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Comparison and Thinking on the Practical Effects of AI-Assisted Trial in China and the Overseas

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Introduction

At present, Artificial Intelligence has some applications in the judicial field for some entities around the world. Some people call this the "third revolution" of justice. In this "third revolution" of justice, the core is the practice of AI-assisted trial which focuses on the character of Artificial Intelligence in the determination of fact and the application of law in justice: through the combination of fact determination and application of law, judges can draw corresponding judgment conclusions, which is the top priority of judicial activities and the most important part of Artificial Intelligence in the judicial realm.

Thus, this paper reviews the practices of AI-assisted trials in China and other entities and then compares their effects, which is helpful to better discuss the relevant issues of various entities in combination with international experience. From a certain extraterritorial perspective, we should reflect on the relevant practices and construction issues of various entities. This is also largely because the author is from China, and this comparison is more familiar and easier for the author. This article puts forward relevant views on the basis of comparative law for reference in the relevant practices of various entities.

China's AI-assisted trial practices

The construction of an AI-assisted trial nationwide was mainly promoted by the Supreme People's Court. Under its promotion, a series of AI-assisted trial tools covering the national court system began to emerge and played an important role in actual trial practices. Such as the People's Court Data Centralized Management Platform, the Faxin-Digital Network Service Platform for the Application of Chinese Law, the Intelligent Push System for Similar Cases, the three types of element-based intelligent trial systems for civil cases, Big Data intelligence analysis and fault redress system for judgment documents.

The representative local systems include the Judge Rui system in Beijing, the Intelligent Auxiliary Case Handling System for Criminal Cases, Shanghai, the Intelligent Auxiliary Case Handling System for Civil and Administrative Cases, Shanghai and the Hebei Courts' Intelligent Trial 1.0 System.

The overseas' AI-assisted trial practices

The utilization of Artificial Intelligence in the realm of trial in the United States is mainly in the field of criminal justice. Most of them are risk assessment tools, such as LSI-R（Level of Service Inventory - Revised）、COMPAS （Correctional Offender Management Profiling for Alternative Sanctions）、PSA （Public Safety Assessment）、PCRA （Post Conviction Risk Assessment）.

These relevant representative practices in other entities include AI Judge and ERP system in Europe, Prédictive software in France、HART（Harm Assessment Risk Tool）system in United Kingdom。

Similarity and differences between Chinese and other entities' AI-assisted trial practices

The similarity is the purposes of applications, the pursuit of accuracy and efficiency.

There are these four differences. The first difference is the degrees of practice richness: the richness of China's practice is far greater than that of the other entities. The second difference is the paths of R&D and application: the China's R&D and application mostly follow a top-down model, which is more in line with what Weber called the "bureaucracy"; the R&D and application in other entities mostly follow a bottom-up model, which is more in line with what Hayek called "spontaneous order". The third difference is the statuses of Artificial Intelligence in the trial: China's AI is more like a monitor in the judges' trial process; Artificial intelligence in other entities is more like an assistant in the judges' trial process. The fourth difference is the degrees of participation of the theoretical community in colleges and universities: the participation of the theoretical community in colleges and universities in the course of Chinese AI-assisted trial R&D and application is insufficient; in other entities, the R&D and utilization of AI-assisted trials have the active participation of the theoretical community in colleges and universities.

Conlusion

Firstly, it is necessary to affirm the present condition of the vigorous burgeoning of AI-assisted trial practice in China, which has the advantage of having a wider coverage of relevant practices and more comprehensive functions than other entities in the world, and makes its related construction at the forefront of the world. It is also necessary to affirm the advantages of relevant R&D and application in other entities, which include paying more attention to the practical needs of grassroots courts and judges, greater respect for judges' rights to make their own decisions in adjudication, and more relevant participation of the theoretical community of universities and colleges. Through this comparison, this paper hopes to provide different perspectives for AI-assisted trial practice and construction around the world, so as to promote mutual learning of each other's strengths and compensate for their weaknesses.

The innovative aspect of the paper

It can be found that most of the current research on the relevant effects is concentrated in more macro fields such as "smart justice", and there is a lack of more micro fields such as "AI-assisted trial". Moreover, in the limited research in the micro field, the practical effects of "AI-assisted trial", there is a lack of comparative law perspective. Therefore, it is worth exploring how to focus on the small point of "AI-assisted trial" from the perspective of comparative law to conduct practical effect research, which is the most innovative aspect of the paper.

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