

The People's Republic of China

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1. What is the understanding or definition of AI in your jurisdiction?

Artificial intelligence (AI) is a branch of computer science or intelligent science that involves researching, designing and applying intelligent machines. The main goal of AI is to study the use of machines to imitate and perform certain intellectual functions of the human brain, while the long-term goal is to use automatic machines to imitate human thinking and intellectual activities.

2. In your jurisdiction, besides legal tech tools (ie, law firm or claim management, data platforms, etc), are there already actual AI tools or use cases in practice for legal services?

Some AI software is widely used by lawyers in legal practice, for example: Metalaw combines a self-developed large language model of law with a case-specific search function. Lawyers can search legal questions through spoken expressions; AI will intelligently locate similar or related cases and provide analyses of legal issues. In addition, major legal databases such as Wolters Kluwer and PKULAW have been equipped with a generative pre-trained transformer system, which can be used to summarise judgments and simplify reading.

Second, some AI software is used in police activities. Typical applications, such as facial recognition technology, are widely deployed in densely populated areas such as airports, stations and squares. They can automatically capture dynamic facial images and compare and verify them with images in public security organ databases. They have played an important role in the investigation activities of public security organisations and have provided useful assistance to public security organisations pursuing fugitives.

Third, a legal question and answer (Q&A) bot is used in court and arbitration commissions. In terms of practical applications, the so-called Q&As are mostly conducted in a fixed mode by clicking the corresponding question, or a relatively professional 'questioning mode'. For some simple cases, the legal Q&A bot helps parties who have not yet commissioned a lawyer to have a simple preliminary understanding of the legal issues related to the case.

In addition, AI software is also used in court proceedings. For example, the 'mobile micro court' program, which was built using AI technology, is currently used by

courts in many provinces. All functions in this program – such as online filing, online court trial, online evidence cross-examination and online delivery – can be carried out using a web application. It enables parties and judges to freely discuss and interact in real time with various message types, such as text, expressions, pictures, voices, geographic locations and files in an online courtroom, and can also implement message reminder notifications after the parties submit evidence (and offline).

There is also AI-assisted legislation. At the stage of soliciting legislative opinions using ‘big data’ technology, legislators actively solicit legislative suggestions through big data technology to broaden the ways for citizens to reflect. Citizens should also actively express their opinions through the internet and other means to make legislation truly reflect the democratic and scientific nature. The filing and review of established laws can strengthen the supervision of legislative work and improve the quality of legislation. In addition, AI is used to eliminate conflict between different legal norms and adapt to the needs of the socialist legal system.

3. If yes, are these AI tools different regarding:

- **independent law firms;**
- **international law firms; and**
- **in-house counsel;**

and what are these differences?

AI software has been widely used in Chinese legal practice. In addition to specific software or technology that is only used by judicial institutions (eg, facial recognition technology used by public security agencies), other AI software related to law can be provided, including but not limited to independent law firms, international law firms and in-house counsel.

4. What is the current or planned regulatory approach on AI in general?

As far as the current regulatory approach to AI is concerned, China currently provides administrative guidance on AI from the perspective of industrial policy promotion, support and development. The New Generation Artificial Intelligence Development Plan released by the State Council in 2017 highlights this idea.

The Data Security Management Measures (drafting) regulation also regulated the algorithm accordingly. It stipulates that ‘network operators using technologies such as big data and artificial intelligence to automatically synthesise news information, blog posts, posts, comments, and so on through algorithms should indicate the word “synthesis” in a significant way’.

On 28 March 2018, the People’s Bank of China, China Banking Regulatory Commission, China Securities Regulatory Commission and Foreign Exchange Bureau jointly issued the Guiding Opinions on Regulating the Asset Management

Business of Financial Institutions (the 'Guiding Opinions'). The Guiding Opinions regulates the application of AI in the financial field and carries out supervision of the algorithms of intelligent investment advisers in terms of competency requirements, investor suitability and transparent disclosure.

On 13 July 2023, the *Interim Measures for the Management of Generative Artificial Intelligence Services* was released. This document points out the implementation of classified and hierarchical supervision of generative AI services, clarifies the requirements for the use of training data and stipulates the obligations of providers in AI services.

5. What are the current or planned regulations on the general use of AI or machine learning systems?

At present, the legal regulations for AI already have individual provisions in the legislation of e-commerce, data security and intelligent investment consulting.

The E-Commerce Law stipulates that an e-commerce operator who sells search results of goods or services to consumers based on their interests, consumption habits and other characteristics should also provide the consumer with options that do not target their personal characteristics, and respect and equally protect the legitimate rights and interests of consumers. This is a legal response to big data algorithms.

In criminal law, since AI technology belongs to the high-level part of the application of internet technology, in a realistic situation in which AI criminal law legislation has not yet formed, the conceptual understanding of the pre-emptive method of AI criminal law legislation can be combined with the information network in which the current criminal regulations and computer information system crime are carried out. Taking computer information system crime as an example, computer information systems, as one of the main manifestations of AI infrastructure, are also a focus area of new AI crime.

The basic framework of the Personal Information Protection Law takes the approach of empowering information subjects and imposing responsibilities on information controllers and processors. On the one hand, legislation must vigorously promote the development and application of AI technology. On the other hand, it must strengthen forward prevention and restraint guidance to ensure safety and controllability.

On 16 March 2024, the Artificial Intelligence Law (Draft of Scholars' Suggestions) was released. This scholar's proposal is divided into nine chapters and 96 articles, including general principles, development and promotion, rights protection, safety obligations, supervision and management, special application scenarios, international cooperation, legal responsibilities and so on, covering the main aspects of future AI governance.

6. Is free data access an issue in relation with AI?

For data collection and personal privacy protection, there has been significant progress in legislation in China in recent years.

In 2021, the Personal Information Protection Law and the Data Security Law were promulgated. The Personal Information Protection Law stipulates that the processing of personal information must obtain individual consent with full prior notification. In addition, sensitive personal information may only be processed for a specific purpose and with sufficient necessity, and the individual's separate consent or written consent must be obtained. When personal information involves cross-border transmission, it should also pass a security assessment by relevant authorities or professional institutions.

The Data Security Law stipulates the data classification and hierarchical protection system and the compliance obligations of data processors from a more general perspective.

7. Are there already actual court decisions on the provision of legal services using AI or decisions concerning other sectors that might be applicable to the use of AI in the provision of legal services?

In a recent judgment, the court adopted the Interim Measures for the Management of Generative Artificial Intelligence Services for the first time. This case is also the first effective judgment in the world to identify copyright infringement issues involving service providers. In the judgment, the court pointed out that, considering the generative AI industry is in an early stage and to balance industry development and rights protection, it is not appropriate to excessively increase the obligations of service providers. Although China is not a common law country, this case will have an impact on future judgments.

Throughout current practice, AI used by the court system in the construction of 'smart courts' mainly has the following forms.

The first is the digitisation and 'datafication' of information: that is, the use of technical means to convert non-electronic information, such as voice and paper file text, into reproducible and convertible electronic data, thereby reducing the workload of the judiciary.

The second is the 'intelligentisation' of the case auxiliary system: that is, the use of intelligent means to realise the one-key generation of fixed-format content, such as party information and litigation requests in a judgment document, thereby shortening the time for drafting the document and assisting the judge to improve the quality of the case.

The third is the prediction and supervision of entity referees. Forecasting refers to the AI system's automatic extraction of plot features and intelligent learning of judgment results for a large number of judgment documents, thereby establishing a specific case judgment model. According to the keywords selected by the judge or the facts and plots provided, the statistics of similar cases will be automatically displayed in real time to predict the actual judgment of the case, and more accurate, similar cases will be pushed for the judge's reference.

The fourth is to establish a unified and electronic evidence standard: that is, to summarise the experience through legal big data, and embed it in the digital case handling system of the public security, procuratorate and court to regulate judicial behaviour.

Based on the AI technology in the above courts, according to the data published in the *White Paper on Internet Technology Judicial Application* issued by the Beijing Internet Court, the total number of legal documents generated by AI technology at the Beijing Internet Court is 117,729, including 4,199 copies of judgments, rulings, mediation and other documents.⁶¹⁶ Therefore, in China's judicial practice, there are already cases where decisions are made through AI technology, and in the future, there will be more courts using AI to assist or automatically generate judgments.

8. What is the current status – planned, discussed or implemented – of the sectorial legislation in your jurisdiction on the use of AI in the legal profession or services that are traditionally provided by lawyers?

Currently, there are no planned, discussed or implemented sectorial statutory regulations in China on the use of AI in the legal profession or services that are traditionally rendered by lawyers.

9. What is the role of the national bar organisations or other official professional institutions?

The Ministry of Justice of the PRC is a constituent department of the State Council in charge of judicial administration work within Mainland China. It mainly undertakes the following functions:

- formulates guidelines and policies for judicial administration, drafts relevant laws and regulations, formulates departmental regulations, formulates development plans for judicial administration and organises their implementation;
- formulates and organises the implementation of the general knowledge of the popularisation of laws for citizens, guides the legal

⁶¹⁶ *White Paper on Internet Technology Judicial Application* (Beijing Internet Court, 2019).

publicity of various localities and industries, governs the work in accordance with the law and publicises the legal system abroad;

- supervises the work of lawyers and notarisational work and takes corresponding responsibilities;
- supervises and manages legal aid work nationwide;
- organises the national judicial examination;
- controls the registration and management of judicial appraisers and judicial appraisal agencies nationwide; and
- undertakes other matters assigned by the State Council.

Combined with the New Generation Artificial Intelligence Development Plan released by the State Council mentioned above, the Ministry of Justice will:

- formulate laws, regulations and ethical standards to promote the development of AI;
- improve relevant policies to support the development of AI; and
- establish AI technology standards and intellectual property systems.

This will play an important role in promoting the establishment and development of China's AI normative system.