



## **BRAZILIAN MAGISTRATES' ASSOCIATION**

### **BRAZIL**

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### **Digital Revolution Impact on the Labor Market: Platform or Gig Economy and Artificial Intelligence**

**Dramatic changes in the economy and in labor markets have resulted in dramatic changes in the relationship between employers and employees/independent contractors. At the same time, increased computerization has impacted the marketplace. We will explore the “gig” or “platform” economy—such as short-term contracts or freelance work in contrast to permanent jobs, including ride sharing, delivery services, remote work via the Internet—and the impact on the employment relationship. We will also consider the impact of artificial intelligence on employment.**

**1. Provide a brief description of the presence of the “gig” or “platform” economy in your country. If possible, base your answer on official public data or academic reports, although we recognize that in some cases data may not be available.**

The economy of digital work platforms, or “gig economy”, can be defined as one that involves the provision of human services, usually classified as self-employed, through digital work platforms. The present definition, used for this report, does not include platforms for the intermediation of goods usage, such as AirBNB, because the service provision eventually existing in this segment is secondary.

The economy of digital work platforms has a significant and growing presence in Brazil. A study conducted by the Brazilian Institute of Geography and Statistics (IBGE) in 2022 found that about 1.5 million people provide services through these platforms in Brazil, representing 1.7% of the country's private sector workforce<sup>1</sup>. Of this total, 52.2% (778,000 people) worked primarily in passenger transportation, whether as taxi drivers or otherwise; 39.5% (589,000 people) in food and product delivery; and 13.2% (197,000 people) in general or professional services. A total of 81.3% of these workers are men. Platform workers were concentrated in intermediate levels of education, mainly those with complete high school education or some higher education (61.3%).

These results, however, are still in the experimental phase<sup>2</sup>. There is a notable difficulty in measuring the "gig economy" due to factors such as the informality of the relationship with the platforms, the use of multiple platforms as sources of income, and the reliance on proprietary data. For comparative purposes, a study conducted by the Brazilian Center for Analysis and Planning (CEBRAP) and the Brazilian Association of Mobility and Technology (Amobitec), which is based on both primary data collection with app drivers and delivery personnel and on administrative records from digital work platforms, presents higher numbers. In 2022, a total of 1,274,281 drivers and 385,742 delivery workers were identified working on digital work platforms in Brazil. It is necessary to add that although these two are the most popular activities on the platforms, they are not the only ones. Nonetheless, the study itself emphasizes that these numbers tend to be underestimated<sup>3</sup>. The conclusion of underestimation, in fact, is consistent with information publicly presented by the platforms themselves. According to Uber, for example, in the first quarter of 2022, there were 1 million drivers working solely on its platform in Brazil<sup>4</sup>.

The most popular international digital work platforms are available in Brazil: Uber, Upwork, Freelancer.com, Fiverr, Deliveroo, Amazon Mechanical Turk, among many others<sup>5</sup>. The Spanish platforms Glovo (deliveries) and Cabify

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<sup>1</sup> IBGE. *Teletrabalho e trabalho por meio de plataformas digitais 2022*. Rio de Janeiro: IBGE, 2023. 58 p. Available at: [https://biblioteca.ibge.gov.br/visualizacao/livros/liv102035\\_informativo.pdf](https://biblioteca.ibge.gov.br/visualizacao/livros/liv102035_informativo.pdf). Informative report about the research: <https://agenciadenoticias.ibge.gov.br/agencia-noticias/2012-agencia-de-noticias/noticias/38160-em-2022-1-5-milhao-de-pessoas-trabalharam-por-meio-de-aplicativos-de-servicos-no-pais>.

<sup>2</sup> The research and its results are still in the experimental phase. The research method involves sampling home visits by interviewers, with its natural limitations.

<sup>3</sup> CALLIL, Victor; PINCAÇO, Monise. *Mobilidade Urbana e Logística de Entregas: Um Panorama Sobre o Trabalho de Motoristas e Entregadores Com Aplicativos*. 2023. Available at: <https://cebrap.org.br/wp-content/uploads/2023/04/Pocket-Report-AMOBITEC.pdf>.

<sup>4</sup> <https://www.uber.com/pt-BR/newsroom/fatos-e-dados-sobre-uber/>

<sup>5</sup> For a comprehensive survey on the topic, see: SILVA, Victo J.; CHIARINI, Tulio; RIBEIRO, Leonardo Costa. *The Brazilian digital platform economy: a first approach*. Center for Open Science, 2022. Available at: <https://ideas.repec.org/p/osf/socarx/d478v.html>.

(transportation) left the Brazilian market in 2019 and 2021, citing high investment costs due to competitiveness<sup>6</sup> and the economic impacts caused by the coronavirus pandemic<sup>7</sup>, respectively. On the other hand, however, the Brazilian logistics platform Loggi reported a 360% growth during the pandemic<sup>8</sup>.

Some of the largest platforms operating in Brazil were founded in Brazil, but are now part of international conglomerates: iFood (food delivery)<sup>9</sup> and 99 (ride-hailing)<sup>10</sup>. There are also several smaller Brazilian platforms in operation, such as Garupa (transportation)<sup>11</sup>.

Research indicates significant growth in the digital work platform economy in Brazil. Studies by the Administrative Council for Economic Defense, an agency of the Ministry of Justice of Brazil, indicate the growth of the platform economy in Brazil and the debates around competition and market concentration<sup>12</sup>. A report by the Institute for Applied Economic Research<sup>13</sup>, linked to the Ministry of Planning of Brazil, states that between 2016 and 2021, there was an "explosion" in the number of self-employed workers in the delivery sector, rising from around 30,000 to 278,000 - an increase of almost 1000%.

The expansion of the labor market comes with corresponding economic growth. According to the "The Global Gig-Economy Index" report of the financial services company Payoneer<sup>14</sup>, there was a 48% increase in revenue in the Brazilian gig economy between 2018 and 2019. A report by Mastercard/Kaiser Associates confirms this pattern<sup>15</sup>, highlighting the growth of the global gig economy from \$204 billion in 2018 to a projected \$455 billion by 2023, with Brazil being one of the countries contributing to this accelerated growth, with a projected growth rate of 129% by 2023. These studies are noteworthy for considering financial transactions

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<sup>6</sup> <https://epocanegocios.globo.com/Empresa/noticia/2019/03/glovo-decide-deixar-o-brasil.html>

<sup>7</sup> <https://exame.com/tecnologia/cabify-deixa-brasil/>

<sup>8</sup> <https://www.ecommercebrasil.com.br/noticias/loggi-megagalpao-sao-paulo>

<sup>9</sup> <https://institucional.ifood.com.br/releases/prosus-adquire-controle-total-do-ifood-por-ate-r-94-bilhoes/#:~:text=A%20gigante%20holandesa%2C%20Prosus%2C%20subsidi%C3%A1ria,de%20comida%20do%20mercado%20brasileiro>

<sup>10</sup> <https://g1.globo.com/economia/noticia/chinesa-didi-chuxing-compra-o-controle-da-brasileira-99.ghtml>

<sup>11</sup> <https://garupa.co/>

<sup>12</sup> BRASIL. Conselho Administrativo de Defesa Econômica. *Caderno sobre plataformas digitais: Cadernos do CADE*. Atualizado em 29 de agosto de 2022. Available at: [https://cdn.cade.gov.br/Portal/centrais-de-conteudo/publicacoes/estudos-economicos/cadernos-do-cade/Caderno\\_Plataformas-Digitais\\_Atualizado\\_29.08.pdf](https://cdn.cade.gov.br/Portal/centrais-de-conteudo/publicacoes/estudos-economicos/cadernos-do-cade/Caderno_Plataformas-Digitais_Atualizado_29.08.pdf).

<sup>13</sup> BRASIL. Instituto de Pesquisa Econômica Aplicada. *Nota Técnica 5: A Gig Economy no Brasil*. Brasília: IPEA, 2021. Available at: [https://www.ipea.gov.br/portal/images/stories/PDFs/conjuntura/211216\\_nota\\_5\\_gig\\_economy\\_brasil.pdf](https://www.ipea.gov.br/portal/images/stories/PDFs/conjuntura/211216_nota_5_gig_economy_brasil.pdf).

<sup>14</sup> PAYONEER. *Q2 Global Freelancing Index. 2019*. Available at: [https://pubs.payoneer.com/images/q2\\_global\\_freelancing\\_index.pdf](https://pubs.payoneer.com/images/q2_global_freelancing_index.pdf).

<sup>15</sup> MASTERCARD; KAISER ASSOCIATES. *The Global Gig Economy: Capitalizing on a ~\$500B Opportunity*. Maio 2019. Available at: <https://blog.kleros.io/content/files/wp-content/uploads/2019/05/gig-economy-white-paper-may-2019.pdf>.

linked to the segment, a methodology that allows for a more comprehensive measurement of this market, characterized by contractual informality.

**2. How does this development affect the traditional employee/employer relationship? What is the status of platform or gig workers in your country: employees, independent contractors or a third category? Is there any jurisprudential divergence regarding the status of these workers? Cite relevant examples.**

In general terms, it can be stated that digital work platforms allow for the management of demand and supply of services on a large scale, in a fast and optimized manner. These qualities and the ease of use for the end user are some of the main reasons for the popularity of applications like Uber, Cabify, and Lyft<sup>16</sup>. The technological conditions that enabled this development, on the other hand, are relatively recent. Examples of these technologies are widespread access to smartphones, GPS, and high-speed wireless Internet.

The technological structure of platforms also influences their ability to expand. The marginal cost of expansion tends not to be high, as it is essentially determined by the expansion of IT structures. Transport platforms, for example, usually do not own the vehicles used to provide services, which significantly reduces acquisition costs<sup>17</sup>. At the same time, as a general rule, digital work platforms consider themselves to be merely intermediaries in the relationship between consumers and service providers. Service providers are usually classified as self-employed workers.

This set of factors tends to guarantee strategic competitive advantage and can result in the disruption<sup>18</sup> of companies and actors traditionally established in the market segments into which the platforms enter. Studies show that there are cases of disruption caused by companies in the platform economy<sup>19</sup>. The growing social phenomenon of the intermediation of human work through digital platforms,

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<sup>16</sup> In addition to significant investment in advertising. Uber alone invested half a billion dollars in advertising in 2018. Source: <https://www.fastcompany.com/40583434/uber-will-spend-half-a-billion-dollars-on-ad-campaigns-this-year>

<sup>17</sup> HIDALGO, Manuel Alejandro (2018). *El Empleo del Futuro. Una análisis del impacto de las nuevas tecnologías en el mercado laboral* (1ª. Ed.). Barcelona: Deusto, p. 203.

<sup>18</sup> Disruption is a technical concept that is often misused. Broadly speaking, disruption is the process by which a smaller company, with fewer resources, manages to challenge companies previously holding a certain business. See: Christensen, Clayton M.; Raynor, Michael E. Raynor, McDonald, Rory (2015). *What Is Disruptive Innovation?* Harvard Business Review: <https://hbr.org/2015/12/what-is-disruptive-innovation>. Note that the concept does not necessarily apply to all digital work platforms.

<sup>19</sup> TRENZ, M., FREY, A., & VEIT, D. (2018). *Disentangling the facets of sharing: a categorization of what we know and don't know about the sharing economy*. Internet Research, 28(4), 888-925.

theoretically self-employed, can be conceptualized as “platformization of work”<sup>20</sup>. This is a phenomenon of global proportions, which also occurs in Brazil and which has a direct connection with the traditional relationship between employee and employer.

Three important aspects, not directly legal, permeate this debate: 1) the popularity of the platforms, due to their ease of use and efficiency, which tends to influence the public debate; 2) operating in sectors of the economy in which sector legislation tends to be unpopular, such as the taxi segment; 3) the practice of companies in the platform economy first beginning to effectively operate in the market and then adapting to possible legal questions, as demands arise, including legal ones. These elements contribute to the creation of a very complex debate scenario.

From a directly legal point of view, there is the specific issue of the classification of service providers through digital work platforms. In the case of Brazil, to date, there are only two alternative frameworks provided for by law for most workers: self-employed or employees. There is no intermediate category.

A self-employed worker is considered to be someone who (1) habitually, and on their own account, carries out paid professional activity; (2) anyone who provides, without an employment relationship, occasional services to one or more companies; (3) anyone who provides paid service upon receipt, on an occasional basis, regardless of the duration of the task (article 4, “c”, of Law 3,807 of 1960).

An employee, as in most Western labor systems<sup>21</sup>, is considered to be a worker who works personally, for remuneration, in a non-occasional and subordinate manner for the benefit of others (articles 2 and 3 of the Consolidation of Labor Laws). Subordination means that the work is subject to command, control and supervision by the employer, whether in person, telematically or computerized means (article 6, sole paragraph, of the Consolidation of Labor Laws).

There are difficulties in framing digital platform workers into the traditional concept of employee<sup>22</sup>. Regarding personality, there are platforms that contractually

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<sup>20</sup> DORNELLES JUNIOR, Paulo Roberto. *A plataformação das relações de trabalho: como as tecnologias inovadoras das plataformas digitais impactam na economia e desafiam as estruturas do Direito do Trabalho*. São Paulo: Tirant lo Blanch, 2020.

<sup>21</sup> There is a clear pattern on the matter. The similarity that exists in most national legislation, including Brazilian legislation, occurs because the architecture of the employee concept was developed during the industrial revolution, essentially having the factory worker as its parameter. The basic structure of this concept has changed little since then. See: DORNELLES JUNIOR, Paulo Roberto. *A plataformação das relações de trabalho: como as tecnologias inovadoras das plataformas digitais impactam na economia e desafiam as estruturas do Direito do Trabalho*. São Paulo: Tirant lo Blanch, 2020, p. 49-52.

<sup>22</sup> Here we essentially address workers in the “on demand” segment of platforms, that is, those that involve the provision of services in the physical world (transport, deliveries, etc.). The “crowd work” segment, which involves digital work carried out via the Internet by anyone and anywhere in the world, has difficulties for which there appear to be no satisfactory answers in any legal system. For the classification, see: DE STEFANO, Valerio, The Rise of the 'Just-in-Time Workforce': On-Demand Work, Crowd Work and Labour Protection in the 'Gig-Economy' (October 28,

allow the service provider to be replaced to some extent by another worker when carrying out the activity - although this provision is usually only formal and is not implemented in practice. Regarding non-occasionality, the universe of workers through platforms ranges from occasional workers, who would be excluded from the definition, to continuous workers. Furthermore, there is normally no restriction on the cumulative provision of services through other platforms, and sometimes there is even an express contractual provision that this restriction does not exist.

The most important difficulties, however, possibly occur in examining subordination - control or direction of the employee. The theoretical features of subordination in the world of platforms tend to be subtle, as service providers, as a rule, have significant freedom over working hours (when they start, when they end and how many hours they work) and the location where services are provided. In general terms, there are no direct orders issued by the platforms. Although algorithms can encourage the provision of services in various ways, they tend to act as intermediaries between demand and supply and do not issue direct commands to service providers. Quality control of services, on the other hand, is carried out by third parties, which is the consumer evaluation. This set of factors contrasts with the standards of the typical factory worker, who modeled the concept of employee and who has a defined working day and a determined work location, being subject to direct orders, control and disciplinary power from the employer.

There is, however, a significant volume of legal demands in Brazil challenging the classification of these service providers in the category of self-employed. The main reasons that substantiate these legal demands involve the payments, which may be below labor standards; the absence of adequate health and safety guarantees for these workers; the sometimes high number of working hours; and new interpretations of the concept of subordination (control / direction).

In Brazil, lawsuits asserting employment status for digital platform workers fall under the jurisdiction of the Brazilian labor courts. There are between 10 and 20 thousand such demands in Brazil, an expressive number. In general terms, judgments dismissing these claims have prevailed, concluding that the workers are self-employed.

There is a significant volume of appeals against court decisions on this matter, resulting in legal uncertainty. Consequently, the issue is currently before the highest judicial instances in Brazil. In the Superior Labor Court, the highest court in Brazil's labor justice system, the core of the discussion is whether workers fall under the legal definition of employees<sup>23</sup>. In the Supreme Federal Court, Brazil's Constitutional Court, the focus is whether judicial recognition of the employment

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2015). *Comparative Labor Law & Policy Journal*, Forthcoming, Bocconi Legal Studies Research Paper No. 2682602, Available at SSRN: <https://ssrn.com/abstract=2682602> or <http://dx.doi.org/10.2139/ssrn.2682602>.

<sup>23</sup> E-RR-1000123-89.2017.5.02.0038 e E-RR-100353-02.2017.5.01.0066.



relationship for platform workers violates the constitutional principles of free enterprise, legality, freedom of work, and free competition<sup>24</sup>. The decisions of both courts are likely to be applicable to a broad range of cases involving platforms.

There is a moderate trend in the Superior Labor Court towards recognizing the employment relationship. In the Supreme Federal Court, the prevailing view is that workers will be classified as self-employed, due to a recent line of precedents upholding the aforementioned constitutional principles of free enterprise, free competition, etc<sup>25</sup>. This trend is reinforced by provisional Supreme Court decisions overturning rulings from Labor Courts that recognized the employment relationship. The degree of controversy on the matter also involves parallel questions about ideological tendencies in judgments. Currently, the divergence extends to discussions about the very jurisdiction of the Labor Courts to resolve these conflicts.

Finally, there are a significant number of bills in Brazil aimed at regulating work through platforms. Many of these bills propose creating a third category, intermediate between self-employed and employees. This year (2024), the President Lula administration introduced a bill classifying these workers as self-employed but guaranteeing various rights typically associated with employees, such as an eight-hour workday, minimum hourly wage, minimum monthly remuneration, and other benefits, including social security protections<sup>26</sup>. The bill is currently under debate in the National Congress.

It is important to consider, however, that general definitions on the subject are not simple, whether judicial or legislative. The possible elements of subordination in platform work are often diffuse. The assertion that these possible elements are sufficient for the recognition of an employment relationship may contradict situations where both case law and legal provisions do not recognize the existence of an employment relationship. Examples of such workers typically considered self-employed include real estate agents, sales consultants (e.g., Mary Kay), and insurance brokers. On the other hand, a general classification of all platform workers as self-employed, or as belonging to a third category, may create a strategic advantage for the sector that is not necessarily justified in all cases. In some cases, platforms exhibit more consistent elements of control and direction of employees<sup>27</sup>.

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<sup>24</sup> RCL 64018 e o RE 1446336.

<sup>25</sup> RE 1054110 (2017), ADPF 324 (2018), RE 958252 (2018), ADPF 449 (2019) e ADC 48 (2020).

<sup>26</sup> <https://www.gov.br/trabalho-e-emprego/pt-br/noticias-e-conteudo/2024/Marco/proposta-de-projeto-de-lei-cria-pacote-de-direitos-para-motoristas-de-aplicativos>

<sup>27</sup> The way platforms operate tends to vary over time and across different regions (depending on the country in which they operate). Usually, platforms adapt to legal demands as they arise.

These considerations highlight the high degree of complexity involved in the issue, making it difficult to present simple solutions. This difficulty is evident in Brazil in both case law and the legislative process concerning the topic.

**3. What is the impact of artificial intelligence on the labor market of your country? If possible, base your answer on official public data or academic reports. Outline the positive and negative impacts.**

The use of artificial intelligence in the world of work typically aims to automate activities or manage human resources ("algorithmic management"), as summarized by the International Labour Organization<sup>28</sup>. The automation of activities can lead to full automation, resulting in job losses, or to the complementarity of work, modifying existing jobs.

Although comprehensive reports on the subject are not yet available, numerous references in news articles and reports indicate a growing use of artificial intelligence in human resource management by Brazilian companies<sup>29</sup>. One positive aspect of this use is the ability to analyze a large volume of data related to people management, allowing for the identification of patterns and the provision of consistent solutions. For example, it is possible to identify which employee is most likely to leave the company or which job position an employee is likely to adapt to best<sup>30</sup>.

There are, however, negative aspects to this use. The Brazilian Association of Human Resources highlights that the technology can lead to cultural biases, selecting only certain profiles for job openings. According to the organization, this and other issues underscore the need for human oversight in the process<sup>31</sup>. Other negative aspects include the lack of human empathy in the systems, the opacity of the decision-making process, which makes it difficult to understand the factors considered in decisions, and the potential for discriminatory bias in decisions. This bias can stem from patterns extracted from the AI's training data or from intentional programming of the system. Investigative journalism has shown that the technology can, for example, reject women, older individuals, and graduates from less prestigious colleges in job selection processes<sup>32</sup>.

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<sup>28</sup> <https://www.ilo.org/artificial-intelligence>

<sup>29</sup> <https://newsroom.ibm.com/2020-10-16-Burger-King-Brazil-Selects-IBM-Services-to-Implement-AI-Strategy-to-Help-Transform-Human-Resources-Processes-and-Strengthen-Employee-Relationships> e <https://exame.com/carreira/inteligencia-artificial-no-rh-transformando-o-futuro-do-trabalho/>

<sup>30</sup> <https://www.abrhrbrasil.org.br/inteligencia-artificial-no-rh-uma-evolucao-estrategica/#:~:text=Relat%C3%B3rio%20publicado%20pela%20IBM%20em,de%20seus%20processos%20no%20per%C3%ADodo>

<sup>31</sup> <https://www.abrhrbrasil.org.br/as-vantagens-e-riscos-do-uso-de-ia-na-gestao-de-pessoas/>

<sup>32</sup> <https://www.intercept.com.br/2022/11/24/como-plataformas-de-inteligencia-artificial-podem-discriminar-mulheres-idosos-e-faculdades-populares-em-processos-seletivos/>



Data and projections regarding the use of artificial intelligence for automating activities in Brazil are significantly more substantial. According to a report by the Brazilian Institute of Geography and Statistics (IBGE), a public agency, in 2022, a total of 16.9% of industrial companies with more than 100 employees used artificial intelligence in their operations<sup>33</sup>. According to the "IBM Global AI Adoption Index 2022" report<sup>34</sup>, the figures are even higher: 41% of companies in Brazil had integrated the technology into their businesses in 2022. Data from the same report produced in 2023 shows a significant growth pattern in the region: 67% of companies in Latin America accelerated their AI implementation in the last 24 months<sup>35</sup>. An article published in the Brazilian Industry Magazine presents examples of the use of artificial intelligence by Brazilian multinationals: Petrobras, for predicting failures and increasing safety in oil and gas exploration; Embraer, in a simulation platform for aircraft projects; and Natura, in a recommendation system and chatbot<sup>36</sup>. However, negative impacts are starting to emerge: experts attribute the increase in layoffs in the tech sector in 2023 to artificial intelligence<sup>37</sup>.

The figures for 2024 are even more impressive. A report from February 2024 by Microsoft and Edelman Communications indicates that 74% of Brazilian micro, small, and medium-sized enterprises use artificial intelligence; additionally, 84% of business owners encourage their employees to use the technology<sup>38</sup>. A report by Microsoft-LinkedIn of May 2024, covering 31 countries and 31,000 workers, reveals that the global number of employees using artificial intelligence has nearly doubled in the last six months. The study shows that 83% of Brazilian knowledge workers have used artificial intelligence, compared to the global average of 75%; 87% of Brazilian business leaders believe that the use of artificial intelligence is essential to remain competitive<sup>39</sup>, above the global average of 79%.

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<sup>33</sup> <https://agenciadenoticias.ibge.gov.br/agencia-noticias/2012-agencia-de-noticias/noticias/37973-84-9-das-industrias-de-medio-e-grande-porte-utilizaram-tecnologia-digital-avancada>

<sup>34</sup> <https://www.ibm.com/blogs/ibm-comunica/estudo-ibm-41-das-empresas-no-brasil-ja-implementaram-ativamente-inteligencia-artificial-em-seus-negocios/#:~:text=S%C3%A3o%20Paulo%20E2%80%93%2028%20de%20Setembro.que%20implementaram%20ativamente%20a%20tecnologia>

<sup>35</sup> <https://www.ibm.com/blogs/ibm-comunica/ibm-67-das-empresas-na-america-latina-aceleraram-a-implementacao-de-ia/>

<sup>36</sup> GRAU, Renato. O impacto da inteligência artificial na indústria. **Notícias Portal da Indústria**, 26 abr. 2023. Available at: <https://noticias.portaldaindustria.com.br/artigos/renato-grau/o-impacto-da-inteligencia-artificial-na-industria/>.

<sup>37</sup> <https://www.cnnbrasil.com.br/economia/negocios/demissoes-em-massa-sobem-em-2023-com-avanco-da-inteligencia-artificial-e-reestruturacao-de-negocios-mostra-pesquisa/>

<sup>38</sup> MICROSOFT; EDELMAN. IA em micro, pequenas e médias empresas: tendências, desafios e oportunidades. Brasil, 2023. Available at: [https://news.microsoft.com/wp-content/uploads/prod/sites/42/2024/03/Microsoft\\_Edelman\\_PMEs\\_2023\\_Imprensa-Brasil-VF.pdf](https://news.microsoft.com/wp-content/uploads/prod/sites/42/2024/03/Microsoft_Edelman_PMEs_2023_Imprensa-Brasil-VF.pdf)

<sup>39</sup> MICROSOFT; LINKEDIN. *2024 Work Trend Index Annual Report*. [S.l.]: Microsoft, 2024. Available at: <https://www.microsoft.com/en-us/worklab/work-trend-index/ai-at-work-is-here-now-comes-the-hard-part>

According to the report “Gen-AI: Artificial Intelligence and the Future of Work”<sup>40</sup>, produced in 2024 by the International Monetary Fund (IMF), around 41% of jobs in Brazil are highly exposed to the impact of artificial intelligence. While about half of this percentage may benefit from the technology in terms of efficiency and outcomes (complementarity), the other half may experience negative impacts due to worker displacement, leading to job and wage reductions. Workers in sectors with high exposure and low complementarity may lose their jobs and end up in informal employment. The report highlights the potential negative impact on older workers globally and the risk of creating wealth inequality<sup>41</sup>. Furthermore, the report notes that developing countries may face significant negative impacts, albeit not immediately, due to the lack of infrastructure<sup>42</sup> and skilled labor to enhance productivity through artificial intelligence. The International Labour Organization’s report reinforces this conclusion by pointing out limitations on the benefits derived from the technology due to poor connectivity quality, for instance<sup>43</sup>.

In the Brazilian public sector, the use of AI is high within the Judiciary and Legislative branches, as well as the Public Prosecutor's Office<sup>44</sup>.

In conclusion, there is a substantially increasing pattern of artificial intelligence usage in the Brazilian labor market. The potential positive impact could involve productivity gains without necessarily reducing jobs. However, regional limitations involving infrastructure and a lack of skilled labor may diminish these gains. The potential negative impact could involve job losses, disproportionately

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<sup>40</sup> CAZZANIGA, Mauro et al. Gen-AI: Artificial Intelligence and the Future of Work. **Staff Discussion Notes**, v. 2024, n. 001, 2024. Available at: <https://www.imf.org/en/Publications/Staff-Discussion-Notes/Issues/2024/01/14/Gen-AI-Artificial-Intelligence-and-the-Future-of-Work-542379>

<sup>41</sup>The ILO report highlights the potential impact of AI automation on the support and administrative sectors: GMYREK, Pawel; BERG, Janine; BESCOND, David. Generative AI and jobs: A global analysis of potential effects on job quantity and quality. ILO Working Paper 96. Geneva: International Labour Office, 2023. Available at: <https://doi.org/10.54394/FHEM8239>. Considering that these sectors are traditionally occupied by women in Brazil, there may be a differentiated negative impact based on gender.

<sup>42</sup> The servers responsible for processing artificial intelligence require significant energy resources. A broad view on the topic can be seen in this highly well-conducted interview with the specialist Brian Janous by Demetri Kofinas: <https://hiddenforces.io/podcasts/remake-electric-grid-ai-brian-janous/>. To address these kinds of difficulties, the ILO suggests supporting technology transfer and developing infrastructure: GMYREK, Pawel; BERG, Janine; BESCOND, David. Generative AI and Jobs: Policies to Manage the Transition. ILO Working Paper 96. Geneva: International Labour Office, 2023. Available at: [https://www.ilo.org/global/publications/working-papers/WCMS\\_890761/lang--en/index.htm](https://www.ilo.org/global/publications/working-papers/WCMS_890761/lang--en/index.htm).

<sup>43</sup> GMYREK, Pawel; BERG, Janine; BESCOND, David. Generative AI and jobs: A global analysis of potential effects on job quantity and quality. ILO Working Paper 96. Geneva: International Labour Office, 2023. Available at: <https://doi.org/10.54394/FHEM8239>.

<sup>44</sup> KUBOTA, Luis Claudio; ROSA, Maurício Benedeti. INTELIGÊNCIA ARTIFICIAL NO BRASIL: ADOÇÃO, PRODUÇÃO CIENTÍFICA E REGULAMENTAÇÃO. Digitalização e tecnologias da informação e comunicação. **Digitalização e tecnologias da informação e comunicação: oportunidades e desafios para o Brasil**. Rio de Janeiro: Ipea, 2024. Available at: [https://repositorio.ipea.gov.br/bitstream/11058/12758/3/Digitalizacao\\_e\\_tecnologias\\_Capitulo\\_1.pdf](https://repositorio.ipea.gov.br/bitstream/11058/12758/3/Digitalizacao_e_tecnologias_Capitulo_1.pdf)

affecting the labor market for Brazilian women, who are traditionally associated with administrative and support roles.

**4. Do you have any laws regulating and/or relevant judicial decisions about artificial intelligence on the labor market? What are the challenges for employers, such as privacy, transparency, secrecy, plagiarism, and the claim that artificial intelligence will be replacing workers? What are the concerns of employees?**

There is currently no specific regulation on artificial intelligence in the labor market in Brazil. The topic is under extensive debate in the Brazilian Parliament. The Brazilian Constitution provides for the protection of work in the face of automation (Article 7, XXVII), but the application of this provision depends on specific legal regulations. Additionally, there are general provisions for data protection involving privacy and intimacy in the workplace under the General Data Protection Law (Law 13.709 of 2018), but these are not directly related to the use of artificial intelligence.

The presence of AI in judicial decisions involving the labor market is not yet significant. There are no consolidated precedents. It is interesting to note, however, that the main cases found about it are related to the platform economy. For instance, in the Superior Labor Court, there is a decision addressing the use of artificial intelligence in managing work on a digital delivery platform, correlating the technology with the employer's control / direction power<sup>45</sup>. The Sao Paulo Regional Labor Court judged a collective claim involving a service platform for virtual customer service monitoring. In that case, workers performed "online" micro-tasks of low complexity, correcting errors in responses provided by the AI system. These corrections fed the AI system to prevent the repetition of errors by the technology, potentially making these same workers unnecessary in the future<sup>46</sup>. This could be a possible example of "crowd work" above mentioned on the topic of platform economy.

Public debates on the challenges involving the topic are still relatively not significant<sup>47</sup>. In the journalistic field, for example, there are reports of AI being used to plagiarize articles. It is reasonable to consider that there is concern about the compromise of trade secrets with the potential use of technology, as open AI platforms absorb information they receive in the form of queries, in general terms. Another aspect involves the trade secret of the AI platform's algorithm itself, which

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<sup>45</sup> RR-10943-69.2022.5.03.0043, 6ª Turma, Relatora Ministra Katia Magalhaes Arruda, DEJT 15/09/2023.

<sup>46</sup> TRT-2 - ROT: 10002721720205020059, Relator: Catarina von Zuben, 17ª Turma, J. 25/09/2023.

<sup>47</sup> <https://www.intercept.com.br/2024/01/25/jovem-pan-usa-plataforma-de-plagio-com-nome-de-samy-dana-para-copiar-reportagens-de-outros-sites/>

can make it difficult to analyze potential liabilities arising from the use of the technology. Generally, it is observed that topics such as privacy, transparency, and secrecy are being debated in the main bills on the subject in the Brazilian Parliament.

Although the public debate on the impacts of artificial intelligence is still in its early stages, there is significant concern about its effects on jobs. According to Luiz Marinho, Brazil's Minister of Labor, the lack of regulation on artificial intelligence will "cause unimaginable damage to the labor market"<sup>48</sup>. Labor unions also express concerns about the potential loss of jobs and the precarization of work<sup>49</sup>.

It is difficult to predict with certainty the final impacts of this new technology on the Brazilian labor market. Nonetheless, there is a general concern due to the significant increase in the capabilities of the technology and the growing numbers of its use in the labor market.

A real concern.

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<sup>48</sup> <https://www.infomoney.com.br/politica/regulamentar-inteligencia-artificial-e-essencial-para-manter-empregos-diz-ministro/#:~:text=%E2%80%9CSe%20n%C3%A3o%20for%20regulada%2C%20a.n%C3%A3o%20for%20regulad o%E2%80%9D%2C%20alertou.>

<sup>49</sup> <https://www.cut.org.br/noticias/cut-e-demais-centrais-defendem-a-insercao-do-trabalhador-nos-avancos-tecnologico-f501>