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On Possible Introduction of the Chinese Experience of Using Artificial Intelligence in the Criminal Process into the Russian Justice System

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Abstract

Introduction: the article considers the use of artificial intelligence in Chinese criminal proceedings, in particular the “System 206”, an innovative approach to data analysis and decision-making in law enforcement practice. According to the researchers, China is a world leader in terms of the pace of legal regulation of digital technologies in judicial proceedings, where the key goal is to strengthen the principles of fairness, efficiency, security and equality. This policy is implemented through documents of the Supreme People’s Court of the People’s Republic of China, such as “Rules of Online Court Proceedings” (2021) and “Rules of Online People’s Courts” (2022), which create the basis for the integration of artificial intelligence into the criminal process. *Purpose*: to study the implementation of this system, including technological, social and legal aspects, as well as to analyze potential benefits and risks associated with the introduction of digital technologies and artificial intelligence in criminal proceedings. At the same time, special attention is paid to the introduction of Chinese positive experience in the Russian legal system, including criminal proceedings. *Methods*: formal-logical and analytical, comparative-legal, statistical methods and an interpretation method. *Results*: the issue of creating an effective mechanism for the use of digital technologies in the field of criminal justice remains controversial in science. The analysis of Chinese and Russian criminal procedure legislation and law enforcement practices of “smart court” and “AI prosecutor” shows a number of political, organizational, ethical, financial and other problems Chinese law enforcement agencies address when introducing artificial intelligence into the criminal process. The introduction of modern technologies related to various intellectual platforms into the work of law enforcement agencies helps simplify the criminal justice system, ensure access to justice, and minimize the risks associated with the manipulation of criminal justice quality statistics. *Conclusions*: Chinese experience shows that the use of digital technologies is limited to the field of intelligent services and the intelligent service system.

Keywords: new digital reality; artificial intelligence; “System 206”; “smart court”; blockchain; “AI prosecutor”; legality of criminal proceedings; informatization; intelligent service; intelligent service system.

5.1.4. Criminal law sciences.

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Introduction

Information technologies are increasingly penetrating into the sphere of human activity. In the life of an ordinary person, there are a lot of available information tools that significantly simplify his/her life. The state introduces modern technologies into the mechanism of state coercion. We can consider an example of China. Chinese legal policy is committed to creating a regulatory framework for the effective and regulated use of digital technologies in various areas of public life. This reality, in turn, as noted by I.A. Filipova, makes it possible for China to promote the development of artificial intelligence, rather than hinder it [1, p. 67].

In 2016, China adopted the Strategy for the Development of National Informatization, which envisaged the creation of smart courts and the increase in the level of informatization in judicial proceedings. In February 2019, the creation of such courts was included in the People’s Courts Reform Plan for five years (2019–2023), and on July 22, 2019, the Office of the Supreme People’s Court of the People’s Republic of China issued a “Notice on the implementation of work on the creation of smart courts in 2019”, obliging all people’s courts to create Big Data platforms for the implementation of legal proceedings [2, p. 166].

In 2022, the Supreme Court of the People’s Republic of China ordered judges to consult with artificial intelligence when making decisions. If the decision made does not comply with the recommendations of the platform, it is required to submit a written justification to the court leadership. According to the researchers, the execution of punishments was explained by the desire of the state to exclude unreasonable decisions and reduce corruption, but this practice was negatively perceived by both society and judges, who do not always agree with the solutions proposed by artificial intelligence [3, pp. 74-75]. Judges often declare that the judicial process is an art. No two leaves are the same in the world, and no two cases are the same in the world. The machine can give advice and recommendations to the personnel handling the case, but the final decision is still made by the judge based on the facts and the law [4].

Research

In parallel with the judicial reform, China is implementing a large-scale Digital China initiative aimed at using artificial intelligence in government. The driver was the “Next Generation Artificial Intelligence Development Plan” of July 8, 2017 identifying law enforcement as a priority sector for the introduction of new technologies. In particular, the plan prescribed the creation of an intelligent court data platform combining court proceedings, staff, data application, judicial information disclosure and dynamic monitoring; promotion of the use of artificial intelligence in the collection of evidence, case analysis, reading and analysis of legal documents; intellectualization of the judicial system and judicial capabilities [5].

According to the report of the President of the Supreme People’s Court of the People’s Republic of China Zhou Qiang on the work of the Supreme People’s Court in 2022, 29.96 million online lawsuits were filed in China, 5.04 million court sessions were held using online technologies in order to expand the possibilities and improve the efficiency of judicial proceedings. From 2018 to the end of 2022, the total number of cases considered in courts across the country grew by an average of 5.2% annually, the average number of cases per judge increased from 187 cases in 2017 to 242 in 2022 [6]. The report draws a conclusion about the effectiveness of introducing artificial intelligence into the Chinese judicial system.

Let us consider what artificial intelligence is in China. One of the elements of its develop-

ment is the Shanghai Project, in which it is represented by three components: databases, expert knowledge and an operating system that processes information.

The first step in the development of artificial intelligence was the decision of the Shanghai High People's Court. The Court promoted the reform and achieved positive results by creating reproducible and in-demand Shanghai experience for reforming the national judicial system. The "System 206" or "Project 206" was worked out. In China, after several years of using open online judicial information platforms, the first nationwide database of court decisions "China Judgments Online" was created in 2013.

The "System 206" has the full name of "Intelligent Auxiliary System of Criminal Case Handling". The term "auxiliary system" is key; it is the direction of research and development.

As noted by Chinese law enforcement officials, the machine does not handle cases independently, the Shanghai "System 206" is only an intelligent assistant [7, p. 162].

As noted by A.V. Danshin, the following thesis was expressed about the independence of the "System 206" in the "Opinions of the Supreme People's Court on the regulation and strengthening of judicial use of artificial intelligence" in December 2022: "Regardless of the level of technological development, artificial intelligence cannot replace the decisions of judges. The auxiliary results of artificial intelligence can only be used as a guideline for judicial work, supervision and management of the judicial process to ensure that judicial decisions are always made by the judicial staff.... Judicial responsibility is ultimately borne by the judge. All persons have the right to choose whether to use the assistance provided by judicial artificial intelligence, or to refuse at any time to interact with artificial intelligence products and services" [8, p. 134]. This is also a confirmation that the system is an assistant and not a substitute for the judge.

The researchers identify three main features of the "System 206":

1) the limited use of artificial intelligence, which can only serve as an assistant in the consideration of cases. Judicial activity is characterized by impartiality, openness, personal appearance, etc. In particular, personal appearance suggests that only people, not artificial intelligence, can be subjects of judicial activity;

2) the level of artificial intelligence development, which determines its status as an auxiliary system. The judicial process is a complex activity that requires knowledge, qualifications, and life experience of judges, prosecutors, and investigators. Artificial intelligence cannot reflect and reason like law enforcement and judicial officials, so it cannot replace humans in handling cases;

3) human-machine interaction to improve the case management support system. The application of artificial intelligence in the field of justice requires human-machine interaction and inter-professional cooperation.

It can be concluded that the "Sistem 206" is an intelligent assistant to judges, prosecutors and police officers who does not have unlimited possibilities. Despite significant progress made in the development of the system for analyzing evidence in criminal cases, it is not yet possible to create an error-free algorithm. Therefore, the "System 206" performs only a supporting role providing information for decision-making. The final decision always rests with the judge.

In this regard, some Chinese courts have been reducing the number of technical staff for several years with the transfer of their functions to intelligent digital platforms. Judicial assistants are relieved of many clerical duties, which allows them to more productively undergo professional training for future work as a judge [9, p. 59].

In December 2021, the world's media reported on the development of the AI Prosecutor program in China. The artificial intelligence implemented in the Shanghai District Prosecutor's Office is capable of drafting indictments that will be presented in court. According to the South China Morning Post, artificial intelligence was trained based on the analysis of more than 17,000 court cases considered in Shanghai in 2015–2020. The AI prosecutor issues charges with 97% accuracy based on thousand key features identified in the materials of criminal cases.

The Chinese prosecutor, unlike the Russian prosecutor, is endowed with investigative powers, he bypasses the stage of drawing up an indictment, issues a ruling on charges and sends the case to court for consideration (Article 166

of the Criminal Procedure Code of the People's Republic of China) [10, p. 88]. Besides, according to Article 129 of the Constitution of the People's Republic of China, the People's Prosecutor's offices are state bodies for the supervision of compliance with laws. Thus, the People's Prosecutor's Office of the People's Republic of China is the fourth branch of government at the moment [11, p. 205], has a higher status than in Russia. This should be taken into account when introducing the Chinese experience into the Russian judicial system.

Artificial intelligence could facilitate the routine work of the investigative and inquiry bodies when drafting an indictment or an act and other procedural documents. The accusatory bias of the AI prosecutor in China is due to the fact that he is a key participant in the pre-trial stage of the criminal process. In Russia, given the investigator's role in preparing the indictment (Article 220 of the Criminal Procedure Code of the Russian Federation), a similar artificial intelligence system would be more relevant for investigators.

According to Russian media, artificial intelligence can to a certain extent replace prosecutors in the decision-making process, as well as assist them in drafting indictments. This will reduce their daily workload and enable prosecutors to focus on more important cases [12].

However, M.Kh. Badmaeva focuses attention "on the requirements that ensure the exclusion of possible bias and discrimination of a person by AI, as well as guaranteeing the independence of a person in decision-making, which is the essence of justice and autonomy principles, which are the most important manifestations of the principle of non-harm to a person, which is central, leading in the totality of rules and norms of human interaction and AI" [13, p. 30]. This, in turn, raises an important ethical question about correctness of the decisions made by the AI prosecutor.

Let us highlight the risks of using artificial intelligence in the Russian judicial system. The main problem is the incompatibility of "uninterpreted" AI models with the principle of the judge's inner conviction (Article 17 of the Criminal Procedure Code of the Russian Federation). If artificial intelligence does not disclose the logic of the conclusion (for example, a recommendation for arrest), this violates the right to protection (Article 17 of the Criminal Procedure Code of the Russian Federation) (the accused cannot challenge the algorithm), the requirement of reasonableness of decisions (Article 307 of the Criminal Procedure Code of the Russian Federation), the principle of competition (Article 15 of the Criminal Procedure Code of the Russian Federation). The solution to this incident may be the legislative consolidation of explainable AI (XAI) standards for justice, as in the EU Artificial Intelligence Act (2024). The requirement of transparency is one of the law provisions. It means that artificially created or edited content (audio, images, video) must be clearly marked.

According to foreign researchers, there are risks that Chinese courts will be able to immerse themselves in the futuristic world of computerized court proceedings [14].

While there are undeniable advantages of litigation using digital innovations (convenience for the parties, reduced costs of legal proceedings, shorter trial time, transparency of the judicial process, possibility of public and official control over the work of judges, etc.), there are risks that are already visible and those that may manifest themselves in the future [15, p. 157; 16, p. 84; 17, p. 62; 18, p. 285]. For example, developers of intellectual judicial platforms who are not specialists in the field of law may follow the path of existing stereotypes of the judicial decision-making procedure, which will significantly speed up the consideration of a particular case, but may lead to incorrect value judgments and cause serious damage to the legitimate interests of the parties to the trial [19; 20].

The artificial intelligence decision-making technology is a "black box", the functioning of which also requires legal control, primarily in the field of creating data processing algorithms [21, p. 315]. The black box effect is that the system knows only input and output results, but does not understand its internal mechanism of operation, and the whole process is opaque [20]. In this regard, China has significantly strengthened legislative work in the field of artificial intelligence surveillance [22].

Let us consider the possibility of using Chinese experience in the implementation of artificial intelligence in the Russian judicial system.

Informatization implies the transfer of processes such as document management, data

storage and provision of public services to an electronic format. In criminal proceedings, this is, in particular, the procedure provided for in Article 474.1 of the Criminal Procedure Code of the Russian Federation for the use of electronic documents (petitions, statements, complaints, representations). In addition, in accordance with Article 189.1 of the Criminal Procedure Code of the Russian Federation, an investigator or an inquirer has the right to conduct an interrogation, confrontation, and identification by using video conferencing systems of state bodies conducting a preliminary investigation, if technically possible, according to the rules of Articles 164 and Chapter 26 of the Criminal Procedure Code of the Russian Federation, taking into account the specifics established by this article.

Similar norms on digitalization of the criminal process are presented in the Chinese Regulation on Certain Issues of the Consideration of Cases by Online Courts adopted on September 6, 2018 by the Supreme People's Court, which emphasizes the importance of transferring to an online format (through online courts) stages of the judicial process, such as acceptance of cases, use of mediation, presentation of evidence, preparation for hearings, consideration of cases, making decisions, etc.

The National Strategy for the Development of Artificial Intelligence for the Period up to 2030 approved by the decree of the President of the Russian Federation No. 490 of October 10, 2019 gave a powerful impetus to the accelerated introduction of artificial intelligence into all spheres of society. As a follow-up to its provisions, the federal law No. 123-FZ of April 24, 2020 was adopted, which established the concept of artificial intelligence as a set of technological solutions that allow simulating human cognitive functions (including self-learning and finding solutions without a predefined algorithm) and obtaining results comparable to at least the results of human intellectual activity when performing specific tasks (Paragraph 2 of Part 1 of Article 2) [23, p. 206].

Russia is also implementing pilot projects to introduce artificial intelligence into the criminal process, although not as large-scale as China's "Sistem 206" or "AI Prosecutor".

The Moscow experiment on artificial intelligence regulation opens up opportunities for the development and testing of digital technologies designed for law enforcement agencies and the judicial system. It can be used to test solutions for automating routine tasks, such as analyzing procedural documents or preliminary risk assessment in court cases. Despite the lack of public announcements of specific legal AI projects, the very fact that they can be legally tested in real practice is of considerable interest.

The Investigative Committee and the Prosecutor's Office are actively developing analytical tools for processing large amounts of crime data. These systems analyze statistics, identify crime trends, and help with investigative planning. Although these tools do not yet make legally significant decisions, they represent early versions of future artificial intelligence systems that help the investigator.

Criminologists have at their disposal AI tools that automate time-consuming and routine tasks. Fingerprint comparison, handwriting analysis, and primary processing of crime scene data can all now be performed using artificial intelligence. Specialized solutions demonstrate that artificial intelligence is able to significantly optimize processes at the pre-trial stage of investigation.

In addition, digitalization of legal proceedings through the state computer-added system "Justice" marks a large-scale transformation of the judicial system. Introduction of electronic record keeping, online filing of documents and use of video conferencing optimize current processes and create the basis for the future application of artificial intelligence. Digitized data, including texts of lawsuits, court decisions, and protocols, serve as a valuable resource for developing AI tools capable of analyzing judicial practice and identifying errors in procedural actions. Pilot projects aimed at using artificial intelligence to analyze court decisions are currently being actively discussed and tested.

It seems that, despite all the progressiveness of computerization and artificial intelligence technologies, not all of them are fully applicable in jurisprudence, including in the field of criminal justice. First of all, this concerns artificial intelligence technologies due to a lack of their criminal procedure regulation.

Supporters of artificial intelligence in criminal proceedings often rely on the European Ethical

Charter on the use of artificial intelligence (AI) in judicial systems and their environment, adopted by the European Commission for the Efficiency of Justice of the Council of Europe in 2018. This international document sets out five basic principles to guide national legislators when using artificial intelligence technologies in legal proceedings:

1) respect for fundamental human rights;

2) non-discrimination;

3) the quality and safety of processing court decisions;

4) transparency, impartiality and fairness;

5) the possibility for authorities or independent experts to conduct external inspections ("under user control") [23, p. 207].

Procedural scientist N.N. Apostolov considering the problems of using artificial intelligence comes to the conclusion that the above principles should form the basis of Russian legislation with regard to national characteristics, which, in turn, will boost effectiveness, efficiency and objectivity of criminal proceedings that meet the needs of modern society [24, p. 139]. It should be emphasized that in the Russian Federation, the development of principles for the use of artificial intelligence technologies is carried out on the basis of careful analysis and elaboration. This is confirmed by Paragraph 19 of the National Strategy for the Development of Artificial Intelligence for the Period up to 2030, fixing the following fundamental principles:

a) protection of human rights and freedoms: ensuring protection of the human rights and freedoms guaranteed by Russian and international legislation, including the right to work, and providing citizens with the opportunity to gain knowledge and acquire skills to successfully adapt to the digital economy;

b) security: the inadmissibility of using artificial intelligence for the purpose of intentionally causing harm to citizens and legal entities, as well as preventing and minimizing risks of using artificial intelligence technologies;

c) transparency: explainability of the work of artificial intelligence and the process of achieving its results, non-discriminatory access of users of products that are created using artificial intelligence technologies to information about the algorithms of artificial intelligence used in these products;

d) technological sovereignty: ensuring the necessary level of independence of the Russian Federation in the field of artificial intelligence, including through the preferential use of domestic artificial intelligence technologies and technological solutions developed on the basis of artificial intelligence;

e) integrity of the innovation cycle: ensuring close interaction of scientific research and development in the field of artificial intelligence with the real sector of the economy;

f) reasonable thrift: implementation and adaptation of existing measures aimed at implementing state policy in scientific, technical and other fields;

g) support for competition: development of market relations and the inadmissibility of actions aimed at limiting competition between Russian organizations engaged in activities in the field of artificial intelligence.

Let us consider some projects for introducing artificial intelligence in Russia.

For example, technologies of a software and analytical environment with unified data processing were used at the 2018 FIFA World Cup; it helped identify criminals hiding from investigation and trial [25]. Large telecom operators and banking institutions are creating an "anti-fraud platform" to combat fraud [26].

As part of the "Safe City" projects, the Ministry of Internal Affairs of the Russian Federation and National Guard Troops Federal Service of the Russian Federation are actively implementing smart video systems and biometrics, in particular, a facial recognition system and video stream analysis. The use of these technologies to track down suspects and solve crimes proves their effectiveness. However, their application is still limited to law enforcement intelligence. The formation of large amounts of structured data and the accumulation of experience working with AI analytics require increased control and supervision over their use, as well as the development of a clear legal framework to protect the rights and freedoms of citizens.

It should be noted that the judicial process as an integral phenomenon is not limited to formal application of the law. It requires an understanding of the spirit of law, a desire for justice that can go beyond literal interpretation of

the law. It is the law that guides the judge when making a decision. In accordance with Article 17 of the Criminal Procedure Code of the Russian Federation, a judge evaluates evidence according to his/her inner conviction, guided by the law and conscience. Inner conviction has several semantic meanings. In the science of criminal procedure law, internal persuasion is understood as a method of evaluating evidence used in the proving process, as well as a result of evaluating evidence [27, p. 76].

It should be noted that in criminal proceedings, artificial intelligence is used exclusively to provide assistance. It is not given the right to make independent decisions, does not replace an investigator or a judge, and its decisions do not affect the outcome of a criminal case.

In April 2025, the Presidium of the Council of Judges decided to establish a working group to implement artificial intelligence in judicial practice [28]. Its main goal is to analyze the experience of using artificial intelligence in courts and scale successful developments across the country. This will help reduce the court load. Artificial intelligence is increasingly infiltrating the Russian judicial system. Already 35% of the courts and councils of judges, especially in Moscow and the Moscow Oblast, use new technologies in their work. For example, in a number of regions (Bashkortostan, Tatarstan, Vladimir and Irkutsk oblasts) artificial intelligence helps to decipher speech in protocols, and in the Supreme Court of the Komi Republic it helps to search for information in legal acts.

Conclusion

To summarize, let us draw a few conclusions. First, China is one of the leaders in introducing artificial intelligence into the criminal process. This is confirmed by the current systems "System 206" and "AI Prosecutor", which help judges to make decisions on cases. There is no such system in Russia, but digitalization of activities of the bodies involved in the criminal process is actively underway. The Strategy for the Development of Artificial Intelligence up to 2030 demonstrates a further vector of development. Second, China's experience in implementing technologies, such as "System 206" and "AI Prosecutor", would be useful to Russia. Despite the fact that the procedural status of prosecutors in Russia is different, the introduction of an AI prosecutor is possible with certain changes. Third, the experience of using artificial intelligence in the judicial system causes a lot of controversy in the scientific community, mainly concerning ethical aspects. The Russian legislator outlined clear principles for introducing artificial intelligence. The Chinese experience demonstrates that successful digitalization of the criminal process is impossible without a regulatory framework that establishes basic principles of artificial intelligence; preserving the role of judges as an ultimate subject of responsibility, where artificial intelligence acts as an intelligent service tool. Fourth, when adapting Chinese models, it is important to take into account risks such as the opacity of algorithms and the possibility of manipulating processes in various ways.

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