an adversarial-conciliatory stance. Thus, the role of the AGU and the federal public administration is crucial to understanding the problem of excessive judicialization of social conflict concerning public policies.

The AGU's advisory function has historical antecedents in Brazilian public law. Godoy (2017, p. 41) traces this tradition to the Council of State during the Empire and, subsequently, to the Office of the General Counsel of the Republic (Consultoria-Geral da República — CGR), which operated from 1903 to 1993. Although these institutions differed significantly in their constitutional functions and historical contexts, this trajectory illustrates the longstanding importance of centralized legal advice in the interpretation and application of law within the federal public administration.

With regard to public policies, the AGU is responsible for duties that go beyond federal legal representation, with an expanded role as a major stakeholder in the administrative sphere to prevent legal claims against the Union. Much of this role involves the exercise of legal argumentation and hermeneutics based on reasonableness, and proportionality.

The recognition of rights before a dispute reaches the courts is consistent with a broader understanding of access to justice. The constitutional guarantee of judicial protection remains indispensable to the protection of fundamental rights, but access to justice cannot be reduced to the ability to file a lawsuit. Judicial proceedings constitute one institutional pathway for protecting rights, rather than the only possible means of doing so. The administration of justice also involves institutions that perform functions essential to justice, including public advocacy, public prosecution, and public defence (Sadek, 2014, p. 57).

In administrative and social security law, the AGU's responsive and inclusive approach to speeding up the recognition of rights complies with the principle of efficiency, saving public resources. The principle of efficiency was elevated to constitutional status via Constitutional Amendment No. 19 in 1998 (Silva & Lima, 2023). As the state has evolved from a capacity for mere regulation to more distributive and responsive functions, acting efficiently justifies public spending. This proactive action also legitimizes the state in the eyes of its citizens (Dantas, 2022).

The acceleration in the use of appropriate means of legal (rather than judicial) conflict resolution is part of a paradigm of legal pluralism. Pluralism was initially strongly influenced by anthropology in relation to the recognition of the legal systems of indigenous peoples. This extension was then recognized in regional law (Igreja&Rampin, 2021; Hespanha, 2019), moving on to the discussion of international human rights law. Currently, the discussion of pluralism extends to the norms established between markets and religions, in the context of a society that functions in a network of complexity never before seen in humanity (Reis, 2020).

The role of conflict resolution in Brazil has led to a hypertrophy of the judiciary that has gained a prominent respect in society. The judiciary grew in importance with the 1988 Constitution, marking a shift toward the judicialization of public policy and the exercise of judicial review inherited from

the American tradition (Avritzer& Marona, 2014). However, most likely due to the slowness of the public administration in responding to social expectations (Silva & Lima, 2024) and the scarcity of resources (Dantas, 2022), there was an imbalance in the way rights were claimed:

Unlike the American tradition, the Brazilian tradition did not initially involve a structure of checks and balances. Until 1988, the Judiciary had little autonomy and, during the first hundred years of the Republic, did not establish a tradition of reviewing the constitutionality of the acts of the Executive, which immediately presented itself as the most active branch of government, operating in a context where there were no guarantees to counterbalance its prerogatives. (Avritzer& Marona, 2014, pp. 85-86).

As a result, the recognition of rights that should be dealt with in the administrative sphere, due to delays in decisions or the rejection of claims, has come to be exercised through the judiciary. This requires a legal professional to establish dialogue between the parties in the proceedings, with the judge acting as an impartial third party.

The lawyer is the medium that connects the citizen (outside the group) to the legal world (inside the group), according to Asensi (2023). However, there is a cost to this path, because sometimes the distance to be traveled is long and takes a long time. Along the way, the less fortunate are unable to complete the journey, some do not even begin, and the elderly may not even learn of the court decision (Urquiza & Correia, 2018). Given the above, there is an urgent need for a change in the behavior of legal practitioners, as recommended by Igreja and Rampin (2021):

When we challenge ourselves to look at justice, shifting the focus away from the formal justice system, we see other areas of interest, other institutions, and other actors that lead us to understand even more the universe in which access to justice is sought, not strictly judicial or native to the justice system. (Igreja&Rampin, 2021, p. 207).

With the increase in social demands, resource constraints (Dantas, 2022), and the reduction in civil service staff, the problem tends to worsen. The fact is that the refusal or delay in implementing public policies promotes structural judicialization in Brazil, aggravating the problem of access to justice in the country, and it is up to institutions essential to justice, such as the Public Defender's Office, the Public Prosecutor's Office, and the AGU, to mitigate the problem:

The judicialization of public policies can be defined as a process of "increasing use of the justice system to question flaws or omissions in the production of public policies" (OLIVEIRA, 2019, p. 18). In this case, the justice system becomes an intermediary in the development and implementation of policies, and it is in this context that judicialization occurs. The Public Prosecutor's Office and the Public Defender's Office have

become central actors in the formulation of demands on public policies brought before judges, and civil society movements, either directly or through institutions of the justice system, have also begun to bring their demands before the courts. (Rodrigues & Oliveira, 2022, p. 4).

Therefore, in the face of violations of the law by the public administration, judicial review plays a key role in the effectiveness of the law. The demonstration of readiness by the judicial system played a fundamental role in alerting the public authorities that the emancipatory promises of the Constitution would not be dead letters. However, there are cases that the public administration could resolve without necessarily becoming a defendant, because there are many ways to claim rights, and many solutions, and judicialization does not seem to be the main avenue for the exercise of citizenship, under penalty of a government by the judiciary.

However, a history of centralization of power in the executive branch, especially in autocratic regimes, should not be followed by a movement in the opposite direction. The control system was designed to achieve a balance, hence the desire for social pacification to swing the pendulum back to a centralized position (Avritzer & Marona, 2017). Similarly, the expansion of loci for dialogue to resolve conflicts reaffirms the administration's commitment to access to justice.

The public administration, as well as the judiciary, preserves traditions and knowledge from autocratic eras that require the exercise of participatory democracy to dilute the scars of authoritarianism with regard to the recognition of rights and the implementation of public policies.

For a period, the Brazilian state was based on patrimonialism and clientelism, as a link sustaining elites and technocrats throughout its history of authoritarianism or control of political power by oligarchies. Public administration, dominated by lawyers, exercised the control of the economically dominant class over the spheres of political power. This phase was embedded in the liberal state (Asensi, 2013; Nicácio, 2018). With the professionalization of public services, the bureaucratic model allowed for a technical departure from patrimonialism, but it crystallized an artificial distinction between the state and society (Reis, 2020). During the evolution of the organizational models that governed public administration, there was a concern to separate administration and politics (Motta, 2013).

However, the new way of relating to citizens brings to theory a praxis in which administration based on legal foundations seeks to build closer ties with *citizens* in order to generate public values. This dialogical approach is based on Habermasian communicative rationality (Tenório, 2006) and has promoted legislative changes such as the possibility of social participation in public spending planning, in the management of social security councils, and in the right to a voice before

administrative decisions, as provided for in the reform of the Law of Introduction to Brazilian Law (LINDB).

This democratic dialogue allows us to understand the new paradigm of an administration that is not opposed to those it administers, but is socially integrated with taxpayers. Rationality overcomes the strategic, instrumental model, in which unilateralism predominates, in favor of the dialogicity of the model based on communicative rationality, in which interaction between interlocutors is necessary.

It can be concluded that there has been an leap forward, with the breaking of the paradigm of patrimonialist and technocratic administration and the move to a new phase in which the administrative recognition of rights must contribute to social pacification and the prevention and reduction of litigation.

The 1988 Constitution of the Republic allowed citizens to reconnect with the prospect of social, political, and legal pluralism, aiming at the emancipation of Brazilians. The vision of a state monopoly on the law gave way to a more humanized and realistic view of the law (Hespanha, 2019). In other words, there are more forums for rules of human and social coexistence than the narrow framework of sparse laws. There are normative worlds within society whose enforceability is based on consensus among members of the social body (Hespanha, 2019).

The pluralistic and emancipatory model of the human person enshrined in the 1988 Constitution points to a search for social pacification of intersubjective conflicts beyond the limitations of demands before the judiciary. There are forms of legal resolution of problems that can be mediated by institutions such as the Public Defender's Office and Public Advocacy (Sadek, 2014, p. 65).

A disruptive vision is needed to look at new ways of solving legal problems outside the courtroom, with increased use of consensual mechanisms to maintain long-term intersubjective social relations, moving away from the adversarial system as the only model for legal practitioners. A terminological clarification is warranted here. This article adopts consensual dispute resolution as the generic category, encompassing negotiation, conciliation, administrative settlement and the spontaneous recognition of rights by the administration. The term mediation is reserved, in its technical sense, for procedures in which a third-party facilitator without decision-making power assists the parties — as regulated by Law No. 13,140/2015. Much of the AGU's preventive activity examined below is, strictly speaking, direct negotiation and settlement rather than mediation, and the text observes this distinction throughout.

Social emancipation is a phenomenon that requires effort in a country like Brazil, which has been exploited in a model of submission to Eurocentrism, with the real forces of power dominated by

authoritarian oligarchies (Santos, 2011). With the industrialization of the country, strategic rationality took hold in forms of private production and even in the state. In the justice system, there was a concentration of attempts to realize social anxieties in an exacerbated search for the judiciary.

Instrumental, functional, profit-oriented, or result-oriented rationality has long forgotten the usefulness of other rationalities, as well as the sense that one of the desired results should be, not profit, but social pacification, the construction of a more just and supportive society (Sousa Júnior, 2008). Hence, the exercise of a more dialogical rationality leads to an understanding of success in the process from a consensual perspective — the harmonious and transparent search for consensus. Overcoming the instrumental paradigm requires responsive creativity and the deliberate willingness to see the world through other lenses.

Therefore, using the same strategies in a scenario of increasing judicialization and payment of judgments in which costs, corrections, and interest are sometimes higher than the *quantum debeatur*, will ensure the same results in the long term. In this sense, research on the causes of delays in serving litigants has gained momentum. In Brazil, this has been particularly true since the publication of the Brazilian translation of Cappelletti and Garth's classic study (1978/2002). These authors presented the overcoming of the instrumental paradigm of liberalism for effective access to justice and the observation of possible obstacles to its fulfillment:

[...] the expression “access to justice” in its “broad concept” can mean: a) access to the Judiciary and; b) accessibility to a certain order of values and fundamental rights for human beings. Consequently—and as already stated—access to justice is broader and more complex, expressing more than just filing a lawsuit (case) with the judiciary; it goes beyond the limits of access to existing judicial bodies. Therefore, access to justice means going beyond the access guaranteed by the Federal Constitution, reaching, protecting, and guaranteeing fundamental social rights and guarantees, ultimately ensuring access to a “fair legal system” for all citizens. (Spengler & Pinho, 2018, p. 227).

The search for a fair justice system cuts across several dimensions, such as social aspects, economic inequalities, and the unfortunate naturalness with which society deals with this issue, the problem of education. This search for effective and swift justice, which ensures what the Constitution and laws guarantee to citizens, opens doors where there are no passages, allowing the legal problem to be understood as a dialogical and democratic process. The interaction between the various legal institutions can address the problem of delays in the provision of legal services by the State in a more discursive manner (Bonat et al., 2022, p. 157). A modern and emancipatory democracy requires that the administration of justice and public administration overcome this liberal paradigm.

What is needed, then, is a state that connects with the market, society, justice, and citizens in a seamless fabric where rationality is integral, transparent, communicative, and based on interinstitutional dialogue to meet the expectations of the taxpayers who support it. And this state, and this justice system, are in a context of participatory democracy that has overcome the traditional liberal model of equality before the law, or merely formal equality, in which the strongest can use the judicial process to stifle the weakest with the starvation that time can impose on them.

The democratization of the state and society has led to an understanding of various possibilities for popular participation in government affairs, based on the paradigm of communicative rationality as a theory of social action that promotes dialogue, democracy, and emancipation (Tenório, 2006). In matters of budget planning, issues related to the rights of cities, in the social management of social insurance, social assistance, and health, participatory models, with the same foundation, legitimize the co-creation of public values in administrative action (Cançado et al., 2015; Salgado et al., 2019; Costa & Pinto, 2023).

Therefore, the democratic model allows for the consensual resolution of conflicts between the parties, citizens and public administration, facilitated by the AGU. As an essential legal institution, AGU has received attributions for mediating conflicts in Brazilian society. Citizenship is exercised in this integrative republican dialogue, in which the AGU acts as an intermediary in the consensual resolution of conflicts that would otherwise be referred to the judiciary or, due to difficulties in accessing justice, would imply a violation of fundamental rights.

3. METHODOLOGY

This study adopts a qualitative and exploratory research design combining a structured literature review with documentary analysis. This methodological approach is appropriate to the research question because the study seeks to identify institutional possibilities, legal constraints, and enabling conditions for the use of AI-assisted screening in consensual dispute resolution rather than to establish causal relationships or measure the effectiveness of a specific technological intervention.

The literature review was conducted in two stages. First, academic journals classified in strata A1 and A2 in the 2017–2020 CAPES Qualis system in the fields of Law and Public Administration were identified through the Sucupira Platform. Searches were subsequently conducted in the journals' databases and repositories using combinations of the following terms in Portuguese and English: "access to justice," "Attorney General's Office," "AGU," "social participation," "mediation," "extrajudicial," "artificial intelligence," "public administration," and "social security." The terms were combined, where appropriate, using the Boolean operators AND and OR. Second, backward

citation tracking was performed on the references of the selected publications to identify additional studies relevant to the theoretical and institutional framework.

The inclusion criteria comprised peer-reviewed articles and book chapters published in Portuguese, Spanish, or English addressing either (a) access to justice and consensual dispute resolution involving public institutions or (b) the use of artificial intelligence by public-sector legal institutions. Studies dealing exclusively with technical aspects of computer science, without substantive discussion of their legal, administrative, or institutional implications, were excluded. The literature was analysed according to the main analytical categories derived from the research question: access to justice, consensual dispute resolution, institutional cooperation, communicative rationality, AI-assisted screening, human oversight, transparency, accountability, and digital inclusion.

The documentary analysis focused on the legal and institutional framework governing consensual dispute resolution at the federal level in Brazil. The corpus included the 1988 Federal Constitution; Complementary Law No. 73/1993; Law No. 9,469/1997; Law No. 13,140/2015; the 2015 Code of Civil Procedure; and Resolution No. 125/2010 of the National Council of Justice (CNJ). The analysis also encompassed interinstitutional instruments designed to operationalise consensual dispute resolution, particularly Technical Cooperation Agreement No. 04/2023 between the AGU and the Federal Supreme Court (STF), and Technical Cooperation Agreement No. 05/2023 involving the Federal Justice Council (CJF), the AGU, the Federal Attorney General's Office (PGF), and the National Social Security Institute (INSS). Publicly available institutional documents and information concerning the PACIFICA pilot project were examined to assess how AI-assisted screening is being incorporated into this institutional framework.

The documents and literature were examined through qualitative content analysis. The analysis sought to identify convergences between the legal authority for consensual dispute resolution, the institutional arrangements established among federal bodies, and the opportunities and risks associated with AI-assisted screening. Particular attention was given to four dimensions derived from the research question: (i) institutional coordination; (ii) legal safeguards; (iii) technological and ethical requirements; and (iv) implications for access to justice. The PACIFICA initiative was treated as a reference case through which these dimensions could be examined, rather than as an empirical test of the effectiveness of AI in resolving social security disputes.

This methodological choice entails limitations. At the time of the study, consolidated public data on the outcomes of the PACIFICA pilot project were not available for independent analysis. Consequently, the research does not measure settlement rates, processing times, cost reductions, or user satisfaction attributable to the initiative. Its findings are therefore limited to the institutional

potential of AI-assisted screening and to the conditions under which such technology may contribute to consensual dispute resolution and access to justice.

4. THE ROLE OF THE AGU IN PREVENTING LITIGATION

Before examining the applicable legal framework, an institutional clarification is necessary for international readers. The Attorney General's Office (Advocacia-Geral da União — AGU) is the institution constitutionally responsible for representing the Federal Government (União) in judicial and extrajudicial matters and for providing legal advice to the federal Executive (Brazil, 1988).

The Federal Attorney General's Office (Procuradoria-Geral Federal — PGF), which forms part of the AGU's institutional structure, represents federal agencies and public foundations, including the National Social Security Institute (Instituto Nacional do Seguro Social — INSS). Throughout this article, therefore, "AGU" refers to the institution as a whole, whereas "PGF" refers specifically to the body responsible for the representation of federal agencies and foundations.

Article 131 of the 1988 Constitution places the AGU within the constitutional framework of the functions essential to justice. This position is particularly relevant because the institution's responsibilities extend beyond litigation. In addition to representing the Federal Government before the courts, the AGU performs advisory and extrajudicial functions that may contribute to preventing disputes and ensuring the lawful implementation of public policies. As Godoy (2017, p. 17) observes, this institutional role requires the reconciliation of the defence of public interests with respect for legality and fundamental rights.

This preventive function is particularly important when an administrative claim has initially been rejected but subsequent legal analysis indicates that the claimant may in fact be entitled to the right asserted. In borderline or legally controversial cases, public attorneys must assess the applicable law, administrative precedents, and litigation risks before determining whether continued litigation or a consensual solution is legally appropriate. The recognition of a right or the conclusion of a lawful settlement in such circumstances does not represent a departure from legality; it may instead constitute a means of giving effect to it.

This approach has become increasingly relevant in a context of growing social demands and institutional constraints. Legal interpretation and professional judgment remain central to public advocacy, but technological tools, including automation and AI, may assist public institutions in identifying recurring disputes and cases potentially suitable for consensual resolution. As discussed in Section 5, however, technological support does not displace the responsibility of public attorneys to assess the legality and appropriateness of each proposed solution.

4.1 The legal framework for consensual dispute resolution

Brazilian legislation progressively expanded the legal basis for consensual dispute resolution involving public authorities. Law No. 9,469/1997 constitutes an important part of this framework. Its Article 1 authorises agreements and settlements aimed at preventing or terminating disputes, subject to the conditions established by law, while Article 4-A expressly regulates terms of behaviour adjustment (*termos de ajustamento de conduta* — TACs) involving the public interest of the Federal Government, its agencies, and foundations (Brazil, 1997).

The enactment of Law No. 13,140/2015 broadened this framework by expressly regulating mediation involving public administration. The statute provides for administrative chambers for the prevention and resolution of disputes and permits public advocacy institutions, under the circumstances established by law, to initiate procedures for the collective mediation of disputes related to the provision of public services (Brazil, 2015).

The 2015 Code of Civil Procedure reinforced the same institutional movement. Rather than treating adjudication as the only legitimate response to a legal dispute, the Code expressly encourages conciliation, mediation, and other forms of consensual dispute resolution. It also recognises procedural agreements under Article 190, whose application to public administration must take into account the legal constraints applicable to public authorities (Paula & Filpo, 2022, p. 167).

These legislative developments are part of a broader transformation of Brazilian dispute resolution. The National Council of Justice (Conselho Nacional de Justiça — CNJ), through Resolution No. 125/2010, established a national judicial policy for the appropriate treatment of disputes. The policy was subsequently reinforced by the 2015 Code of Civil Procedure and the Mediation Law. Together, these instruments contributed to the development of a multi-door conception of access to justice, in which different types of disputes may require different institutional pathways (Paula & Filpo, 2022; Spengler & Pinho, 2018).

For public administration, this change has particular significance. A consensual solution cannot be adopted solely because it is faster or less costly than litigation. It must remain compatible with legality, equality, accountability, and the public interest. At the same time, the principle of legality does not require public attorneys to pursue litigation when the legal and factual circumstances indicate that a claim should be recognised or that a settlement constitutes a lawful and appropriate solution on behalf of the weaker party.

This distinction also clarifies the terminology adopted in this article. *Consensual dispute resolution* is used as the broader category encompassing negotiation, conciliation, administrative

settlement, and other lawful consensual mechanisms. *Mediation*, by contrast, refers specifically to a procedure involving the assistance of an impartial third party without decision-making authority. This distinction is important because much of the preventive activity performed by the AGU involves negotiation, settlement, or administrative recognition rather than mediation in its technical sense.

4.2 Consensuality as a strategy for access to justice

The expansion of consensual mechanisms is relevant not only to institutional efficiency but also to access to justice. Judicialization can provide indispensable protection when public administration unlawfully refuses or delays the recognition of a right. However, requiring every claimant to seek judicial intervention may itself create an additional barrier to the effective exercise of rights.

This apparent paradox has long been identified in the Brazilian access-to-justice literature: the judicial system may simultaneously face an excessive volume of litigation and remain inaccessible to significant groups of citizens (Sadek, 2014). Barriers related to information, legal representation, time, geographical distance, and socioeconomic vulnerability mean that the formal availability of judicial review does not necessarily guarantee effective access to justice.

Accordingly, the development of extrajudicial mechanisms should not be understood simply as a strategy for reducing the courts' caseload. Its normative justification is stronger: when public administration can lawfully recognise a right or resolve a dispute without requiring a citizen to initiate or continue judicial proceedings, consensual mechanisms may provide an additional pathway to effective access to justice.

The same transformation can be observed in areas traditionally characterized by limited room for negotiation. Tax law, for example, has incorporated consensual mechanisms that permit settlements within statutorily defined limits. Paula and Filpo (2022) note that tax settlements may allow greater consideration of the circumstances of individual cases than mechanisms based exclusively on standardized treatment. Such developments illustrate how consensual mechanisms have gradually entered fields once dominated by strongly unilateral models of administrative action.

This does not imply that institutional resistance has disappeared. The transition from an adversarial culture to a model that incorporates consensual solutions requires regulatory development, institutional coordination, professional training, and changes in organizational practices. The existence of statutory authority alone does not ensure that consensual mechanisms will be systematically or appropriately employed.

The development of digital means of dispute resolution adds another dimension to this process. Spengler and Pinho (2018) identify electronic mechanisms as potentially capable of reducing

geographical and transactional barriers to dispute resolution. Digitalization may therefore facilitate interaction between citizens and public institutions, although, as discussed later, its benefits must be assessed alongside the risks of digital exclusion and unequal access to technology. Colucci (2025) argues that digitally assisted consensual mechanisms may contribute to reducing excessive social security litigation, provided that technological innovation remains oriented towards inclusion, transparency, and the effective protection of fundamental rights.

4.3 Interinstitutional cooperation and litigation prevention

Recent institutional arrangements illustrate the transition from general legislative authorization to concrete strategies for litigation prevention. Cooperation between the AGU and the higher courts has sought to identify repetitive disputes, improve the management of appeals, and encourage consensual solutions where legally appropriate.

The Pró-Estratégia initiative involving the AGU and the Superior Court of Justice (Superior Tribunal de Justiça — STJ), for example, has promoted the selective management of federal litigation and appeals. Official AGU reporting records hundreds of thousands of instances in which unnecessary appellate activity was avoided, particularly in social security litigation (Advocacia-Geral da União [AGU], 2023). The initiative was subsequently extended to cooperation involving the Federal Supreme Court (Supremo Tribunal Federal — STF) through Technical Cooperation Agreement No. 04/2023 (AGU & Supremo Tribunal Federal, 2023).

The scale of social security litigation makes this form of institutional cooperation particularly significant. CNJ data identify the INSS as the largest individual litigant in the Brazilian judicial system, with a substantial presence in the federal courts (Conselho Nacional de Justiça [CNJ], 2024). Against this background, Technical Cooperation Agreement No. 05/2023 brought together the Federal Justice Council (Conselho da Justiça Federal — CJF), the AGU, the PGF, and the INSS to develop coordinated measures aimed at improving judicial service and the management of disputes involving federal agencies and foundations (Conselho da Justiça Federal et al., 2023).

These arrangements demonstrate that litigation prevention does not depend on a single institution. It requires coordinated action among the administrative bodies responsible for deciding claims, the public attorneys responsible for legal representation, institutions providing legal assistance, and the Judiciary. This interinstitutional dimension is especially relevant to social security disputes, in which recurring legal and factual patterns may allow potentially resolvable cases to be identified at an earlier stage.

The legal and institutional framework therefore establishes the conditions for a gradual shift from a predominantly reactive model — in which public advocacy intervenes after a dispute has already become judicialized — toward a model that also incorporates prevention and early consensual resolution. Within this framework, the role of the AGU is not to eliminate judicial review, but to help distinguish disputes that require adjudication from those that may be lawfully resolved through recognition, negotiation, or settlement.

This distinction provides the institutional basis for the technological question examined in the following section. If recurring social security disputes can be identified before or at an early stage of litigation, automation and artificial intelligence may potentially assist in screening cases suitable for consensual resolution. Whether such tools can legitimately enhance access to justice, however, depends on the legal, technological, and ethical safeguards examined below.

5. CONSENSUAL RESOLUTION IN SOCIAL SECURITY DEMANDS AND ARTIFICIAL INTELLIGENCE

Artificial intelligence can enhance the AGU's institutional capacity to identify recurring disputes, assess litigation risks, and screen cases potentially suitable for consensual resolution. Its legitimate use, however, depends on an institutional framework capable of ensuring transparency, accountability, and meaningful human oversight.

Any legal analysis of AI in public institutions should begin by distinguishing concepts that are frequently conflated. Automation refers broadly to the execution of predefined tasks according to established rules. Robotic process automation (RPA), for example, can reproduce routine human interactions with digital systems without necessarily involving learning or autonomous inference.

Artificial intelligence, by contrast, can be understood as the use of computational systems to perform tasks commonly associated with human cognitive capabilities (Surden, 2019). Machine-learning systems constitute one important subset of AI: rather than relying exclusively on explicitly programmed rules, they identify statistical patterns in data and use those patterns to generate classifications, predictions, or other outputs. Depending on the model and its complexity, the reasoning underlying an output may be difficult to interpret, creating problems of explainability and accountability in public decision-making (Fejes & Futó, 2021; Figueiredo & Cabral, 2020).

Further distinctions are necessary. Predictive systems estimate the probability of particular outcomes — for example, the likelihood that an administrative decision will be reversed in subsequent litigation. Generative AI, by contrast, produces new content, including summaries, text, and draft legal documents, based on patterns learned during training. These applications involve different risk

profiles. Predictive systems may reproduce biases contained in historical data or generate statistically erroneous classifications, whereas generative systems introduce additional concerns regarding inaccurate or fabricated content. Both raise broader questions of transparency, explainability, accountability, and the ability of affected individuals to challenge outcomes (Bryson, 2020; Duan et al., 2019).

These distinctions are particularly important in public administration because AI may perform different functions at different stages of a decision-making process. A system used to organise documents presents a different level of legal risk from one that recommends whether a citizen should receive a social benefit. Accordingly, the central question is not simply whether public administration uses AI, but what function the system performs, what consequences its output may produce, and who retains responsibility for the resulting decision.

Digital transformation has already altered the organization and delivery of public services. Information technologies have become increasingly relevant to institutional capacity and economic and social organization (Castells, 2000). At the same time, the legitimacy of digital government depends significantly on citizens' trust in public institutions and in the systems through which public services are delivered (Silva & Lima, 2024). Similar transformations have occurred in the justice system, where electronic proceedings and AI-based tools are increasingly incorporated into judicial activities (Cordero, 2022), as well as in fields such as public health, public safety, and social protection (Romani et al., 2023; Tello & Lima, 2013).

The Brazilian justice system provides relevant examples. At the Federal Supreme Court (Supremo Tribunal Federal — STF), the Victor system has been used to assist in classifying cases according to themes of general repercussion, automating part of the document-analysis and triage process (Andrade & Prado, 2022). In Latin America, the Prometea system, originally developed within the Public Prosecutor's Office of Buenos Aires, has demonstrated the potential of AI-assisted tools in the preparation of standardised legal documents (Corvalán, 2018). These experiences are relevant to the present study because they illustrate how computational systems may support repetitive and information-intensive legal tasks while leaving ultimate legal responsibility with human decision-makers.

The same technological capabilities may be applied to litigation prevention. In high-volume fields such as social security, recurring factual patterns and established legal precedents can make it possible to identify cases in which continued litigation may be unnecessary. AI-assisted screening may support this process by organising information, identifying the legal issue involved, comparing cases with relevant precedents, and providing information for litigation-risk assessment.

The PGF already employs technological tools to support the management of federal litigation. Alves and Suriani (2024) describe the use of RPA for procedural triage and routine activities, as well as emerging applications of AI in document analysis and litigation-risk assessment. These technologies can reduce the amount of professional time devoted to repetitive tasks and allow public attorneys to concentrate on the substantive legal assessment of individual cases.

This capacity is particularly relevant in social security litigation. Alves and Suriani (2024, pp. 121–122) report an increase in the proportion of administrative applications for social security benefits that were denied, from 38% in 2003 to 49% in 2020, alongside an increase in judicial decisions granting benefits during the period they examined. These data suggest a persistent gap between administrative decision-making and subsequent judicial outcomes. They should not, however, be interpreted as demonstrating that most administrative denials are erroneous. Rather, they indicate a relevant area in which earlier identification of potentially reversible decisions may reduce the need for litigation.

AI-assisted screening can therefore serve a preventive function. Cases presenting factual and legal characteristics associated with a high probability of reversal may be selected for human legal review before additional public and private resources are spent on judicial proceedings. Following that review, the competent public attorney may conclude that the original decision should be maintained, that additional information is necessary, or that recognition or consensual settlement is legally appropriate. In this model, AI assists in determining where professional attention should be directed; it does not determine whether the citizen has a right to the benefit.

This approach is consistent with recent research on digital dispute resolution in Brazilian social security, which suggests that technological systems may support the preliminary diagnosis and screening of disputes and direct cases towards the most appropriate resolution pathway, while preserving human participation in the decision-making process (Colucci, 2025).

The PACIFICA initiative provides a concrete example of this approach. The Plataforma de Autocomposição Imediata e Final de Conflitos Administrativos (PACIFICA) was developed within the AGU to facilitate extrajudicial agreements concerning social security benefits denied by the INSS and others federal institutions. Its initial implementation focuses on rural maternity benefits denied to women qualifying as special-secured workers (*seguradas especiais*), including rural workers, artisanal fishers, Indigenous women, and members of traditional communities.¹

The institutional arrangement involves the AGU, INSS, and Federal Public Defender's Office (Defensoria Pública da União — DPU). A claimant whose application has been administratively denied and who has not filed a judicial action may seek assistance from the DPU, which submits the

request through PACIFICA. The AGU then uses technological support and information available in public databases to analyse the case and determine whether an extrajudicial agreement may be proposed. If an agreement is reached, the information is transmitted to the INSS for implementation of the benefit. The official design therefore places technological screening within an interinstitutional process rather than presenting AI as an autonomous decision-maker.

Three aspects of this arrangement are particularly relevant to the research question. First, technological screening performs a preparatory function: the decision on whether recognition or settlement is legally appropriate remains subject to human review. Second, the participation of the DPU provides legal assistance to the claimant and introduces an institutional counterparty into the process, reducing informational asymmetries. Third, participation in PACIFICA does not replace judicial protection: if an agreement cannot be reached, other avenues for seeking recognition of the right remain available.

The initiative therefore represents more than the introduction of a technological tool. It combines data analysis, public advocacy, social security administration, and legal assistance within a single extrajudicial pathway. From an access-to-justice perspective, this arrangement is relevant because it seeks to intervene at the point between administrative denial and the filing of a lawsuit.

Publicly available institutional information provides preliminary evidence concerning the initiative. According to the AGU's 2025 institutional report, PACIFICA uses AI to compare documents submitted by claimants with applicable rules and information from similar extrajudicial cases, and the institution reports the recognition of rights in nearly 60% of the applications examined through the mechanism (Advocacia-Geral da União [AGU], 2025). These figures should nevertheless be interpreted cautiously. They constitute aggregate institutional reporting rather than independently validated empirical evidence and do not, by themselves, permit causal conclusions regarding the effectiveness of AI-assisted screening.

A particularly important safeguard concerns the relationship between automated processing and human legal judgment. Article 20 of the Brazilian General Data Protection Law (Lei Geral de Proteção de Dados Pessoais — LGPD) grants data subjects the right to request review of decisions based solely on automated processing that affect their interests and requires the controller, upon request, to provide clear and adequate information concerning the criteria and procedures used in automated decision-making (Brazil, 2018, art. 20). Although the provision does not expressly require that such review be conducted by a natural person, this article argues that meaningful human review is necessary when AI-assisted screening may affect the recognition of social security rights. In this context, human review operates not merely as a technical safeguard but as a condition of legal

accountability: the competent public official must remain identifiable and responsible for the decision to recognise, reject, or propose the consensual resolution of a claim.

AI-assisted screening should therefore support, rather than substitute for, legal judgment. The system may identify patterns, classify cases, retrieve relevant information, or indicate litigation risks, but the determination of whether a right should be recognised or a settlement proposed must remain subject to meaningful assessment by the competent public attorney. This requirement is particularly important where automated processing concerns individuals in situations of socioeconomic vulnerability and may directly affect access to fundamental social rights.

6. CONCLUSIONS

This article examined the conditions under which the Attorney General's Office (Advocacia-Geral da União — AGU) can use AI-assisted screening to support the extrajudicial consensual resolution of social security disputes and thereby enhance access to justice. The analysis indicates that the AGU's constitutional and statutory functions provide an institutional basis for a model of public advocacy that extends beyond judicial representation and incorporates litigation prevention, negotiation, settlement, and the extrajudicial recognition of rights. In this context, artificial intelligence may strengthen institutional capacity to identify recurring disputes, assess litigation risks, and direct potentially resolvable cases towards earlier human legal review.

The findings therefore support the proposition advanced in the Introduction, but only conditionally. AI-assisted screening may enhance access to justice when it facilitates the identification of social security claims that can be lawfully recognised or resolved without requiring citizens to pursue judicial proceedings. Technology, however, does not produce consensual solutions by itself, nor does greater efficiency necessarily amount to greater access to justice. Its contribution depends on the institutional and procedural safeguards within which it operates.

The PACIFICA pilot project illustrates this potential. By connecting the AGU, the INSS, and the Federal Public Defender's Office (DPU) in an extrajudicial pathway for selected social security claims, the initiative combines technological screening with legal assistance and human decision-making. Preliminary institutional reporting indicates that rights have been recognised in nearly 60% of the applications examined through the mechanism (Advocacia-Geral da União [AGU], 2025). This figure is significant as an initial indication of institutional potential, but it should not be interpreted as independent evidence of effectiveness or as establishing a causal relationship between the use of AI and the recognition of rights.

The analysis also identifies the conditions under which this technological and institutional arrangement can legitimately operate. Legally, screening criteria must comply with legality, equality, data protection, and the procedural guarantees applicable to automated processing. Technologically, AI systems should be documented, monitored, and periodically evaluated for error and discriminatory outcomes. Transparency and meaningful human review are essential: the decision to recognise a right, reject a claim, or propose a settlement must remain attributable to an identifiable and accountable public official. Institutionally, the model requires sustained cooperation among the AGU, PGF, INSS, DPU, and other relevant actors, as well as adequate training for public attorneys. Finally, digitalization must not create a new barrier to justice. Assisted and in-person channels should remain available to individuals affected by digital exclusion or limited digital literacy.

These findings also have a broader theoretical implication. From the perspective of communicative rationality, the significance of AI-assisted consensual dispute resolution cannot be assessed exclusively through instrumental indicators such as speed, cost reduction, or the number of cases diverted from the courts. A consensual mechanism acquires democratic legitimacy when it preserves the conditions for informed participation, legal assistance, transparency, and meaningful dialogue among the institutions and individuals involved. AI can support this process by reducing informational and administrative barriers, but it cannot replace the intersubjective dimension on which legitimate agreement depends. In this sense, the transition from a predominantly adversarial and reactive model of public advocacy towards a preventive and consensual model reflects a broader transformation in the relationship between public administration and citizens after the 1988 Constitution.

This study is subject to limitations. Although preliminary aggregate information on PACIFICA is publicly available, the underlying data required for independent empirical evaluation have not yet been made available. The qualitative and documentary research design therefore does not allow conclusions regarding causal effectiveness, comparative performance, algorithmic accuracy, or the long-term effects of the initiative. The findings are limited to its institutional potential, normative foundations, and enabling conditions. Future research should evaluate PACIFICA empirically, examining settlement and recognition rates, false-positive and false-negative screening outcomes, time to resolution, public expenditure, patterns across different social groups, and user satisfaction. Comparative research could also assess whether similar AI-assisted consensual mechanisms can be appropriately extended to other areas of federal litigation.

Ultimately, the contribution of artificial intelligence to access to justice should not be measured by the amount of human judgment it replaces, but by its capacity to enable public institutions to

recognise rights earlier, more consistently, and through legally accountable procedures. In the case examined here, AI-assisted screening is most defensible not as an autonomous mechanism for deciding social security rights.

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