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Challenges and Responses of Artificial Intelligence Governance to Existing Laws

-- A Case Study of "Soft Law Path" and "Hard Law Path"

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ABSTRACT

With the wave of the third Industrial Revolution, artificial intelligence has posed a certain challenge to the existing legal system. Such challenges are mainly reflected in the conflict of law values in the process of operation and the fragmentation of artificial intelligence legislation. Based on the existing literature, this thesis compares the legislation and judicial practice of artificial intelligence in China and France, and puts forward the soft law path and hard law path to solve the above problems.

KEYWORDS

Artificial Intelligence; Soft Law Path; Law Value Conflict.

1. INTRODUCTION

With its excellent data processing ability, efficient self-learning mechanism and far-reaching application potential, artificial intelligence technology is reshaping the global economic pattern and social life style at an unprecedented speed. While opening up new development opportunities, it also brings about a series of complicated legal, ethical and social issues. An intelligent governance system that can balance the interests of all parties and has a high degree of effectiveness has become a core proposition for promoting the healthy and sustainable development of artificial intelligence.

Throughout the existing literature, the legal research on artificial intelligence mainly focuses on the following aspects: First, the classification and supervision of artificial intelligence: Based on the analysis of the European Union Artificial Intelligence Act, Huang Jingyi(2024)[1]clearly pointed out that the hierarchical and classified artificial intelligence risk governance concept can better improve the scientific supervision, efficiency of regulation and precision of governance. It also focuses on the co-governance framework reached by equal consultation between regulatory agencies, technological innovation enterprises and consumers, namely the unique contract value of the artificial intelligence regulatory sandbox mechanism, and the regulatory system can learn from this unique contract value.Lei Ting, Wu Yirong (2023)[2], Cheng Le (2024)[3], CAI Peng, Xiao Pullingling (2024)[4]and other scholars have conducted a detailed discussion on the four-level risk classification (unacceptable, high, limited, low or minimum risk) in the European Union Act and the risk classification system and macro-policy orientation of the Artificial Intelligence Risk Management Framework in the United States from the perspective of comparative law. He Jun and Yang Hui (2023)[5], on the basis of comparing Chinese and foreign artificial intelligence laws, point out how to evaluate and make a certain type of artificial intelligence system become the focus and difficulty of regulatory practice in the context of improving China's artificial intelligence regulation at the technical and security levels. From the perspective of practice-oriented theory construction, Xue LAN, Jia Kai and Zhao Jing

(2024)[6]recognized "classification" as a potential way to adapt to complexity and enhance agility in the context of dealing with complicated AI regulation. According to the realization of the dual goals of functionality and value, and the three links before, during and after, the thesis designs the artificial intelligence governance "toolbox" based on two attributes of data and system.

The second category is to explore the jurisprudence o f artificial intelligence from the perspective of data property protection: For example, Jin Pengjuan, Wang Chuan and Huang Caiyi (2024)[7], based on the perspective of artificial intelligence ethics, pointed out that the country should improve laws, the platform should strengthen data security measures, and the transparency and traceability of data use, so as to jointly achieve the purpose of data security protection. Li Yanlin (2024)[8]pointed out that to build an intellectual property protection mechanism that conforms to the development of The Times, it is necessary to clarify the right boundary rules of artificial intelligence creation works and invention patents from the perspective of whether they are profitable, so as to establish and improve the intellectual property protection mechanism in the era of artificial intelligence.Zhang Tao (2024)[9], on the basis of analyzing the limitations of both "top-down centralized regulation" and "bottom-up decentralized regulation" at both ends of the regulatory spectrum, pointed out that a "middle-out regulatory approach" should be adopted to build a cooperative regulatory space and finally realize cooperative regulation of personal information protection risks in generative artificial intelligence. Wang Zhenshuo (2024)[10]focuses on the legal interest of data security in the era of generative AI. From the two levels of enterprises and the state, he proposes to strengthen governance supervision, link the effectiveness of data security protection of technology enterprises with capital, and clarify the legal interest positioning of data technology and order. Fill the blank of public legal interest protection, so as to repair both inside and outside and correct the tendency of capital alienation. Yin Yuhan and Li Jian (2024) [11]point out that at present, it is necessary to reinterpret personal information protection rules to allocate risks, and refine the obligations and legal responsibilities of personal information processors by combining risk levels, so as to develop a "risk-based" dynamic regulatory mechanism. From the perspective of comparative law, Liu Jieyong (2024)[12]discussed the relevant legal norms of representative countries such as the United States, the United Kingdom, the European Union and Japan from the perspective of subject-appropriate, behavioral appropriate and object appropriate, so as to provide references for the design and application of copyright protection for content generated by artificial intelligence in China.

The third category is the study on the jurisdiction of artificial intelligence. Most of the existing literatures focus on the lack of international standards and construction orientation in the conflict of international jurisdiction. For example, in his doctoral thesis, Wu Yi (2020)[13]compared and analyzed the cross-border data flow rules and cooperation mechanisms between the EU and the US from four perspectives: policy objectives, regulatory models, legislative framework and enforcement mechanisms, and provided useful references for the construction of cross-border personal data flow rules in China. Also in his doctoral dissertation, Guo Xuanzi (2024)[14]analyzed the different protection modes of privacy and personal data rights in domestic laws of various countries and the reasons that led to the problem of privacy protection in cross-border transfer of personal data (that is, there is no unified international regulation). On this basis, he pointed out that it is urgent to clarify the definition of personal data and privacy and the right protection path. And then solve the problem of data cross-border transmission privacy protection. Under the current development situation, the standardization of network security supervision is often the first step in artificial intelligence supervision.In terms of cyber security jurisdiction, in his master's thesis, Wuyang Anran (2024)[15]analyzed the main causes of cyber law enforcement jurisdiction conflicts from four perspectives: legislation, law enforcement, lack of jurisdictional dispute resolution mechanism and oversight oversight, and advocated that the pre-regulation system should be improved and the mechanism for resolving disputes in the middle of the issue should be established and perfected. Strengthen the supervision after the event to explore a reasonable solution to the conflict of jurisdiction in network law enforcement. Mei Ao (2022)[16]made a pioneering discussion on the issue of artificial intelligence jurisdiction, arguing that the jurisdiction of artificial intelligence

infringement has legislative flexibility and judicial prudence, and it is urgent to update the relevant conflict norms, so as to achieve a balance between protecting the private rights of the parties and protecting the public interests of the development of artificial intelligence industry.

The fourth category is about the construction of the soft law system of artificial intelligence. For example, Zhao Jun and Li Wanzhen (2020)[17]innovatively provide useful consideration for specific ways for international law to cope with the challenges of artificial intelligence, pointing out that it is necessary to formulate international soft law and establish specialized international institutions to guide artificial intelligence to better serve the construction of a community with a shared future for mankind. Shen Wei and Zhao Erya (2022)[18]believe that the current international law regulation of artificial intelligence is generally immature and still in the initial stage, mainly international soft law and indirect regulation in form and content respectively, and argue that the improvement of the regulation should include the update of international law itself and the coordination with other international governance methods. Xu Jimin (2023)[19] pointed out that China's current Interim Measures for the Management of Generative Artificial Intelligence Services provide basic norms of conduct for generative artificial intelligence services, but there are problems such as narrow scope of application and insufficient coercive force, and it is necessary to play the role of various technical norms, industry ethics and other soft law norms, and build a normative system combining soft law and hard law.Similarly, Zeng Xiong, Liang Zheng, and Zhang Hui (2024)[20] also pointed out in their research that traditional hard law governance faces problems such as insufficient supply of rules, lack of timeliness, and lack of effectiveness. Ai in this context needs soft law as a flexible and responsive governance mechanism that maximizes its ability to respond to changing risks. On this basis, Zhu Mingting and Xu Chongli (2023)[21] pointed out that under the current situation of developed international soft law and backward hard law in this field, the governance model has gradually changed to both soft and hard law and soft law "hardening", and suggested the construction of a "center-periphery" model and indirect enforcement mechanism of mixed international soft and hard law governance.

To sum up, most of the existing literatures in the field of artificial intelligence focus on the construction of AI classification supervision system based on Chinese and foreign legal practices, the exploration of enterprise strengthening supervision based on the balance of privacy protection and data security, the construction of cross-border regulation of artificial intelligence jurisdiction, and the construction of soft law system about artificial intelligence. But on the interaction between policy and AI; Construct according to specific classification criteria of legal interest or social impact; Strengthen the protection of personal participation in data value distribution to further build a complete artificial intelligence multi-system development system; Formulate hierarchical data circulation policy and construct safe data circulation space; And the construction of soft law and hard law linkage mechanism on artificial intelligence, the existing literature does not cover. Based on the basic theory of law, this thesis studies the connection between artificial intelligence policy and law, and the risk supervision standard of artificial intelligence.

2. THE CONNOTATION OF ARTIFICIAL INTELLIGENCE

The term "artificial intelligence" was first coined by John McCarthy to distinguish it from the discipline of "cybernetics," but it was not intended to be "artificial" intelligence, but "real" intelligence. Due to the multidisciplinary nature of artificial intelligence, its disciplinary basis includes philosophy, mathematics, economics, neuroscience, psychology, computer engineering, control theory, cybernetics, linguistics, and a wide range of practical applications. Scholars have not yet reached a consensus on the concept of artificial intelligence.

In the second half of the 1950s, J. McCarthy, one of the leading control theorists at Stanford University, introduced the concept of AI into science. He defines artificial intelligence as the science and technology that creates intelligent machines on the one hand, and the ability of computers to do

things that humans can do on the other, which is related to intelligence. After that, AI was recognized in whole or in part as a self-organizing, autonomous system with the ability to think, learn, and make decisions independently. Beyond that, LeCun argues that the concept of AI can include not only machine learning, but also deep learning, which builds on the development of artificial neural networks. Marvin Minsky, the father of artificial intelligence, defined artificial intelligence as "the science of making machines do things that would require intelligence if done by humans."

According to the above description of artificial intelligence, the characteristics of artificial intelligence can be summarized as: (1) it is an artificial system (machine or computer system); (2) Possess intelligent (intellectual) behavior; (3) Interaction with the surrounding environment; (4) Automate specific goals that normally require human intelligence (mind).

2.1. The Legal Nature of Artificial Intelligence

Artificial intelligence (AI) is an emerging product of the research and development of theories, methods, technologies and application systems used to simulate, extend and expand human intelligence through the creation of algorithms and computing systems. As the fruit of the third Industrial Revolution, AI is profoundly affecting all aspects of human life. The legal nature of artificial intelligence is mainly reflected in the following aspects.

At present, China's legislation on artificial intelligence is not systematic, and its legislative regulations on artificial intelligence elements are scattered in various department laws. As mentioned above, artificial intelligence is composed of data, algorithms, computing power and other factors, so China's relevant legislation takes some elements as the object of legal interest protection, such as privacy protection and data security. China's existing legislation such as the *Data Security Law of the People's Republic of China*; *Personal Information Protection Law of the People's Republic of China*. At the same time, China has issued specific scenarios for its application, such as Article 9-15 of *the Interim Measures for the Management of Generative Artificial Intelligence Services*, which stipulates the relevant obligations of providers of generative artificial intelligence products or services.

The EU relies on a more strict classification supervision method to achieve the supervision of artificial intelligence, such as the Artificial Intelligence Act Artificial intelligence system will be divided into four levels of prohibited risk, high risk, limited risk and minimal risk, and match different responsibility measures and differentiated supervision. In terms of soft law, the EU pays more attention to the ethical issues of AI, such as the *Ethics guidelines for trustworthy AI* 1-3, which identifies the ethical goals of AI in accordance with fundamental rights, principles and values, hoping to provide guidance for the realization of trusted AI.

Compared with China and the European Union, the United States is still in a huge blank area at the level of artificial intelligence legislation, although states have successively introduced bills involving the impact of artificial intelligence (such as *the SB205*), but the federal level still lacks practical unified regulations. It is more to rely on the overall executive order to delineate the principles and direction of artificial intelligence regulation, such as the *Executive Order 13859*, which provides for the principles of the United States government in artificial intelligence research and development, and clearly maintains the principle of American leadership in the field of artificial intelligence.

At present, the legal interest protection embodied by artificial intelligence can be roughly divided into three aspects: data property, intellectual property, and infringement damage.

The protection of data property is mainly from the perspective of civil law and administrative measures to strengthen the comprehensive protection of privacy, information security and personal interests. For example, China has adopted some separate laws, regulations and rules to identify and protect the emerging rights in the digital age, and has clarified the corresponding obligations and responsibilities. For example, Article 22/27 of *the Cybersecurity Law*, Article 7 of *the Data Security Law*, etc., provide relevant rules on data collection; Article 1034/1017/1019/1023 of the Civil Code

sets out the principles, conditions and obligations that must be followed when it comes to personal information.

In terms of intellectual property rights, it is mainly reflected in the legitimate source of training data and the copyright recognition of the products of artificial intelligence works in the intellectual property infringement risk involved in artificial intelligence. At present, the core controversy in judging whether the products of artificial intelligence can be evaluated as works generally lies in whether they are original. For example, Article 2 of the current *Copyright Law of China*, Article L112-1 of *the French Intellectual Property Code*, and *the Copyright Law of the United States*, respectively, establish that the only condition for a visible creation to be classified as a work is originality/personality stamp; When it comes to the source of training data, it emphasizes the use of models from legitimate sources for data training or the establishment of data mining mechanisms based on technological development purposes. Article 7 of *the Interim Measures for the Management of Generative Artificial Intelligence* Services clearly stipulates that the use of data and basic models with legitimate sources shall not infringe on the intellectual property rights enjoyed by others according to law.The guidelines set out in *Directive (EU) 2019/790* legislate to allow publishers and users of web crawlers to extract works and other topics and compile them into databases, Intended to promote the development of artificial intelligence through learning, the US *Generative AI Copyright Disclosure Act*[22], the establishment of artificial intelligence to generate traceability requirements.

In terms of infringement damage, it mainly reflects the extended liability subject, and reallocates the relevant responsibility among the service providers, sellers, owners, and users of artificial intelligence. For example, Article 1194 of the *Civil Code of the People's Republic of China* (hereinafter referred to as the *Civil Code*) stipulates the responsibilities of Internet users and Internet service providers. Different subjects using the Internet to infringe on the rights and interests of others shall bear the tort liability. For artificial intelligence service providers, Article 5 of the *Measures* requires artificial intelligence service providers that provide API interface access services to assume the responsibility of content producers of artificial intelligence products. When the artificial intelligence enters the market circulation and infringes upon the purchase of the consumer, the liability of the seller shall be stipulated in Article 42 of the *Tort Liability Law* of our country. If the fault of the seller causes the defect of the product and causes damage to others, the seller shall bear the tort liability.

In the current social practice, based on the reality of the current development and application of artificial intelligence technology, although its future potential is huge, it is still in the initial stage. In this context, the legal regulation system for artificial intelligence is still in a relatively loose state, hoping to reserve enough space for the innovation and development of artificial intelligence, so as to avoid excessive intervention to hinder its progress and promote the improvement of efficiency value.

For example, China and the United States have not yet launched a relatively complete regulation of artificial intelligence, hoping to leave a broader space for it, in the existing laws and regulations, in the balance between personal protection and promoting the balance of technological development, showing more concerns about technological development. For example, the *National Artificial Intelligence Initiative Act* (NAIIO Act) seeks to promote federal acceleration of artificial intelligence research and application by establishing a coordinating agency to promote national economic prosperity and national security. And in the law on AI data mining above, French law provides for two exceptions on the basis of compliance with the *Intellectual Property Act*: First, excavation by an organization or institution for scientific research purposes is lawful, in which case the research organization is free to use the protected work for the purpose of training artificial intelligence to learn the protected work for the promotion of scientific research, and the right holder must not object to the act of copying, reproducing its content or work.

3. COMPARATIVE STUDY OF CHINESE AND FOREIGN ARTIFICIAL INTELLIGENCE LEGISLATION

3.1. China's Existing Artificial Intelligence Legislation

China's relevant legislation or government guidance documents on artificial intelligence mainly focus on the fields of data, algorithms and planning supervision involved in artificial intelligence, and the legal interests protected by them and the value evaluation show different characteristics respectively.

China's legislation on artificial intelligence is not systematic, and its legislative regulations on artificial intelligence elements are scattered in various department laws. As mentioned above, artificial intelligence is composed of data, algorithms, computing power and other factors, so China's relevant legislation takes some elements as the object of legal interest protection, such as privacy protection and data security. China's existing legislation, such as the network information privacy protection provisions and security provisions stipulated in Article 2/4/8/45-48 of *the Data Security Law of the People's Republic of China*, can be applied to the relevant management of artificial intelligence; The principle provisions of Articles 5-9 and 66-71 of the *Personal Information Protection Law of the People's Republic of China* also apply to the management of artificial intelligence.

3.2. Artificial Intelligence Legislation Outside the Territory

Foreign artificial intelligence legislation is represented by Europe, taking France as an example, France's artificial intelligence legislation mainly reflects the following characteristics: The first feature is that France regards the use of artificial intelligence as the exercise of people's basic rights, and connects it with the constitutional human rights through corresponding laws and regulations. It believes that the right to use artificial intelligence is the basic right granted by the French Constitution to its citizens, and it needs to balance the distribution of interests between public power and private rights and protect citizens' privacy rights. For example, in French *Law No. 78-17 of 6 January 1978, on Information technology, Archives and Civil Liberties*[23], Chapter III *Regulation (EU) 2016/679 of 27 April 2016* (Articles 42 to 86) The obligations of the controller and the processor in the processing operations covered by the Personal data protection regime (Articles 57 to 80) are clearly defined in Article 58, which provides for the protection of personal data privacy. The *Opinion on the Impact of Artificial Intelligence on Fundamental Rights*[24] adopted by France on April 7, 2022, proposed by the French National Human Rights Advisory Committee in the French Parliament, proposes regulation of artificial intelligence in practical application scenarios involving fundamental rights, and requires the protection of human rights and other basic rights of users of artificial intelligence systems. And points 13 and 15 clearly point out that harmful artificial intelligence uses involving red line issues in the basic group should be explicitly prohibited (such as point 17 recommends banning remote biometric identification of people in public places).

The second feature is to limit the excessive intervention of the government and prevent the lagging development of the artificial intelligence industry caused by the abuse of government public power, such as the French CNIL published the *Practical Guide to Artificial Intelligence Ethics*[25], which aims to promote the development and use of safe and trustworthy artificial intelligence systems by natural and legal persons in the French unified market. At the same time, the CNIL's *First Recommendation on the development of artificial Intelligence Systems*[26] also focuses on protecting the rights of French citizens.

The third feature is that it is deeply affected by the European Union's regional legislation, and has relatively perfect domestic legislation, which can be connected with the EU's artificial intelligence legislation. Taking the French *Self-assessment guide for artificial intelligence (AI) systems*[27] as an example, the emphasis on risk assessment is emphasized, with prevention as the core principle. In the

common law system, taking the United Kingdom as an example, it focuses on principle-based regulation and does not rely on detailed regulation, but regulates through broad principles. Most of the guidelines issued by the government, such as *AI regulation: a pro-innovation approach*[28] (March 2023), advocate the establishment of social consensus to promote the innovation and development of artificial intelligence technology. The EU *Artificial Intelligence Act* aims to ensure that the development and deployment of artificial intelligence is safe, trustworthy, transparent and respects fundamental rights, and it classifies AI risks into four levels based on risk assessment, creating uniform EU rules that reflect the importance of risk assessment. In addition, the EU AI Bill emphasizes an ethical and transparent approach. France has also set up an ethics council to establish a national pilot commission on digital ethics to monitor ethical issues related to AI and make recommendations.

4. COMPARATIVE STUDY ON THE JUDICIAL PRACTICE OF ARTIFICIAL INTELLIGENCE BETWEEN CHINA AND FOREIGN COUNTRIES

To sum up, France's artificial intelligence legislation is mainly reflected in the high level of regional coordination, which can interface with the EU's artificial intelligence legislation while taking into account the national conditions of France and the interests of relevant industries, thus forming a positive interaction. Secondly, France's artificial intelligence legislation combines the right to use artificial intelligence with the constitutional rights of citizens, forming a multi-level and multi-directional artificial intelligence legal system based on constitutional rights, with local regulations as the specific guarantee, and with industrial norms as the standard.

In the face of the conflict of legal values such as efficiency, France's artificial intelligence legislation tends to protect the private rights of citizens, and its main purpose is to balance the distribution of interests between public power and private rights, and protect citizens' privacy rights and other basic rights of artificial intelligence in practical application scenarios involving users' interests.

The issue of the confirmation of rights in China's artificial intelligence legislation is vague, and it is scattered in the backstop clauses in various laws. France has adopted laws and regulations to combine it with the constitutional rights of citizens, such as *the Opinion on the Impact of Artificial Intelligence on Fundamental Rights*, which clearly requires the recognition of the rights of people who become the subject of decision-making involving algorithms, especially the right to human intervention in the decision-making process, or the right to parameterize the operating standards of AI systems. It wants to make human intervention in the decision-making process of artificial intelligence a basic right, which is actually combined with the *French Declaration of the Rights of Man and of the Citizen*« Chacun a droit au respect de sa vie privée.», emphasizing the protection of individual privacy rights. Therefore, in terms of judicial discretion, the relevant legislation of France is more accurate than that of China.

In the case of copyright infringement dispute between Fei Lin Law Firm and Beijing Baidu Netcom Technology Co., LTD.[29], the case involves a copyright dispute between the plaintiff Beijing Fei Lin Law Firm and the defendant Beijing Baidu Netcom Technology Co., LTD. The plaintiff, as the copyright owner of the article involved, accused the defendant of publishing its original *Judicial Big Data Analysis Report on Film and Television Entertainment Industry -- Film Volume • Beijing Article* on the 100 platforms it operates without permission, and deleting part of the content and signature of the article. According to the *Copyright Law*, the plaintiff accused the defendant of violating its right to information network transmission, the right to protect the integrity of the work and the right to authorship. Request the court to order the defendant to stop the infringement, make an apology, eliminate the impact and compensate for economic losses and reasonable costs. The defendant argued that the article involved was not original and did not fall within the scope of protection under the copyright law, and the plaintiff was not a qualified subject. At the same time, according to *the Provisions of the Supreme People's Court on Several Issues concerning the Trial of Cases in Internet*

Courts, the defendant questioned the legality and fairness of the plaintiff's collection of evidence, claiming that Baiji was only an information storage platform and did not infringe.

After the trial, according to the evidence submitted by both parties and legal provisions, the court held that the graphic differences claimed by the plaintiff were caused by different data selection, software selection or graphic category selection, which could not reflect the plaintiff's original expression and therefore did not constitute graphic works. Moreover, although the text of the article involved was searched by keywords submitted by the user of the software on the operation interface, However, such behavior does not convey the original expression of the software user's thoughts and feelings, and should not be regarded as the creation of the user. Therefore, the user should not be the author of the intelligently generated content related to computer software, and the content cannot constitute a work. However, the court clearly pointed out that the intelligently generated content of computer software condensed the intellectual input of software developers and software users, and had communication value, and should give certain rights and interests protection to the investors, and determined that the defendant violated the right of information network communication enjoyed by Philin Law and should bear the corresponding civil liability.

In the context of the previous judgment, the 2006 decision of the Paris Court of Appeal in France on the performer status dispute arising from the use of composing software to create music shows a different legal perspective and judicial logic.

Regarding the dispute between the two parties on whether the works generated by information technology belong to the creator personally, the court explained in the ruling:

« Mais considérant que l'on ne saurait méconnaître, a priori, l'apport des techniques informatiques tant dans le domaine de la création que de l'interprétation, de sorte qu'il appartient à celui qui revendique la qualité d'artiste-interprète, mettant en oeuvre ces techniques, de justifier la nature de la prestation par lui effectuée pour permettre à la Cour d'exercer son pouvoir d'appréciation .»[30]

The appellant later testified that the court recognized that the creator had a dominant position in the production of the work in question, and the ruling pointed out that when the original intention of the human designer was realized through technical means, and the process was regarded as an auxiliary rather than an alternative creation tool, the resulting work could be regarded as a work of art and enjoy copyright protection.

When examining the dispute over the attribution of copyright to works generated by artificial intelligence, it can be seen that domestic courts have not yet ruled on such issues, reflecting the inconsistency of the legal framework in responding to the challenges of emerging technologies. The fundamental differences between China and France in handling such cases are mainly reflected in the different recognition of the degree of AI involvement in the creative process. In these two judicial practices, France adopted a more flexible and meaningful evaluation standard for the copyright of works generated by artificial intelligence. The court tends to regard artificial intelligence as a simple tool operated by users, and the right to use the creation of tools is the choice made by users through the use of artificial intelligence. If human intellectual input and unique expression can be reflected in the generation process and final presentation, the user will be granted the corresponding copyright. This standard emphasizes the guiding role of humans in the creative process and the ultimate influence on the creative outcome. In contrast, the decision in the case of Beijing Fei Lin Law Firm v. Beijing Baidu Network Communications took a more conservative and strict stance, holding that if the user's personal contribution to the input of choices is limited to providing the initial instructions to the AI system, and lacks direct control over the final generated content (especially the random or unpredictable part), the user's personal contribution will be limited to providing the AI system with initial instructions. If the original expression cannot convey the thoughts and feelings of the software user, it is not enough to give it the exclusive copyright of the content. The judicial case focuses more on the predictability of the generated outcome, the degree of human control over the generated process, and the clear boundaries between the "AI generated component" and the "human creative

component." Therefore, it requires that in the judgment of copyright ownership, the contribution of these two components must be strictly distinguished and accurately quantified.

5. THE ENLIGHTENMENT OF FOREIGN ARTIFICIAL INTELLIGENCE LEGISLATION TO CHINA

To sum up, there are mainly soft law paths and hard law paths for AI governance. The hard law approach focuses on the interpretation of formal legal sources and existing judicial precedents, and tends to maintain the procedural justice of artificial governance. The soft law approach focuses on the observance of informal legal sources and traditional customs, and reconciles disputes over the distribution of benefits in existing artificial intelligence legislation.

5.1. Hard Law Path

China can learn from the relevant experience of the EU, and different legal norms can be applied according to the risk level of artificial intelligence governance and the legal interests of protection. This thesis suggests that *the Legislation Law* can be used as a model to delegate the legislative power of different AI governance to each legislature. The following measures can be taken: First, the use of artificial intelligence involving state-owned energy enterprises and the use of artificial intelligence in the military industrial industry shall be formulated by the National People's Congress; Second, the artificial intelligence industry involving economic operations such as banking and finance shall be formulated by The State Council. Third, the technological transformation of artificial intelligence and the protection of intellectual property rights are regulated by local people's congresses. Fourth, the operation specifications of artificial intelligence enterprises are legislated by the local government. The reason for such provisions is to coordinate and cooperate with the National People's Congress, The State Council, local people's congresses and local governments to improve the hard law governance path of China's artificial intelligence at multiple levels, multiple dimensions and many aspects according to the legal interests protected and the related hazards and urgency.

5.2. Soft Law Path

The soft law approach of artificial intelligence breaks through the "non-judicial centralism" and adopts non-judicial ways to solve the legal risks involved in artificial governance by means of negotiation, communication and mediation, with non-governmental organizations and science and technology guilds as the main body of legislation. Based on the above problems, this thesis believes that China can build the soft law governance path of artificial intelligence through the following ways; First, through the integration of the artificial intelligence industry, the development of relevant systems, the construction of interdisciplinary and multidisciplinary collaborative contracts in the artificial intelligence industry, and the construction of common industry norms, to provide a basis for the soft law governance path of China's artificial intelligence. Second, the dispute settlement involved in artificial intelligence governance needs the coordination and cooperation of grass-roots governance units, so this thesis believes that the soft law path of artificial intelligence should be combined with grass-roots governance, through the residents' committee, villagers' committee and other grass-roots governance units, establish a corresponding security mechanism, from the production of artificial intelligence enterprises, logistics support and other aspects. Mediation of artificial intelligence disputes based on the region's traditional religious culture.

6. CONCLUSION

Artificial intelligence is a significant support for productivity in the information age. As a new standard of productivity, the popularization of artificial intelligence enables the public to break

through the information cocoon and be under an open and transparent system. The legislation of artificial intelligence should not only reflect the demand of social governance for maintaining social order, but also respond to the needs of the people. Therefore, the legislation of artificial intelligence involves conflicts in the hierarchy of legal values. How to balance the justice value, freedom value, efficiency value and order value in the legislation of artificial intelligence is an important topic in contemporary law. This article holds that the conflict in the hierarchy of values of artificial intelligence can be balanced through the construction of a soft law mechanism. The soft law mechanism focuses on protecting the private rights of private right subjects, aiming to balance the contradictions under the governance of public power, break through the judicial centralism, and build a diversified dispute resolution mechanism to reasonably solve the contradictions involved in the legislation of artificial intelligence. The soft law mechanism, through the integration of resources, integrates the artificial intelligence industry, formulates relevant systems, builds cross-disciplinary and multi-disciplinary collaborative contracts in the artificial intelligence industry, and constructs common industry norms, providing a basis for the soft law governance path of artificial intelligence. Secondly, the soft law path of artificial intelligence should be combined with grassroots governance. Through grassroots governance units such as residents' committees and villagers' committees, corresponding guarantee mechanisms should be established. From multiple aspects such as the production and logistics support of artificial intelligence enterprises, and in combination with the traditional religious culture of the region, disputes in artificial intelligence should be mediated to solve the legal problems involved in the governance of artificial intelligence from multiple dimensions and levels.

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