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Analyzing a Charter of Rights and Institutions to Tackle Surveillance Capitalism in the Era of Artificial Intelligence: The Case of Latin America

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"Without new public institutions, charters of rights, and legal frameworks purpose-built for a democratic digital century, citizens march naked, easy prey for all who steal and hunt with human data. In result, both the liberal democracies and all societies engaged in the struggle to build, defend and strengthen democratic rights and institutions now stumble toward a future that their citizens did not and would not choose: an accidental dystopia owned and operated by private surveillance capital but underwritten by democratic acquiescence, cynicism, collusion, and dependency.[1]"

– Shoshana Zuboff

1. INTRODUCTION

Artificial intelligence (AI)[2] has generated concerns and debates among global experts, with warnings that it may pose an "existential threat" to the human species,[3] or that it is already "too late" to regulate its consequences.[4] Others describe the global race to develop AI as an unstoppable "arms race."[5] According to the High-Level Advisory Body on Artificial Intelligence, most experts anticipate an acceleration in AI deployment over the next 18 months, with 74% expecting rapid technical change and 89% foreseeing broader adoption.[6] Over 70% of surveyed experts expressed concern that existing or new harms associated with AI will grow more severe or widespread during this period. [7]

The identified risks are broad: 76% of experts were concerned about damage to information integrity, 74% about the concentration of wealth and power, and 67% about discriminatory impacts, particularly on marginalized communities. Furthermore, 75% raised alarms about state actors' use of AI in armed conflict, 72% about malicious non-state use, and 65% about state-led harm against individuals.[8] One critical shortcoming of these assessments is the absence of a human rights lens. Categorizing harms such as misinformation or weaponized AI under vague rubrics like "societal implications" obscures their direct relevance to human rights.

"The epistemic intrusiveness of digital surveillance capitalism, they claim, demands the recognition of a new generation of rights aimed at protecting individuals, both as knowers and as subjects of data."

In this context, a wave of legislative and normative efforts has emerged globally. At the international level, the EU AI Act has become a potential global benchmark, echoing the GDPR in its extraterritorial ambition and rights-based approach to risk classification, algorithmic audits, and sanctioning mechanisms.[9] National governments have also begun to legislate AI risks yet with different approaches: from the Netherlands' algorithmic audit tribunals to the U.S. Blueprint for an AI Bill of Rights.

The rapid proliferation of AI-related standards—mostly grounded in self-regulation, soft law, and frameworks that accommodate corporate interests—has occurred alongside a broader geopolitical shift marked by the consolidation of tech oligarchies and deregulatory agendas, such as those advanced during the Trump administration. In response to mounting concerns, the UN General Assembly, has argued that existing international human rights law provides a common normative basis for addressing the challenges posed by AI.[10] Yet, some argue that these existing frameworks are no longer sufficient: the epistemic intrusiveness of digital surveillance capitalism, they claim, demands the recognition of a new generation of rights aimed at protecting individuals, both as knowers and as subjects of data.

Latin America, in particular, offers a distinctive vantage point for analyzing AI governance. It is marked by structural dependencies—digital skills, technological infrastructure, and regulatory models are often imported rather than developed locally.[11] This amplifies the vulnerability of the region's legal and institutional frameworks in the face of transnational surveillance capitalism.[12] The challenge is twofold: how to regulate emerging digital technologies from a rights-based perspective, and how to build institutional capacity to enforce those rights amid geopolitical asymmetries. Latin American countries are increasingly entering the global AI regulation race, but with varied models and degrees of coherence.

This paper investigates these dynamics through a comparative analysis of AI legislative initiatives in Argentina, Brazil, Chile, and Peru—four of the region's most active jurisdictions in AI regulation. Drawing on systematic legislative searches up to January 2025, I examine the legal design, normative references, political drivers, and rights-based provisions of relevant bills. By doing so, this paper aims to answer: to what extent do these legislative booms translate into enforceable rights, institutional protections, and democratic oversight—and where do they fall short?

The structure of the paper is as follows:

Section 2 outlines the theoretical framework, articulates the central research question, and details the methodology employed. Section 3 presents country-specific analyses, while Section 4 offers a comparative examination grounded in the paper's conceptual assumptions. The conclusion reflects on emerging trends, highlights key gaps—particularly in the areas of environmental justice, epistemic rights, and participatory governance—and proposes directions for future reform.

2. LATIN AMERICA: STRUCTURAL DEPENDENCIES, SURVEILLANCE CAPITALISM, AND THE CHALLENGE OF AI GOVERNANCE

In Latin America, the growing adoption of artificial intelligence technologies intersects with long-standing structural dependencies and institutional asymmetries. While many countries and companies promote the expansion of digital technologies, the reality on the ground reflects persistent underdevelopment in digital skills, inadequate infrastructure, and limited institu[13]tional capacity to understand and govern algorithmic systems. These limitations shape a context in which the risks of AI are not just technological, but deeply political—raising specific challenges for safeguarding human rights, ensuring regulatory sovereignty, and addressing epistemic inequalities.

A 3D render of the Operations Room: a physical location where economic information was to be received. Image: Wiki Commons-Rama

Latin America's current digital dependency is not a recent phenomenon. It is the result of a long historical process of technological subordination, shaped by both geopolitical exclusion and internal political repression. As early as 1972, President Salvador Allende warned in his address to UNCTAD III that "our capacity for technological creation is very insufficient, as a result of a historical process of dependence," calling for Latin American nations to "select technology according to our needs and our development plans."[14] Allende's government initiated Project Cybersyn, a visionary effort to create a cybernetic system for democratic economic planning.[15] This project was abruptly terminated by the 1973 military coup, an event that marked not only the destruction of a progressive democratic experiment but also the violent reassertion of dependency through authoritarian rule and foreign-backed neoliberal restructuring.

Throughout the 1970s and 1980s, many Latin American countries became sites of state terror, in which authoritarian regimes collaborated with U.S. intelligence agencies to suppress dissent and implement neoliberal economic models.[16] Technology played a crucial role in these efforts, facilitating surveillance, repression, and the consolidation of power.[17] The legacy of these regimes lingers today in the form of weak public institutions, limited public trust, and a persistent reliance on foreign technologies and corporate infrastructures. As the region incorporates artificial intelligence and other new technologies, it does so from within this inherited architecture of control and exclusion. [18]

A first dimension of concern is the region's dependency on foreign knowledge and skills. Digital skills remain underdeveloped in many Latin American countries, creating a geopolitical reliance on technological capacities generated in the Global North. Knowledge is power, and in the digital age, the centralization of knowledge production—especially through control over data—has profound implications for sovereignty and rights.[19] As most AI systems deployed in Latin America are designed, trained, and controlled abroad, local societies face severe constraints in exercising agency over their digital ecosystems. According to the Government AI Readiness Index 2022, 23 out of 31 Latin American and Caribbean countries score below the global average of 44.61. While Chile, Brazil, and Colombia rank among the top 50, the region as a whole records a low average of 36.15 in the Human Capital dimension, reflecting deep gaps in digital capacity, infrastructure, and data availability. [20]

This dependency undermines the ability of governments to act as technological overseers. I have referred to this phenomenon as the Silicon Valley Consensus—a model where private industry dominates digital development, academic institutions are increasingly marginalized, and public institutions rely on foreign companies for digital infrastructure, expertise, and governance templates.[21] The region's incapacity to autonomously produce foundational models is symptomatic of this dynamic. Since 2019, Google has led the global release of such models (40), followed by OpenAI (20), with Tsinghua University as the leading non-Western institution (7), and Stanford University the top American academic player (5).[22] In 2023 alone, 109 of the world's foundation models originated in the United States, compared to 20 in China, and far fewer elsewhere, reaffirming Latin America's peripheral status in the global hierarchy of AI innovation.[23]

A second structural issue is technological and infrastructural dependency. Latin American states are primarily consumers of AI tools developed abroad, lacking both the institutional resources and regulatory capacity to oversee their deployment. This creates vulnerabilities not only in terms of data control but also with regard to regulatory spillovers from foreign jurisdictions. As Risse[24] and Zuboff[25] argue, surveillance capitalism thrives in contexts where weak legal frameworks allow foreign actors to extract personal data with minimal oversight. In Latin America, companies like Meta, Amazon, and Google have converted vast amounts of user data into profit without transparent safeguards or meaningful consent mechanisms. This exacerbates the region's marginal position in the digital economy while entrenching its dependence on global tech platforms.

"Knowledge is power, and in the digital age, the centralization of knowledge production has profound implications for sovereignty and rights."

Instrumentarian power—the capacity to shape human behavior through digital infrastructures—plays a critical role in this context.[26] AI systems built and controlled by foreign companies can influence consumer choices, public services, and even electoral outcomes in Latin America, undermining national sovereignty

> “
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"The massive cross-border collection, processing, and exploitation of data destabilizes the traditional concept of territorial sovereignty."

and political accountability. The regional breakdown of AI patents underscores this dependency. As of 2022, 75.2% of global AI patents were registered in East Asia and the Pacific, and 21.2% in North America, while Latin America contributed only marginally to the global patent landscape. [27]

The concept of epistemic actorhood is useful for understanding this imbalance.[28] In digital ecosystems, individuals are simultaneously subjects of knowledge and objects of surveillance. Their experiences are captured, analyzed, and commodified through opaque systems they cannot interrogate or influence. As Zuboff notes, surveillance capitalism transforms human experience into behavioral data for commercial gain.[29] In Latin America, where legal protections are often weak and infrastructure dominated by foreign actors, this epistemic asymmetry is particularly acute. Individuals are subjected to algorithmic processes that are neither transparent nor contestable, raising critical concerns about epistemic rights and democratic legitimacy.

This reality also challenges core assumptions in international law. The massive cross-border collection, processing, and exploitation of data destabilizes the traditional concept of territorial sovereignty. As Frost notes, digital technologies operate beyond national borders, eroding the jurisdictional foundations of state authority.[30] Regulation must now address not only infrastructure and access points but also the de facto authority of transnational corporations that mediate essential services. Companies such as Meta and Google act as quasi-sovereign entities, defining the conditions under which individuals exercise rights in digital environments.[31] Through their control of platform architectures, algorithmic decision-making, and contractual terms of use, these firms exercise instrumentarian power over the social and political realities of the region.

A third and final dimension of dependency relates to normative frameworks. Latin American countries are increasingly engaged in efforts to regulate AI, but their legislative responses often reproduce models developed in the Global North. Although countries such as Argentina, Brazil, Chile, Peru, and others have begun drafting or adopting AI-related laws, the institutional capacity to enforce rights and govern AI systems remains limited.

2.1. Framing the Research Question: Between Dependency and Innovation in AI Regulation

In light of these structural conditions—technological, institutional, epistemic, and normative—the regulation of artificial intelligence in Latin America demands critical examination. This paper seeks to address two central questions: 1) what are Latin American governments doing to regulate AI?; and 2) to what extent do their legislative efforts reflect normative innovation or regulatory dependency? While the global debate on AI governance is increasingly dominated by paradigms emerging from the United States and the European Union—epitomized by what has been termed the Silicon Valley Consensus and the Brussels Effect—it remains unclear whether Latin American actors are merely replicating foreign models or developing distinct regulatory imaginaries rooted in local contexts.

Recent developments, such as the proliferation of bills across Argentina, Brazil, Chile, and Peru, suggest both possibilities. On one hand, the widespread adoption of risk-based frameworks and the uncritical invocation of ethical AI language may reinforce external normative frameworks without attending to regional social, political, and environmental specificities. On the other hand, there are signs—however fragmented—of an emerging rights-based orientation, and growing awareness of issues such as data colonialism, epistemic inequality, and environmental justice. The challenge lies in determining whether these elements constitute a cohesive alternative or remain isolated exceptions.

This paper explores whether Latin America is simply importing AI regulatory blueprints from the Global North or whether, in the midst of historical dependency and digital subordination, new ideas, concepts, or institutional practices are beginning to emerge from within the region that might counteract or reconfigure this trajectory. In doing so, it aims to contribute to a broader conversation about how countries in the Global South can assert epistemic and regulatory agency in the age of algorithmic governance.

"Individuals are simultaneously subjects of knowledge and objects of surveillance."

2.2. Methodology

This paper draws on an original mapping of legislative initiatives on AI across Latin America. From this initial scoping process, I was able to analyze 77 AI regulations over 11 countries. In this paper I make a deeper analysis with a focus on four countries: Argentina, Brazil, Chile, and Peru. The analysis is based on a systematic legislative search conducted across the official databases of national congresses and parliaments, with a cut-off date of January 21, 2025.

The term "inteligencia artificial" (artificial intelligence) was used as the primary keyword to identify relevant bills. In countries with bicameral legislatures—such as Argentina, Brazil, and

Chile—the search was conducted in both chambers of Congress. In the case of Peru, which has a unicameral legislative structure, the search was carried out in its single national Congress. Only formal legislative proposals were included in the dataset; resolutions, declarations, and other non-legislative communications were excluded. Each bill was analyzed in the form in which it was introduced, without tracking subsequent modifications introduced during committee stages or plenary debates.

There are two exceptions to this approach. In Peru, two laws specifically addressing AI had already been enacted—Law No. 31814 on the promotion of AI for national development[32] and Law No. 32082 regulating its use in consular services[33] —and were therefore included in the analysis despite falling outside the category of bills in progress. In Brazil, the recently approved Law No. 15.123, enacted in April 2025, was also incorporated.[34] This law originated as PL 370/2024 and introduces a penalty enhancement in cases of psychological violence against women when such violence is facilitated through artificial intelligence or similar technological tools. Its inclusion is justified by its clear regulatory intent and direct engagement with AI-related harms.

Once identified, the selected bills were reviewed and categorized using a comparative matrix designed for this study. This matrix included variables, such as the date of introduction, references to environmental concerns, institutional origin, legislative language (ethical, technical, rights-based, or hybrid), and key normative concepts such as transparency, explainability, or accountability. It also recorded whether bills included specific epistemic protections—such as the right to know when an AI system is being used or to contest automated decisions—and whether they contained explicit references to human rights standards. Political variables were also considered, including the name of the sponsor, their party affiliation, the procedural status of the bill, the type of legislative procedure involved (ordinary, urgent, or executive-sponsored), and whether the bill was general in scope or sector-specific.

This methodological framework enabled a structured cross-country comparison of legislative activity in a field that remains rapidly evolving and highly fragmented. It allowed for the identification of trends and blind spots in areas such as environmental governance, human rights protection, and the emerging domain of epistemic rights. By tracing how AI is being framed, regulated, and politicized in national legislative agendas, this approach provides insight into how countries in the region are responding to the growing presence of artificial intelligence in public and private life, and whether they are doing so in ways that are coherent, rights-based, and institutionally grounded.

3. CASE STUDY ANALYSIS

3.1. Argentina

Argentina stands as one of the most legislatively active countries in Latin America in addressing the regulation of artificial intelligence (AI). Between August 2023 and December 2024, at least 14 bills were introduced across both chambers of Congress. These initiatives span a wide thematic range: general legal frameworks, criminal law reforms, consumer protection, education, and state capacity-building. On the surface, this reflects a growing recognition of the societal impacts of AI and the urgency to regulate its development and use. Yet a closer analysis reveals that this apparent legislative momentum is undermined by significant limitations: fragmentation, weak enforceability, lack of institutional design, and a persistent reliance on foreign models.

Buenos Aires, the capital and largest city of Argentina. Image: Adobe Stock -donis_abril

The vocabulary of “transparency,” “ethics,” “risk,” and “human-centric AI” is frequently invoked, it often lacks legal precision and is rarely grounded in enforceable rights. Many Argentine bills mirror the structure and language of international instruments—such as the EU AI Act or UNESCO’s AI Ethics Recommendation—without critically adapting them to Argentina’s normative landscape or institutional capacities. This regulatory mimicry, driven in part by geopolitical dependency, risks reinforcing normative subordination rather than enabling epistemic and regulatory autonomy.

3.1.1. Fragmentation and Typological Diversity

The proposals introduced in Argentina are both numerous and typologically diverse. They include:

- Penal reforms, such as 7225-D-2024,[35] 7009-D-2024,[36] 992/24,[37] and 2469/23,[38] which focus on criminalizing the misuse of AI for sexual violence, biometric identity theft, and deepfake manipulation. These bills are reactive and punitive in tone, often lacking complementary safeguards for victims, algorithmic accountability mechanisms, or preventive regulatory tools.

- Consumer protection reforms, notably 7045-D-2024, which introduces duties for service providers to inform users of AI deployment, establish transparency obligations, and extend liability for discriminatory outcomes. This bill is notable for its proximity to epistemic rights, particularly the right to be informed about AI usage, though it falls short of a fully rights-based architecture.[39]

- General frameworks, such as 1368/24,[40] 2285/24,[41] and 1747/23,[42] which attempt to establish broad regulatory principles. While these texts make rhetorical references to ethics, risk, and even human rights, their operational sections remain vague, often delegating implementation to future executive action or ad hoc commissions. The definition and treatment of rights are inconsistent and often subordinated to innovation, economic competitiveness, or trade secret protections.

- Institutional proposals, such as 2405/24,[43] which calls for the creation of a Permanent Bicameral Commission on AI. This bill is procedurally ambitious, proposing a participatory body with intersectoral input, including civil society and academia. It incorporates gender and environmental perspectives into its mandate but does not establish binding decision-making powers.

- Educational and state-capacity bills, like 6976-D-2024,[44] 1370/24,[45] and 2205/24,[46] which seek to promote digital literacy, integrate AI into school curricula, and train public officials. While these initiatives contribute to the long-term development of technological capacity, they often prioritize technical efficiency over critical engagement or democratic oversight. References to AI ethics are present but conceptually thin.

3.1.2. Epistemic and Environmental Gaps

Across the 14 proposals, there is a striking absence of epistemic rights—understood as the right to know, contest, and participate in decisions made by or through algorithmic systems. While some bills, such as 7045-D-2024 and 1368/24, contain promising clauses regarding transparency and explainability, these are generally framed as duties of service providers rather than enforceable entitlements for affected individuals. None of the proposals articulate a systematic vision of informational autonomy, contestability, or algorithmic redress, despite the region's historical emphasis on rights to truth and participation.

Likewise, environmental concerns are marginal. Only 1368/24 and 2285/24 mention environmental responsibility, and even then, only in passing—as ethical aspirations rather than operationalized principles. No bill incorporates life-cycle assessments of AI infrastructure, carbon accounting for model training, or protections against extractive practices related to data centers and hardware production. This omission is particularly paradoxical in a country with a strong environmental legal tradition and active climate movement.

3.1.3. Political Composition and Institutional Weakness

The wide ideological spectrum of bill sponsors—from right-wing Propuesta Republicana (PRO) to radical socialists Union Civica Radial (UCR)—indicates a shared perception of the need to regulate AI. However, this political pluralism has not translated into institutional coherence. Most bills remain in commission and are at early stages of deliberation. No single bill has emerged as a unifying proposal capable of articulating a cross-party consensus or catalyzing a structured regulatory framework.

This reflects broader patterns of regulatory dispersion and low legislative traction. While Argentina plays a prominent role in regional discussions—hosting the 2024 Summit of Parliamentarians on Artificial Intelligence, for example—its domestic legal architecture remains uncoordinated.[47] The proliferation of isolated initiatives risks generating overlaps, inconsistencies, and normative gaps.

In conclusion, Argentina's legislative activity around AI reflects a tension between normative ambition and regulatory grounding. While the number of proposals is high, their quality, coherence, and enforceability vary significantly. Most bills reproduce global discourses rather than advancing an endogenous, rights-based, or transformative framework. References to human rights are often declarative, ethical principles that remain uncoupled from institutional design, and key domains—such as environmental justice and epistemic sovereignty—are underdeveloped.

National Congress of Brazil building. Image: Adobe Stock-EMANUEL

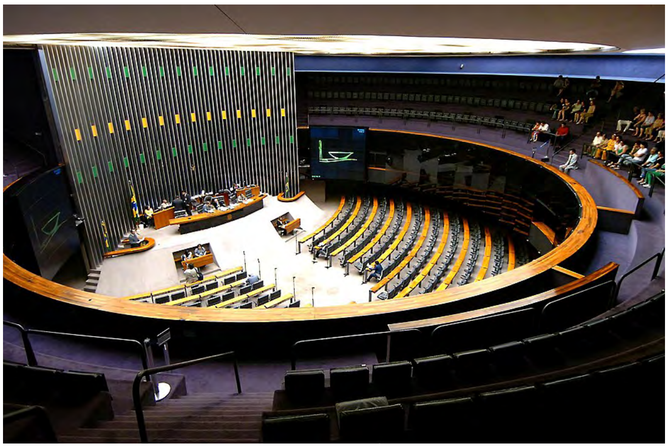
3.2. Brazil

By mid-2025, Brazil has introduced 14 legislative proposals directly addressing artificial intelligence (AI), matching the legislative output of Argentina but trailing behind Peru. Importantly, Brazil is also one of the few countries in Latin America that has already enacted AI-specific legislation, with Law No. 15.123/2025 establishing criminal sanctions for AI-enabled gender-based psychological violence. This marks a significant regional precedent, even if narrowly focused. While Brazil is often seen as a regional leader in technological capacity and institutional sophistication, its AI legislative field is marked by sectoral fragmentation, a risk-driven orientation, and limited normative coherence. Despite producing one of the region's most advanced general frameworks—PL 2338/2023—Brazil's approach remains constrained by tensions between rights-based ambition and risk-based pragmatism, and by legislative duplication and ideological divergence.

3.2.1. A Dominant Framework: PL 2338/2023

Brazil's most comprehensive initiative is PL 2338/2023,[48] which aims to establish a general legal framework for the development and use of AI. The bill articulates core principles—such as equality, non-discrimination, environmental sustainability, and accountability—and includes an extensive rights catalogue, many of which can be interpreted as epistemic rights: the right to know when AI is used (Art. 10), to receive explanations, and to contest decisions (Art. 11). Notably, the bill also acknowledges environmental risks (Art. 31) and calls for the creation of an independent regulatory authority.

However, in its most recent form, approved by the Senate and sent to the Chamber of Deputies in March 2025, the bill was substantially modified. Rights once framed as direct entitlements were weakened or merged into general compliance obligations. The revised text introduced carve-outs for military and non-commercial personal uses, and deprioritized rights articulation in favor of risk categorization and technical governance mechanisms. This shift reflects broader global trends on AI deregulation—but also reveals how the bill has moved away from its original rights-based architecture toward a more procedural and technocratic model.



Chamber of Deputies of Brazil. Image: Wikimedia Commons - Agência Brasi

3.2.2. Legislative Fragmentation and Thematic Duplication: Consumer, Penal, and Data Infrastructure

The AI legislative field in Brazil is not defined solely by PL 2338/2023. A cluster of older and newer bills—such as PL 21/2020,[49] PL 210/2024,[50] PL 5691/2019,[51] and PL 872/2021[52] —proposed general principles, but were ultimately archived or absorbed into the framework bill. These early initiatives varied in quality and ambition: some emphasized ethical guidance and digital innovation,[53] others attempted to incorporate OECD[54] and Montreal Declaration standards.[55] Yet most lacked clear enforcement mechanisms or institutional design. Their eventual fusion into PL 2338/2023 reflects both the initial legislative dispersion and the consolidation trend driven by procedural efficiency.

Also, several sector-specific proposals reflect Brazil's concern with AI-generated harm in discrete legal domains. These include:

- PL 145/2024 [56] and PL 146/2024, [57] which amend the Consumer Code and Penal Code, respectively, to regulate AI-enabled deceptive advertising and identity fraud. These bills focus on deepfakes and manipulated content but offer only reactive and punitive responses, lacking provisions for algorithmic accountability, platform responsibility, or user empowerment.

- PL 3592/2023,[58] now archived and summed into PL 2338/2023, addressed the posthumous use of biometric data and the rights of deceased individuals and their families. Though narrow in scope, it highlighted growing societal concerns over digital legacy and consent.

- PL 3018/2024,[59] on AI data centers, is one of the few regional bills to integrate environmental concerns systematically. It mandates energy audits, emissions reporting, and waste management protocols, recognizing the carbon footprint of computational infrastructures. Yet, the bill remains technical and does not embed environmental accountability within a broader rights or climate justice framework.

- PL 4532/2024[60] focuses on interactive AI systems, requiring warning labels and safety filters for systems interacting in sensitive domains (e.g., health, finance). It introduces liability provisions under Brazil's Consumer Protection Code but does not engage with broader questions of structural risk, digital exclusion, or psychological harm prevention.

- PL 5721/2023[61] and PL 370/2024[62] typify a recent wave of penal reforms targeting deepfake-enabled sexual violence. The former criminalizes synthetic pornography and includes provisions on digital literacy, while the latter—now enacted as Law 15.123/2025—establishes a penalty enhancement for AI-facilitated psychological violence against women. While these bills are significant for recognizing AI as a vector of gender-based violence, they remain punitive and focused on individualized harm, rather than structural protection or prevention.

3.2.3. Rights-Based Innovation and Its Constraints

Among Brazil's AI bills, only a few articulate a rights-centered normative vision:

- PL 2338/2023 (in its original form) and PL 210/2024 defined rights such as transparency, contestability, and human oversight. These can be read as efforts to develop epistemic rights and ensure individual autonomy in the face of opaque decision-making systems.

- PL 5691/2019 and PL 21/2020 offered early examples of principled, if largely declaratory, regulatory models. Both referenced human dignity and democratic control, and acknowledged the need for public scrutiny and procedural fairness.

Yet neither introduced enforceable obligations or independent supervisory mechanisms.

Still, even in these more progressive proposals, epistemic justice, environmental justice, and participatory governance remain weakly articulated. Brazil's bills do not systematically address data colonialism, unequal algorithmic impact, or the need to center historically marginalized groups in AI governance. As such, the field remains technocratically ambitious but socially cautious.

3.2.4. Political Actors and Institutional Consolidation

Brazil's legislative landscape on artificial intelligence reflects broad political engagement, with proposals introduced by members of diverse parties, including Podemos, Social Democratic Party, Brazil Union, Democratic Labor Party, and the Communist Party of Brazil. Despite this diversity, there is no unified national strategy or coordinating body—such as a cross-party task force or inter-parliamentary commission—to guide these efforts. As a result, most initiatives remain fragmented and sector specific.

Yet, as already highlighted, the general framework bill introduced in 2023—known as Bill No. 2338—has become the focal point of artificial intelligence regulation in Brazil, absorbing and rendering obsolete a number of earlier proposals. While this consolidation has streamlined the legal landscape and improved coordination, it has also narrowed the normative ambition of earlier initiatives. Several proposals that once included participatory mechanisms for affected communities, safeguards for vulnerable populations, and protections such as the right to contest automated decisions were excluded or weakened. The revised version shifts focus toward developer obligations, risk categorization, and procedural compliance, rather than guaranteeing specific rights for individuals affected by artificial intelligence systems. In prioritizing legislative clarity, the process has left unresolved questions about how Brazil will ensure inclusion, accountability, and social justice in its future governance of artificial intelligence.

Santiago, the capital and largest city of Chile. Image: Adobe Stock-Mariana Ianovska

3.3. Chile

As of mid-2025, Chile has introduced eight legislative initiatives addressing artificial intelligence (AI), ranging from general frameworks to highly sectoral or penal responses. While the volume of proposals is more limited than in Argentina or Peru, the Chilean case stands out for the depth of two general framework bills, including Bill 16821-19, which offers a rights-oriented and environmentally conscious model of AI governance. However, most other proposals adopt a criminalizing or reactive posture, reinforcing punitive logics over proactive regulation.

> **"The tension between innovation and risk aversion, between rights and repression, runs through Chile's AI legislative landscape."**

This duality reflects Chile's broader socio-legal dynamics: a strong constitutional and legal tradition that upholds human rights, paired with institutional fragmentation and regulatory inertia. The tension between innovation and risk aversion, between rights and repression, runs through Chile's AI legislative landscape.

3.3.1. General Framework Bills: Environmental and Constitutional Anchoring

Bill 16821-19,[63] presented by President Gabriel Boric's administration in May 2024, proposes a structured risk-based model grounded in social and environmental welfare, democratic oversight, and human rights protection. Article 4(f) codifies the principle that AI systems must be developed and used in a "sustainable and respectful" way, assessing long-term impacts on democracy and nature. The bill requires human oversight of high-risk systems and defines such systems to include those that could harm health, constitutional rights, the environment, or consumer welfare. This framing reflects growing attention to epistemic rights and democratic oversight, as it mandates explainability, transparency, and human-in-the-loop supervision. While it does not introduce new rights per se, it strengthens the enforceability of existing rights in a digital context.

In contrast, Bill 15869-19[64]—sponsored by a cross-party group including representatives from center-right and far-right parties—offers a risk-focused and technocratic approach, centered on institutional control and compliance. It proposes the creation of a National Commission on AI and the categorization of AI systems into unacceptable, high, and limited risk. While it mentions the protection of fundamental rights, the bill lacks any explicit reference

"Chile's AI-related legislative proposals reveal a landscape marked by regulatory ambition but institutional fragmentation."

to epistemic, environmental, or collective rights, and tends to subsume human rights under broader safety and consumer protection narratives. Notably, it places significant emphasis on intellectual property protections and pre-authorization protocols, reflecting a logic of state-centric oversight rather than participatory governance.

These two bills illustrate a growing ideological divergence within Chile's AI governance debate: on one side, a rights- and sustainability-based model drawing from constitutional and environmental law (Bill 16821-19); on the other, a more managerial and sovereignty-driven framework (Bill 15869-19).

3.3.2. Sectoral and Criminalizing Bills: Fragmentation and Penal Expansion

The remaining six initiatives display high sectoral fragmentation and a strong punitive trend. Three bills—16112-07,[65] 15935-07,[66] and 16021-07[67] —seek to reform the Penal Code to sanction misuse of AI in identity theft, fraud, and general criminal acts. Bill 16021-07, for instance, introduces a new aggravating circumstance for any crime committed using AI. These efforts follow the logic of penal inflation, expanding criminal liability rather than proposing institutional or technical safeguards.

Similarly, Bill 17307-07[68] criminalizes the creation and dissemination of non-consensual intimate images using AI, reflecting growing concerns over deepfake pornography and digital gender-based violence. While well-intentioned, the bill lacks any reference to structural prevention, data regulation, or algorithmic accountability, relying solely on ex post sanctions.

Bill 16387-19,[69] by contrast, is a sectoral proposal enabling AI use in mammography diagnostics, motivated by Chile's persistent gaps in public health infrastructure. The bill's rationale refers to inequalities in radiologist coverage, especially in rural areas, and positions AI as a tool for technological equity. While modest and purely functional, it aligns with the idea of Latin America's infrastructural dependency and offers a rare example of AI being deployed to improve access to rights, rather than regulate risk.

3.3.3. Rights, Environment, and Regulatory Intent

Chile's legislative field is notable for the presence of environmental concerns in multiple bills—particularly Bills 16821-19 and 15869-19—which explicitly classify environmental damage as a form of serious AI-related harm. However, references to epistemic rights remain scarce. Only Bill 16821-19 incorporates enforceable obligations around explainability, transparency, and contestability, and even here, these rights are framed as technical conditions rather than democratically rooted entitlements. Most proposals fail to consider how AI systems affect knowledge asymmetries, informational autonomy, or the right to understand and contest algorithmic decisions—a gap that aligns with the already introduced concept of Silicon Valley Consensus and its epistemic extractivism.

In terms of political positioning, the broad spectrum of ideological proponents—from left-wing Frente Amplio to right-wing Union Democrata Independiente (UDI), from independents to libertarians—underscores a fragmented legislative space where AI regulation is not yet polarized, but is instead driven by distinct sectoral or symbolic priorities (e.g., fraud, child protection, technological sovereignty).

Taken together, Chile's AI-related legislative proposals reveal a landscape marked by regulatory ambition but institutional fragmentation. The coexistence of highly detailed proposals—such as Bill 16821-19 and Bill 15869-19—with narrower, punitive initiatives targeting deepfakes, identity theft, and sexual violence reflects a dual-track approach: one focused on comprehensive governance, and another driven by sectoral or reactive concerns. Importantly, the emergence of executive-led legislation, such as Bill 16821-19, signals increasing government engagement with AI as a matter of public policy.

The Legislative Palace of Peru. Image: Wiki Commons-Congress of Peru

Chile's case also illustrates the structural challenges of governing AI in Latin America: a reliance on foreign normative models, limited institutional capacity, and a political environment in which criminalization often substitutes for comprehensive regulation. Although several bills adopt rights language—particularly around privacy, transparency, and environmental responsibility—epistemic rights, participatory mechanisms, and digital sovereignty remain underdeveloped. As of mid-2025, Chile stands at a critical juncture. If the most robust proposals are effectively consolidated and passed, the country could position itself as a regional leader in AI governance. Yet without a coordinated regulatory strategy and institutional architecture, its legislative momentum risks being diluted by piecemeal reform and reactive penal updates.

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Latin America’s path forward will depend not only on the volume of its legislative production, but on its capacity to institutionalize a rights-based, ecologically aware, and contextually grounded model of AI governance—one capable of transforming structural dependency into normative leadership.

3.4. Peru

As of early 2025, Peru has introduced a total of 17 legislative initiatives and regulations relating to AI, making it one of the most prolific legislative jurisdictions in Latin America in terms of formal activity (with Colombia). These include both general framework bills and highly sectoral proposals, as well as two approved laws: Law No. 31814 (2023), which promotes AI for national development, and Law No. 32082 (2024), regulating AI use in consular procedures. Despite this legislative flurry, Peru's regulatory landscape remains disjointed, aspirational, and procedurally weak. Most proposals are short, vague, and declarative, offering normative principles without concrete mechanisms for enforcement, institutional coordination, or democratic oversight.

This reflects a broader phenomenon which, with Victor Montori, we have referred to as "quantity without depth": a pattern in which high levels of legislative productivity coexist with low levels of normative innovation or institutional robustness.[70] Peru's AI bills frequently replicate international language—particularly from the EU AI Act, UNESCO's ethical guidelines, and the OECD Principles on AI—without meaningful adaptation to the national context. The result is a regulatory landscape dominated by symbolic affirmations rather than enforceable guarantees.

3.4.1. General Frameworks and Sectoral Bills

At least four bills aim to establish general frameworks for AI governance. The most prominent of these is Bill 08223/2023-CR,[71] which proposes a risk-based approach modeled after the EU AI Act. It introduces the concept of "unacceptable risk" systems—such as those using subliminal manipulation or social scoring—and prohibits their deployment. The bill also outlines ethical and legal principles in Articles 4 and 5 and includes an innovative Article 9, which approximates epistemic rights by mandating that users be informed when their data are processed by AI and be provided with explanations and contact points. However, these provisions are ambiguously framed and lack binding enforcement mechanisms.

Similarly, Bill 07444/2023-CR[72] focuses on AI in public administration, promoting ethical and sustainable AI use while calling for the creation of an Ethics Committee. Despite referencing rights, such as data protection and inclusion, these remain aspirational. Law No. 31814, enacted in 2023, was the first national AI law in Peru. It promotes AI as a driver of economic and social development but offers only declarative references to human rights without establishing regulatory safeguards.

Sectoral bills cover a broad spectrum. Bill 08969/2024-CR[73] seeks to incorporate AI in the financial system for fraud prevention and credit scoring, emphasizing efficiency and competitiveness. Bill 07687/2023-CR[74] promotes nationwide implementation of AI-powered video surveillance as a public security measure, raising concerns about privacy and proportionality. Bill 07651/2023-CR[75] aims to deploy AI to identify stolen or altered vehicle plates but does not incorporate human rights safeguards. Meanwhile, Bill 06927/2023-CR[76] mandates the use of AI in all public entities to improve service delivery—an unusual prescriptive approach absent of parallel safeguards. Together, these sectoral initiatives reveal the Peruvian state's strong commitment to AI integration across policy domains, albeit without regulatory consolidation.

> **"The underlying discourse is techno-solutionist, treating AI as the solution regardless of context or problem definition."**

3.4.2. Human Rights, Environmental Concerns, and Epistemic Rights

Human rights references appear sporadically across Peruvian proposals but are inconsistently framed and weakly operationalized. Bill 08223/2023-CR references fundamental rights in Article 14 and guarantees rights to rectification and omission in Articles 16 and 17. However, there is limited institutional guidance on how these rights will be protected. Similarly, Law No. 31814 refers to "respect for human rights" but fails to define enforcement mechanisms or provide institutional oversight.

Environmental protection is notably absent across the legislative corpus. With the exception of generic references in Bill 07033/2023-CR to environmental risks as part of prohibited AI practices, no proposal addresses energy consumption, carbon emissions, or extractive data infrastructure.[77] This omission is surprising given Peru's ecological importance and international commitments to sustainability. It contrasts with trends seen in countries like Chile, where environmental justice is more clearly integrated into AI governance debates.

Peru's most promising contributions to epistemic protections appear in Bill 08223/2023-CR and Bill 06524/2023-CR. Article 9 of the former lists obligations to inform users when AI is used, provide explanations, and establish communication channels. Bill 06524/2023-CR introduces mandatory digital labelling for AI systems, aiming to enhance transparency about content creation and user interactions. While these clauses remain non-binding, they reflect growing awareness of the need for regulatory responses to epistemic asymmetry.

The underlying discourse is techno-solutionist, treating AI as the solution regardless of context or problem definition.[78]

One distinct feature of Peru's legislative approach is its recognition of AI-enabled gender-based violence. Bill 07072/2023-CR[79] seeks to amend the Penal Code to criminalize the use of AI in producing or disseminating synthetic child sexual abuse material, referencing specific incidents to justify its urgency. Bill 06573/2023-CR[80] propos-

"While human rights discourse is increasingly present across legislative proposals, it is often invoked rhetorically rather than operationalized through enforceable mechanisms."

es to treat the use of AI in fraud, plagiarism, and cybercrime as an aggravating circumstance. While these proposals are narrowly punitive, they align with broader feminist trends in the region, which position AI regulation as a tool for combating digital violence against women and children. However, they generally lack procedural safeguards or complementary protective mechanisms for victims.

The political landscape driving Peru's AI regulation is marked by fragmentation and elite-driven initiatives. Most proposals originate from individual members of Congress—particularly from Perú Libre, a party that was constituted as a Marxist-Leninist party (nine out of 17 bills introduced by this party), Acción Popular, and Renovación Popular (an ultraconservative party)—and are not part of a unified national strategy. Public consultation is rare, and institutional coordination is minimal. Bills are often introduced in isolation, leading to overlapping or redundant provisions.

Person holding a sign supporting the EU AI Act. Image: Wiki Commons-Ekō

4. COMPARATIVE ANALYSIS: CONVERGENCES AND DIVERGENCES IN AI REGULATION ACROSS LATIN AMERICA

Argentina, Brazil, Chile, and Peru have each demonstrated a notable increase in legislative activity concerning the regulation of AI. This legislative momentum, while varying in volume and institutional maturity, signals a shared regional recognition of the societal and political implications of AI technologies. Argentina and Brazil have each introduced 14 bills, while Chile and Peru have eight and 17, respectively. However, the quantity of proposals is not always indicative of normative depth. Rather, these efforts reveal a heterogeneous mix of reactive penal reforms, general framework laws, sector-specific initiatives, and declarative statements of intent. Despite this diversity, all four countries share an emerging concern with aligning AI governance with fundamental rights, public interest safeguards, and national development goals, although with differing degrees of legal precision and institutional ambition.

The similarities and differences across these cases reflect broader structural and conceptual tensions discussed in earlier sections. First, the region remains shaped by technological and normative dependency, exemplified by the frequent replication of language and models derived from the EU AI Act, UNESCO recommendations, or OECD guidelines. In many cases, international discourse is adopted without sufficient adaptation to national legal cultures, institutional capacities, or socio-political realities. This practice of regulatory mimicry—what I have described as the "Silicon Valley Consensus"[81] and which has also been theorized as the "Brussels Effect"[82] —risks reinforcing Latin America's peripheral status in global AI governance. At the same time, there are important efforts to develop context-specific responses, such as Chile's integration of environmental principles into its general framework bill, Brazil's early codification of rights to explanation and contestability, and Argentina's attention to consumer protection in algorithmic contexts.

These developments should be situated within the wider challenge of regulating AI under conditions of surveillance capitalism, epistemic asymmetry, and limited institutional capacity. While human rights discourse is increasingly present across legislative proposals, it is often invoked rhetorically rather than operationalized through enforceable mechanisms. Environmental and epistemic protections, when addressed, tend to appear in general terms or in isolated proposals, without systematic incorporation into the legal architecture.

4.1. Legislative Volume and Fragmentation

As already highlighted, all four countries examined—Argentina, Brazil, Chile, and Peru—have experienced a discernible increase in legislative initiatives concerning artificial intelligence, constituting what may be described as a regional legislative acceleration. However, legislative proliferation has not necessarily yielded regulatory coherence or normative consolidation. In the cases of Argentina and Peru, the abundance of proposals is often accompanied by considerable fragmentation, both in typological terms and in thematic scope. Bills range from criminal law reforms and consumer protection statutes to general principles and symbolic declarations, with limited institutional articulation among them. This dispersion weakens the potential for a unified governance strategy and underscores the absence of a centralized authority or coordinating framework capable of integrating diverse regulatory efforts. In contrast, Brazil has made greater strides toward consolidation, particularly through the development of PL 2338/2023. Nonetheless, this process has not been without difficulties: legislative duplication, shifting institutional priorities, and tensions between risk governance and rights-based protection remain unresolved.

Chile presents a somewhat different profile. Although its legislative output is more limited in volume, the content of its proposals—particularly Bill 16821-19—demonstrates a relatively advanced integration of human rights and environmental considerations into AI governance. This may be attributed in part to the Executive's engagement with the issue and the influence of broader constitutional and policy debates around sustainability and democratic oversight. Yet, even in this more structured context, the coexistence of general framework proposals with reactive, punitive, or narrowly sectoral bills signals a persistent duality in legislative intent. Overall, the region's legislative boom remains marked by a lack of procedural integration and a tendency toward reactive or aspirational measures, rather than comprehensive, enforceable frameworks grounded in institutional practice.

> **"A recurrent theme across the four jurisdictions is the tendency to draw heavily from international models."**

4.2. Human Rights, Environmental Integration, and Epistemic Protections

A recurrent theme across the four jurisdictions is the tendency to draw heavily from international models—particularly the European Union's AI Act, UNESCO's ethical guidelines, and OECD principles. This reliance manifests in the frequent adoption of language concerning risk-based governance, ethical AI, and human-centric development. However, these references often remain declarative, with limited contextualization or operationalization within local legal and institutional systems.

This is evident in the widespread use of terms such as "risk-based classification," "human-centric development," "ethical AI," and "technological sovereignty." While these references signify an alignment with globally recognized standards, they are often incorporated in a declarative manner, lacking the legal specificity and institutional embedding necessary to ensure enforceability or context-sensitive application.[83]

Despite the widespread invocation of international standards, there is relatively little evidence of efforts to adapt these frameworks to the specific social, legal, or institutional realities of each country.[84] Rights language, for example, is often transposed directly from global templates without critical engagement with national constitutional traditions or regional jurisprudence. This has led to the emergence of hybrid proposals that combine ethical declarations with risk classification schemes, but which lack concrete mechanisms for public participation, redress, or institutional accountability. The result is a legal landscape that is formally aligned with international practices, yet substantively constrained by the absence of a locally grounded governance architecture. The challenge, therefore, lies not only in the adoption of external standards but in the development of mechanisms to translate them into contextually meaningful and democratically legitimate regulatory tools.

4.3. Gender-Based Violence and Feminist Regulatory Trends

One of the most distinctive features of Latin America's emerging AI legislation is the explicit attention given to gender-based digital violence, particularly through the criminalization of AI-enabled practices, such as deepfake pornography and other forms of synthetic image-based abuse. Argentina, Brazil, Chile, and Peru have all introduced or enacted legislative initiatives in this domain, primarily through reforms to their respective penal codes. These efforts illustrate a growing awareness of the gendered dimensions of AI harms and may constitute the first steps toward a feminist-informed approach to AI governance in the region.

Brazil has taken a leading role in this area. Law No. 15.123, enacted in April 2025, introduces a sentence enhancement in cases of psychological violence against women when facilitated by artificial intelligence or similar technological tools. This law originated from PL 370/2024 and complements a broader set of legislative proposals—including PL 5721/2023 and PL 146/2024—that address digital gender-based violence through penal reforms. These bills seek to criminalize the use of AI in the creation and dissemination of non-consensual intimate content, as well as in deceptive practices such as identity fraud. The Brazilian case illustrates how legal recognition of AI-mediated harm can be embedded into existing legal categories of violence, particularly those developed through feminist legal activism in prior decades.

Similar proposals have emerged in other jurisdictions. In Argentina, Bill 7225-D-2024 and Bill 7009-D-2024 aim to amend the Penal Code to address AI-facilitated sexual violence and image-based abuse, reflecting increasing concern over the misuse of deepfakes to target women and minors. In Chile, Bill 17307-07 specifically criminalizes the creation and distribution of synthetic intimate images without consent, situating such acts within the broader legal framework on sexual and psychological violence. Peru has also introduced relevant initiatives, such as Bills 7072/2023 and 6573/2023, which include references to AI in the context of violence against women, albeit in more general terms and without detailed implementation mechanisms.

While these initiatives share a predominantly punitive orientation—prioritizing criminal sanctions over structural or preventive measures—they nonetheless represent a significant normative development. They suggest a regional trajectory in which feminist legal concerns are beginning to influence AI regulation, albeit through traditional legal mechanisms such as criminal law. With some exceptions, notably, for example in the UK, this trend is relatively absent in the Global North, where most AI governance efforts focus on abstract ethical principles or technical compliance without addressing the gendered implications of algorithmic harm.[85]

Importantly, these Latin American proposals do more than identify a novel form of violence; they situate AI-enabled abuse within a continuum of existing inequalities and reinforce the need for regulatory responses that are context-sensitive and justice-oriented.

Moving forward, the challenge will be to extend this momentum beyond penal provisions to more comprehensive frameworks that incorporate gender-sensitive oversight, victim-centered redress mechanisms, and public education about AI-mediated harms. In doing so, Latin America may offer a valuable contribution to the global debate on AI and gender justice—one that reflects the lived experiences of affected populations and draws on longstanding feminist legal traditions in the region.

5. CONCLUSIONS: REGIONAL PATTERNS AND FUTURE RESEARCH DIRECTIONS

This paper has analyzed the legislative efforts of Argentina, Brazil, Chile, and Peru in regulating AI, situating them within the broader context of structural dependency, normative mimicry, and the global struggle over digital sovereignty. The legislative boom observed in these jurisdictions reflects a growing recognition of AI's societal implications and an emergent desire to assert regulatory agency. However, the analysis reveals that this normative momentum remains fragmented, procedurally weak, and often shaped by external templates rather than regionally specific rights frameworks or democratic institutional designs.

Across the four cases, some common patterns emerge: reliance on international models, such as the EU AI Act and UNESCO guidelines; the use of declarative rights language with limited enforceability; the predominance of penal and sectoral bills over comprehensive frameworks; and an uneven integration of environmental and epistemic concerns. At the same time, the region is not merely a passive importer of global regulatory models. Several bills demonstrate context-sensitive innovation—Chile's environmentally anchored general framework, Brazil's early articulation of epistemic rights, Argentina's consumer-oriented proposals, and the region-wide criminalization of AI-facilitated gender-based violence. These developments, while uneven, suggest a normative opening through which a Latin American approach to AI governance may emerge—one that foregrounds human rights, environmental justice, and gender-sensitive protection.

From a policy perspective, the region faces an urgent need to move beyond fragmented penal reforms and symbolic declarations. Legislative frameworks should prioritize enforceable rights, institutional oversight, and participatory governance mechanisms that account for the region's infrastructural constraints and democratic aspirations. From an academic standpoint, this paper contributes to the theorization of Global South agency in the digital age by showing how Latin American actors navigate regulatory dependency while articulating emerging normative alternatives. For civil society, the analysis underscores the importance of engaging with AI governance not merely as a technical issue, but as a political and rights-based struggle—one that requires sustained mobilization around transparency, contestability, and epistemic autonomy.

"The legislative boom observed in these jurisdictions reflects a growing recognition of AI's societal implications and an emergent desire to assert regulatory agency."

While this paper focused on four jurisdictions, the broader regional landscape shows similar trends. Colombia and Mexico are also experiencing an uptick in AI-related legislative activity, while countries such as Costa Rica, Panama, and Uruguay have taken early steps toward regulatory design. A key limitation for further comparative analysis is the lack of access to legislative information in several Caribbean countries, a gap that future research should address. Ultimately, Latin America's path forward will depend not only on the volume of its legislative production, but on its capacity to institutionalize a rights-based, ecologically aware, and contextually grounded model of AI governance—one capable of transforming structural dependency into normative leadership.

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