

On the Future Development of Labor Law from the Perspective of Artificial Intelligence

Ning An^{1, a}

¹School of International Education, Ningxia University, Yinchuan, 750021, China

^a1565114290@qq.com

Abstract

With the advent of the digital era and the post-epidemic era, digital rights, a new basic right based on human rights, show cross-border and integrated attributes, breaking through the limitations of many theories on data protection, especially taking the two core attributes of digital rights, personality attribute and property attribute, as an example. Among them, the development of artificial intelligence has brought about profound changes in the original labor relations. The subsequent legal regulation, the omission of the normative system, the data error and the lack of summary, etc. all make the development of artificial intelligence conflict with employment, legal and social ethics and the original regulatory standards. Based on the background of digital rule of law, this paper discusses the application dilemma and future outlet of labor law in the era of artificial intelligence.

Keywords

Artificial intelligence; Social security; Labour law; Legal regulation.

1. Introduction

We are in and will be in an era of data remixing for a long time. The occurrence of the COVID-19 epidemic has catalyzed the change of the working environment, and the extensive application of artificial intelligence has innovated the social development pattern. The emergence of artificial intelligence has caused the labor law to fall into a theoretical and practical dilemma, including potential crises such as doubtful qualification of labor legal subjects, failure of labor safety and health system, employment substitution and industry substitution, impact on labor standard system, and breakthrough in dismissal protection system, etc. Therefore, the labor legal system needs to respond to these challenges.

2. Development of Human Rights View and Transformation of Labor Relations from the Perspective of Digital Rights

"In the specific stage of human thought development, there must be a basic element as the material of thought fission and fusion. Human rights are the basic elements for the expansion and promotion of human thought in modern times." From the French Revolution in 1789 to the October Revolution in Russia at the beginning of the 20th century to the liberation movement of the oppressed people in the colonies in 1950s and 1960s, three generations of human rights concepts have successively established three milestone rights concepts of freedom, equality and development. However, with the development and popularization of the new generation of information technologies such as Internet, cloud computing, artificial intelligence, blockchain and quantum communication, human society has entered the era of big data with data as the key element. With a series of ethical and legal issues, it is reshaping the legal system, changing the rights relations among citizens and creating many social control methods without resorting

to laws. Big data from the perspective of digital rights provides a new method and path for human rights protection, but it also brings new challenges and difficulties, which are reflected in the difficulty in determining the subject of human rights violations, the need to take into account the interests of all parties, the difficulty in human rights legislation and the diversification of human rights damage results, etc.

Similarly, the intelligentization of labor brings about the reordering and division of tasks, as well as the transformation of labor functions and meanings. Intelligentization of labor has greatly changed the employment structure-more labor forces flock to fields with great flexibility and creativity. From the functional level, from the initial energy conversion between human labor and nature, to the partial use of intelligent machines to complete energy exchange, workers are gradually transformed from participants to coordinators. Under this trend, the flexibility and stability of labor relations have changed, and a certain number of workers and employers choose to establish non-standard employment relations, while workers' planning for their own development has changed from long-term accumulation to short-term profit. Moreover, the traditional subordination of labor relations is also changing. In the Internet platform economy, all kinds of information and data can be circulated accurately and efficiently through mobile terminals, and the personal dependence of workers on employers is correspondingly reduced. To some extent, they are only economically dependent.

3. Difficulties and Challenges Brought by Artificial Intelligence to Labor Law

3.1. Is the Legal Subject of Artificial Intelligence Qualified?

On the one hand, from the perspective of "civil subject", there is still no clear definition of the civil qualification of artificial intelligence in theoretical circles, and many scholars have not yet reached a consensus on this issue. Some scholars agree with the "tool theory", that is to say, artificial intelligence is still in the category of machinery, does not have human feelings, has no independent consciousness, and cannot express their feelings independently, so it can only be used as an important tool for human development. Some scholars agree with "the theory of employers and employees". These scholars believe that artificial intelligence can complete all kinds of human work through control, and the behaviors it makes need to be undertaken by the controller. Therefore, it is totally unnecessary to qualify artificial intelligence legally. However, scholars who advocate giving artificial intelligence legal subject qualification think that artificial intelligence has advanced neural network, so this content should be properly considered.

On the other hand, from the perspective of "labor subject", workers in the sense of China's labor law must meet the following requirements: they must meet the age requirement of 16 years old, have the ability to work and engage in relevant positions permitted by law. In addition, laborers have the right to obtain labor remuneration equivalent to that of laborers through labor. However, as far as artificial intelligence is concerned, it can't express its consciousness independently, and it is beyond the definition of laborer in labor law theory in terms of ability range, application field and whether it can get remuneration.

3.2. Artificial Intelligence-induced Job Substitution Problem

At the initial stage of the development of artificial intelligence, compared with natural persons, it has the advantages of no need for rest time, no social security requirements, strong anti-risk ability and strong operability, and can effectively improve the labor productivity and the qualified rate of products. Some simple and repetitive jobs, such as customer service, librarians, cashiers, factory assembly line workers, couriers, etc., will be largely replaced by artificial intelligence in the future. With the continuous improvement of artificial intelligence technology,

it will show broader development prospects in various industries, and there may be a situation that high-skilled positions such as lawyers, judges, financial analysts, data analysts and even doctors will be replaced by artificial intelligence. At the same time, artificial intelligence will have an impact on employment, but the ability of artificial intelligence to create new employment opportunities cannot be ignored. Judging from the history of industrial revolution, workers may lose their jobs on a large scale in the short term, but this will not happen in the long term, because the technology cycle will also increase employment, making unemployment and re-employment show a cyclical law. Therefore, industrial development will also create a certain time and space for society to adjust social relations, including labor relations.

3.3. Artificial Intelligence Impact Labor Benchmark System

The labor standard system itself has the nature of public law, and is implemented by public rights, with the purpose of guaranteeing the basic working conditions of workers. The current labor standard system is born out of the category of standard labor relations. For various new forms of labor that appear in the era of artificial intelligence, it can't fully meet the requirements of the labor standard system in terms of working hours, wages, rest and vacation. Artificial intelligence replaces workers to complete social production tasks, and more and more jobs are replaced by robots, which will inevitably lead to an increase in the number of unemployed groups, and the re-employment situation will become more and more severe. In practice, part-time and part-time employment may show a rapid growth trend, and the overall salary level of workers will decrease with the increase of unemployment. In essence, the labor benchmark will decrease with the increase of the re-employment competitiveness of the unemployed, and may even be lower than the current laws and regulations.

4. On the Future Development Direction of Labor Law from the Perspective of Artificial Intelligence

4.1. Improve the Labor Employment Promotion Policy

One of the values of labor law is to promote employment. China's labor groups are characterized by large number, wide coverage and different quality levels. The influence of artificial intelligence on China's employment shows the characteristics of polarization, which is manifested by the large-scale unemployment of simple labor and some mental labor and the polarization of the scarcity of talents in a small number of high-tech industries. Artificial intelligence will also become the "competitor" of some mental workers. Combined with China's national conditions, large-scale unemployment may occur from simple mechanical labor to professions with mental content such as lawyers and journalists. Therefore, the state needs to play an adjusting role in employment policies, improve the employment promotion system and do preventive work at the employment system level in advance.

4.2. Improve the Unemployment Insurance System

In the aspect of social security system, it is necessary to combine the particularity of various new labor forms in the artificial intelligence era, innovate new social insurance modes, and especially strengthen the unemployment protection for low-end workers, so as to cope with the technical unemployment risks in advance, so as to guarantee the survival rights of workers and their whole families, and thus balance the social gap between the rich and the poor caused by employment polarization.

4.3. Improve the Income Distribution System and Reduce Social Risks

Artificial intelligence changes labor to diversification, and it is necessary to improve the income distribution system according to the forms of labor and employment to prevent social risks. The government can adjust the tax revenue of enterprises using artificial intelligence to a certain

extent when artificial intelligence is not qualified as a legal subject, and then adjust it after the employment pressure of workers is relieved to a certain extent. Through tax adjustment and income distribution adjustment in different time periods, while workers are unemployed, they will gradually promote their re-employment and prevent social risks.

5. Summary

To sum up, with the advent of the digital age and the continuous development of artificial intelligence, the concept of human rights and labor relations have undergone corresponding changes. In the future development of society, the development of artificial intelligence will bring great impetus to the economy, and the traditional labor law will face severe challenges. How to further improve the labor law and balance the relationship between human beings and artificial intelligence has become a concern. Therefore, we should continue to study this content, so that the labor law can play the greatest role in a specific stage.

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