



RESEARCH ARTICLE

Artificial Intelligence (AI) as Guardian: Combine the Voluntary Guardianship with the Notarial System in China

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ARTICLE INFO

ABSTRACT

Received: Oct 17, 2024

Accepted: Dec 22, 2024

Keywords

Artificial Intelligence
Notarial System
Voluntary Guardianship
China

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In the civil law system of voluntary guardianship, individuals may designate guardians for themselves in advance, who will assume guardianship responsibilities when they lose legal capacity in the future. With the development of network technology, Artificial Intelligence(AI) has become an amalgamation of cutting-edge technologies worldwide. By collecting, analysing, and outputting information on the behaviours of citizens, AI can assess their daily life needs and make judgements that are more beneficial for individual development. Whether AI can become guardians and participate in the future lives of citizens is a question. Once AI or its developers become designated guardians, the allocation of guardianship responsibilities will differ from those of traditional natural persons acting as guardians. This article discusses through literature analysis and comparative law. It believes that AI possesses a highly instrumental nature. Furthermore, given the immaturity of AI technology, voluntary guardianship requires not only rational judgement but also emotional analysis, which clearly reveals the shortcomings of AI. Therefore, the responsibility of voluntary guardianship should be borne by its developers. Additionally, it is particularly necessary to determine and allocate rights and obligations in guardianship agreements. By employing a combination of various systems, the legitimate rights of the ward can be maximally protected.

INTRODUCTION

Voluntary guardianship refers to the process by which an adult with full legal capacity can prearrange, in writing, their guardian with close relatives, other individuals willing to act as guardians, or organizations (Yan Zi, 2023). The appointed guardian, determined through negotiation, assumes guardianship responsibilities when the adult loses or partially loses their legal capacity for civil conduct. Therefore, the system of voluntary guardianship holds significant importance in universally safeguarding adult individuals who have completely or partially lost their capacity to conduct civil affairs (Lee Rebecca, 2019). In traditional civil law theory, conditional civil legal acts (contracts), such as voluntary guardianship agreements, often utilise notarization as a means of supervision to safeguard the interests of all parties and oversee their conduct (Kirenci Mohammed, 2018). Currently, with the development of network technology, Artificial Intelligence (AI) is becoming more widespread. The emergence of strong AI has led some people to have higher expectations for this emerging industry. Various products, such as AI companions and AI housekeepers, have emerged (Wang Lei et al., 2021). In the field of civil law, whether AI can be incorporated into guardianship systems, replacing traditional guardianship roles, has become a topic of societal discussion. Based on prior research, it is not difficult to find that there is currently no consensus on whether AI can become a legal entity (Wojtczak Sylwia, 2022). There is still

considerable controversy over this issue, with three main theoretical perspectives: affirmation, negation, and compromise. Certainly affirming support for AI to become a new type of civil legal entity, while denying it says the opposite. The compromise argument proposes a relatively vague solution by combining the viewpoints of both sides. Based on different perspectives, the qualification of AI as an appointed guardian will also be acknowledged to varying degrees, thereby resulting in different levels of legal implications. Therefore, this article first needs to confirm this issue. Additionally, after confirming the guardianship identity of AI and related civil entities, a reasonable allocation of rights and obligations regarding guardianship will be made. Unlike human guardianship, AI, despite being supported by high-frequency algorithms, finds it challenging to achieve the same level of supervision over large user groups as humans do (Cañas José J., 2022). But this does not mean that AI lacks its own intrinsic value. Therefore, there is a need to discuss this issue, optimise institutional design and supervision in voluntary guardianship agreements, and utilise notarial systems for supervision to safeguard the legitimate rights of the wards. Through discussing the above two aspects, this article aims to address a series of issues existing in the AI-assisted guardianship system. Theoretically, fill the gaps in the subjectivity and voluntary guardianship systems of AI and provide samples for writing relevant agreements and delineating rights and responsibilities when carrying out guardianship using AI.

1. RESEARCH METHOD

To delve into the feasibility of AI acting as guardians and to construct a strategy for voluntary guardianship, this article will employ a multi-layered research approach to explore this issue, including data collection and analysis.

In terms of data collection methods, this article primarily employs literature collection to acquire relevant data. Firstly, integrate data from academic papers, laws and regulations, and relevant reports in fields such as law, ethics, AI, etc. By utilising authoritative databases such as Google Scholar, CNKI, and other academic search engines, this article ensures access to the latest and most comprehensive information regarding AI, civil legal subjects, and voluntary guardianship. Furthermore, through a review of existing legal regulations and literature, this article aims to identify the views of different scholars on the current state of the law on voluntary guardianship and AI.

In terms of data analysis, this article mainly uses literature analysis and comparative method to deal with the relevant data. By systematically organising and analysing the literature, key concepts, theoretical perspectives and research insights are established. In addition, this article focuses on the application of AI in the field of voluntary guardianship, examining the regulations on guardianship systems, as well as discussions on this phenomenon. In the process of analysing the literature, this article will review and summarise the findings and shortcomings of existing research to provide theoretical and practical support for the development of voluntary guardianship.

In conclusion, this article utilises a combination of literature collection, analysis, and the comparative method to integrate and refine research data, aiming to establish a comprehensive and systematic qualitative research framework. During the data collection stage, fully utilise literature resources to construct a theoretical legal model. In the data analysis stage, employ methods such as literature analysis and comparative law to delve into the potential issues surrounding AI as a guardian and viable solutions. Simultaneously, continuously reflect on and adjust research methods and strategies to ensure the scientific validity and reliability of research outcomes.

2. RESULT AND DISCUSSION

3.1 Voluntary Guardianship and Notarial System

The Voluntary Guardianship System in China

According to *Article 33* of the *Civil Code* of the People's Republic of China, the exact meaning of voluntary guardianship is:

“The voluntary guardianship system refers to the arrangement wherein fully capacitated adults may, through prior consultation with their close relatives, other willing individuals, or organisations, determine their guardians in writing. These appointed guardians will assume guardianship responsibilities in the event of the adult’s total or partial incapacity.”

Based on this definition, it is not difficult to find that in China’s current civil law theory, voluntary guardianship needs to meet three conditions (Xiao Yongping, and Qin Hongman, 2019).

First, in the signing of the voluntary guardianship agreement, both parties to the agreement should possess full legal capacity. Legal capacity refers to the qualification of a civil subject to participate in civil legal relations, obtain civil rights, fulfil civil obligations, and assume civil liabilities through their actions (Muniskhon Usmonova, 2021). According to the relevant provisions of China’s *Civil Code*:

“Article 18 Adults are persons with full capacity for civil conduct and can independently engage in civil legal acts. Minors over the age of 16, whose main source of livelihood is their own labour income, are considered to have full capacity for civil conduct.”

It is not difficult to find that the capacity for civil conduct of a natural person refers to the ability of the individual to independently express intention and engage in civil conduct (Zamira Esanova,2022). The natural person needs to meet certain age requirements in order to gain full legal capacity for civil actions (Muniskhon Usmonova, 2021). The legal capacity of a legal person refers to the qualification of the legal person as a subject of civil law to enjoy civil rights and assume civil obligations through its actions. The legal capacity of a legal person arises upon its establishment and ceases upon its termination (Kareva I.D., 2019). If one party lacks the full capacity to engage in civil activities at the time of contracting, the voluntary guardianship agreement will affect the final effectiveness of the contract due to the lack of contracting eligibility by the principal, thus failing to generate the civil law effects sought by the parties when entering into the agreement.

Second, the voluntary guardianship agreement is a conditional civil legal act (Nwakasi C, and A Restorick Roberts, 2018). The guardian assumes guardianship duties when the ward loses or partially loses civil capacity. At the time of signing the voluntary guardianship agreement, the ward possesses full civil capacity and does not require care. It is only when they lose or partially lose civil capacity that the voluntary guardian begins to fulfill their duties.

Third, voluntary guardianship agreements must be in writing (Zhu Xuelin, 2023). The content of voluntary guardianship directly affects the significant interests of the ward, and guardians typically commence their duties sometime after the agreement is signed, often in the distant future. Therefore, to minimise disputes, the law stipulates that voluntary guardianship agreements must be established in written form.

Notary Intervention

Since the revision of the *Civil Code* in 2021, the voluntary guardianship system in China has gradually entered the public eye. The purpose of establishing the voluntary guardianship system is to safeguard the legitimate rights and interests of the ward from unlawful infringement (Cui Hanyuan, 2022). Therefore, the voluntary guardianship system also requires third-party institutions to supervise and urge all parties to fulfil their obligations. After the commencement of the voluntary guardianship, due to the lack of cognitive ability on the part of the ward, it is difficult to supervise the performance of the voluntary guardianship agreement through their own efforts. If the guardian fails to fulfil the guardianship obligations according to the agreement, it will greatly harm the ward’s many legitimate rights and interests, such as personal and property rights. Currently, China mainly relies on the Civil Code and relevant judicial interpretations for single-post-event supervision of voluntary guardianship.

“Article 36... .. the people’s court shall revoke their guardianship qualification upon application by relevant individuals or organisations, arrange necessary temporary guardianship measures, and appoint a guardian in accordance with the principle most beneficial to the ward:”

“(Judicial Interpretation) Article 11 If an adult with full capacity for civil conduct and another party, in accordance with Article 33 of the Civil Code, enter into a written agreement and pre-determine their guardian, if either party requests to terminate the agreement before the adult loses or partially loses their capacity for civil conduct, the People’s Court shall support it according to the law. After the adult loses or partially loses their capacity for civil conduct, if the guardian designated in the agreement unreasonably requests to terminate the agreement, the People’s Court shall not support it.”

This supervisory mode still has deficiencies. Post-supervision does not effectively protect the legitimate rights and interests of the wards. Although relevant individuals or organisations have the right to apply to the court to revoke the qualifications of guardians due to the above-mentioned situations and to arrange necessary temporary measures to protect the legitimate rights and interests of the wards, such as personal property, at this time the relevant rights of the wards have already been compromised (Nwakasi C, and A Restorick Roberts, 2018). In addition, the scope of civil entities eligible to apply for post-supervision is broad, and the law does not provide detailed regulations on the rights and obligations between eligible entities, which may lead to phenomena of mutual evasion of responsibility.

Therefore, China has begun to explore the use of notarization for effective supervision of voluntary guardianship in civil law practice. Notary offices primarily supervise voluntary guardianship agreements in accordance with *Article 11, Clause 11* of China’s *Notary Law*, which states, *“Notary offices handle the following notarization matters upon application by natural persons, legal persons, or other organizations:(11) Other notarization matters voluntarily applied for by natural persons, legal persons, or other organisations.”*

In the current judicial practice in China, there is often a choice to involve notarization in voluntary guardianship (Yan Zi, 2023). Notarization intervention refers to the notary office acting as the adjudicating body, combining the applications of both parties involved in voluntary guardianship, clarifying their respective opinions, signing the purpose of voluntary guardianship, and assessing the true intentions of the parties to the agreement (Ekaterina V. Mikhaylova, 2023). Then, a detailed examination of the content and form of the agreement is conducted, and a corresponding notarization decision is made in accordance with the law.

Currently, the motivations for a ward to choose voluntary guardianship generally include several aspects. Firstly, it is based on explicit prearrangements concerning medical care, end-of-life care, and other medical measures. Secondly, arrangements are made for the ward’s basic living, support, and assistance after the loss of legal capacity. Thirdly, arrangements are made for the management, disposal, and division of real estate, other significant assets, and inheritance (Taofik, and Sri Kusriyah, 2022).

Notarization intervention in the voluntary guardianship system can prevent moral risks and assist the ward in managing their property by preparing detailed inventories for inspection (Ellyca and Winanto Wiryomartani, 2023). Notary institutions can constrain and supervise the content of agreements before voluntary guardianship occurs, as well as supervise the performance of agreements after they take effect (Kaščelan et al., 2021). Through notarial supervision of voluntary guardianship, the subsequent cost of proof can be greatly reduced, effectively saving judicial resources.

3.2 Whether AI Can Become a Subject of Civil Law

AI is the technology that simulates and replicates human intelligence through computer-based or computer-controlled machines, enabling them to learn from experience (Tripathi Satvik, 2021).

Based on the disparity between the learning capabilities of AI and human cognition, academia categories AI into strong AI and weak AI (Sarker Iqbal H., 2022).

Weak AI can achieve the goals set by users, but there is a significant gap between its capabilities and the cognitive level of normal humans (Jarrahi Mohammad Hossein, 2018). Strong AI, on the other hand, employs more sophisticated algorithms and data processing, enabling it to closely mimic human thinking, problem-solving, and planning (Butz Martin V., 2021). It can rapidly learn from experiences and replicate them, approaching human cognitive abilities to a high degree. The debate over whether AI should be included as legal entities in civil law primarily focuses on the domain of strong AI (Wojtczak, Sylwia, 2022).

Currently, the level of anthropomorphism in AI is rapidly advancing globally, leading to an increasing number of examples where AI is being considered in theoretical research and legal practice regarding civil legal subjects (Lim Jongsoo et al., 2020). In 2010, Japan provided a hukou for Paro, a pet robot used in psychotherapy (Petersen Sandra et al., 2016). In 2017, Saudi Arabia bestowed citizenship upon the humanoid robot Sophia, making her the first robot in history to obtain citizenship (Johnson Sylvester A., 2019).

In the face of the rapid development of strong AI, combined with relevant theories from jurisprudence, ethics, and AI studies, there is currently no consensus in the academic community on whether AI can obtain citizenship. Based on this, this article discusses whether strong AI can become a subject of civil law.

Affirmative Proposition

Some scholars advocate granting AI the qualification of legal personality. Within this classification, some scholars suggest applying the legal person establishment model to AI, considering it a legal entity. For instance, scholar Yi Jiming points out that current AI, due to its highly anthropomorphic characteristics, exhibits a certain degree of humanoid thinking, leading to AI gradually transcending the category of mere objects (Ballardini et al., 2019). However, AI still remains a tool serving humanity, thus becoming a third kind of entity that is neither human nor an object. Therefore, by referencing the legal person system and employing legal methods, AI can be endowed with a legal status equivalent to that of natural persons.

Other scholars argue that AI should be defined as electronic persons. Scholar Guo Shaofei believes that with the advent of the era of AI, various forms of relationships between humans and machines are emerging (Gordon et al., 2024). Currently, there is a trend for AI to develop into electronic persons, with legislative precedents or trends existing in many countries worldwide. Hence, it is possible to draw on relevant legislation to define AI as electronic persons.

Furthermore, scholar Lawrence Solum points out that if AI behaves correctly and the cognitive processes behind these behaviours are similar to those of the human brain, there can be sufficient reason to consider AI as a person (Novelli Claudio, 2022). Tom Allen and Robin Widdison argue that extraterritorial laws provide for various legal entities, such as ships, companies, and international organisations that meet specific conditions without specifying standards for recognising or denying the personhood of any entity (Aikenhead M, 1999). Therefore, theoretically, considering computers as people is feasible. Alzbeta Krausova believes that current AI remains merely a tool of humans, lacking legal personality, and can be regulated within the framework of contract law regulations. However, the possibility of AI acquiring legal personality in the future cannot be ruled out. A third legal entity could be created to regulate AI based on its differences from natural persons and legal persons. Shawn Bayem proposes the construction of “non-member limited liability companies” to explore the possibility of granting AI legal personhood (Bayern, Shawn, 2016).

It is not difficult to find that there are several reasons for supporting AI as a legal entity. Firstly, granting full legal personality to AI is necessary in theory and practice. Including it as a legal subject can smoothly resolve various civil issues arising in the era of AI. Secondly, AI possesses self-

awareness. Currently, AI can already independently complete some tasks and is gradually breaking through its original instrumental nature. Therefore, merely considering AI as a tool cannot directly negate its anthropomorphic self-awareness. Thirdly, the autonomous learning ability of AI enables it to independently make certain decisions, so it is unfair to solely hold the producer responsible.

Negation Proposition

Some scholars deny the qualification of AI as a legal subject in civil law. Chinese civil law expert Wang Limin believes that although AI is developing rapidly, based on the current level of technology, it has not yet been able to pose disruptive questions (Wang Liming, 2020). Therefore, in the short term, traditional theories of legal subject qualification should still apply, and AI should still be recognised as a legal object.

Additionally, some scholars argue that AI can be seen as animals. They point out that AI is closer to animals than to legal persons, unable to be endowed with legal personality (Chessman Christian, 2018). It should neither be capable of nor held independently liable under the law; legal responsibility always falls on humans for the actions of robots. Current AI can possess a certain level of “self-awareness,” making it closer to animals with self-awareness, both of which are regarded as objects of the law.

Another group of scholars believes that AI can be regarded as a special entity. Given the human-like attributes of AI, it should be recognised as a special entity within the legal framework. Scholar Liu Honghua argues that although current AI exhibits human-like consciousness, it has not developed rationality (Liu H., 2019). Therefore, granting it civil subject status similar to that of natural persons holds little significance for solving social issues. Yang Lixin suggests that AI should be endowed with an artificial personality (Yang Lixin, 2018). The legal status of AI in civil law should belong to artificial personality, which is a kind of civil subject qualification similar to or close to natural personality possessed by artificially created beings.

Furthermore, Aishwarya Limaye argues that although AI reaches a high level of anthropomorphism and surpasses humans in certain fields, it was fundamentally created as a tool by humans (Limaye Aishwarya, 2017). Regardless of its development, AI can never become a legal entity, unable to possess rights and obligations. Susanne proposes the software agent theory, asserting that AI merely functions as a software agent processing information according to pre-set human programmes and cannot act as a decision-maker (Beck Susanne, 2016). Solaiman contends that robots, lacking cognitive and volitional capacities, are rational creations without the four criteria for personhood: legal subjectivity, rights, obligations, self-awareness, and the ability to exercise rights (Solaiman, S. M., 2017).

From this, it can be seen that the negation of AI mainly includes the following reasons: Firstly, AI lacks subjective thinking ability. The so-called artificial neural networks of AI are modeled after the human brain, but algorithms are fundamentally a series of program instructions aimed at solving problems, ultimately unable to possess the breadth of thinking like human beings and unable to simulate and reproduce the essence of human thinking. Therefore, AI does not possess a subjective thinking ability similar to that of humans. Secondly, AI lacks self-awareness. Although current AI can independently complete certain tasks, it cannot acquire human consciousness. The consciousness of AI lacks social attributes and human subjective initiative; therefore, it does not belong to human self-awareness. Thirdly, AI lacks human rationality. Human rationality is divided into practical rationality and theoretical rationality, the former being expressed in free will and the latter in self-consciousness, with the latter being a prerequisite for free will. AI lacks free will because it does not possess self-consciousness; therefore, AI lacks practical and theoretical rationality and thus cannot possess human rationality.

Compromise Proposition

This viewpoint holds that AI should be recognised as a legal entity with limited personhood. Yuan Zeng believes that under existing conditions, it is more appropriate to define AI as a special entity capable of independent expression of thought with the nature of an intelligent tool (Yuan Z., 2017). Although AI can exhibit behaviours with a certain degree of autonomy, due to its lack of accountability, it cannot fully bear the consequences of its actions, so the legal personhood of AI is limited.

Based on the premise of the limited legal personhood of AI, special legal standards different from those applicable to ordinary legal entities should be applied, namely the "Principle of Piercing the Veil of AI." (Cheong Ben Chester, 2021) According to this principle, the actual controller of AI is the rights holder; therefore, although AI possesses legal personhood, this status is not fully sufficient but rather limited.

As a type of intelligent tool created by humans, AI ultimately serves the goal of human societal development. Human rights should therefore take precedence over those of AI, and it is reasonable for the actual controller or person responsible for AI to bear the damages caused by it (Prabhakaran et al., 2022).

Xu Zhongyuan(2018) believes that fundamentally, AI is a type of artificially created intelligent tool designed to serve the development of human society; therefore, the legal personhood enjoyed by AI should be characterized as limited instrumental personhood.

Gabriel Hallevy(2010) suggests that given the uniqueness of AI, consideration can be given to granting it legal personhood, but it ultimately lacks the same level of thinking and behavioral capabilities as humans, and there will always be inherent differences compared to humans; thus, the legal personhood of AI should be limited.

It can be observed that the above-mentioned doctrines primarily encompass three aspects. Firstly, the capacity for rights enjoyed by AI is limited. Unlike natural persons and legal entities, the rights and obligations of AI are restricted. Due to its instrumental nature, AI does not possess ethical personality rights but rather holds property rights with certain economic attributes, while also bearing relevant obligations.

Secondly, the capacity for actions enjoyed by AI is limited. AI serves as a man-made intelligent tool for the development of human society, possessing a limited instrumental personality as recognised by law. The user or possessor of AI is the ultimate controller and supervisor of its actions.

Thirdly, the capacity for responsibility enjoyed by AI is limited. Unlike the independent liability capacity of natural persons, legal entities, and non-legal entities, although AI can, to a certain extent, participate independently and autonomously in civil activities detached from human control and supervision, exercising civil rights, and assuming civil obligations, it can only bear limited liability. This indicates that the responsibility capacity of AI is limited.

3.3 Limitations of AI in Voluntary Guardianship System

Through the aforementioned research, it can be observed that AI, as a potential guardian, faces numerous limitations and challenges in its identity. Despite significant technological advancements, current AI remains fundamentally a programmed tool utilising computer coding, lacking independent consciousness and moral judgement capabilities (Davis Josh Paul, 2019). Consequently, there exist a series of identity constraints that it cannot overcome, rendering it difficult to be recognised as a legal entity, particularly in assuming the role of a guardian within guardianship systems, especially those based on voluntary arrangements.

Firstly, AI lacks independent consciousness and agency in the system of intentional supervision. AI operates based on programmed procedures, although it demonstrates mimicry learning and experience reproduction during this process. However, fundamentally, its operation is entirely

constrained by predefined algorithms and instructions. Due to the absence of independent consciousness and autonomy, AI cannot become a legal subject with independent consciousness and agency like natural persons. In voluntary guardianship, guardians are required to make choices that are most beneficial to the ward while also endeavouring to accurately represent the ward's true intentions, as explicitly required in the *Civil Code*.

“Article 35 Guardians shall fulfil their guardianship duties in accordance with the principle most beneficial to the ward. Guardians may not dispose of the ward's property except for the purpose of safeguarding the ward's interests. When guardians of minors make decisions related to the ward's interests, they shall respect the ward's true wishes based on the ward's age and mental capacity. Guardians of adults shall, to the greatest extent possible, respect the ward's true wishes, safeguard, and assist the ward in carrying out civil legal actions appropriate to their mental and mental health condition. Guardians shall not interfere with matters that the ward is capable of handling independently.”

This kind of need reflects extremely strong human cognitive attributes, obviously beyond the scope of AI's procedural capabilities.

Secondly, AI is still constrained by its instrumental nature (Chesterman Simon, 2020). Currently, AI still exhibits a high degree of instrumental characteristics, essentially being used as a tool. Despite possessing some degree of intelligence in data analysis, judgement, and decision-making, its actions are always bound by programming and algorithms, unable to transcend the intentions and control of its designers. Therefore, considering AI as possessing voluntary guardianship responsibility poses difficulties.

Thirdly, AI cannot enter into contracts. In the context of voluntary guardianship, guardian agreements need to be reached and contracts signed between guardians and wards to ensure the clarity and legality of guardianship responsibilities. However, AI lacks independent legal personality and the ability to enter into contracts, thus making it unable to participate as a party to the signing and fulfillment of agreements.

Fourth, AI is not the subject of a legal relationship, and therefore AI does not have social attributes. In addition, although AI is capable of some thinking, these thoughts are formed based on algorithms and do not represent emotions. Therefore, AI is not capable of emotional analysis. In intentional guardianship, not only does the guardian need to judge the real situation of the ward, but also needs to subjectively carry out emotional analysis. This means that the AI is required to empathise with the ward as much as possible, which obviously the AI cannot do. That is to say, AI cannot do the same as a natural person to understand and help the ward, so as to do things that satisfy the true wishes of the ward.

Fifthly, joint guardianship responsibilities can be established. Since AI cannot independently act as a guardian for guardianship, its guardianship responsibilities should be considered shared between the AI and its developers. Developers, as creators and managers of AI, should supervise and manage the behaviour and decision-making of AI during the guardianship process to ensure its legality and fairness.

In conclusion, although AI can to some extent participate in the daily lives of legal subjects and achieve guardianship of the ward through data analysis and decision support, its inherent limitations and deficiencies make it difficult for it to independently act as a guardian for guardianship. Therefore, in the voluntary guardianship system, careful consideration should be given to the scope of application and allocation of guardianship responsibilities to AI to ensure the legality, fairness, and humanization of the guardianship process.

3.4 Establishing the Rights and Obligations of AI in Voluntary Guardianship

In voluntary guardianship, establishing the rights and obligations of AI is a complex and difficult task. Therefore, it is necessary to clarify the role, rights, and obligations of AI in voluntary guardianship and propose solutions.

Firstly, it needs to be established that AI is a tool. Therefore, in intentional guardianship, AI can only take on the function of assistance. AI is a computer system with tool properties. Therefore, AI can be used as an auxiliary tool to help observe the state of the ward and provide information to the guardian to help the guardian better deal with the daily affairs of the ward.

Based on the above points it is easy to see that AI is not suitable to be a guardian. AI developers are better suited to be the primary guardians than the AI itself. Developers are more familiar with the operation of AI and can make good use of AI to deal with various matters.

In addition, AI is not a legal subject and naturally cannot be held liable under tort law. When AI causes unfavourable guardianship, only the developer can be held responsible for the product. Therefore, AI is only suitable to be a product rather than a civil subject in all aspects. When there are unfavourable reasons that can be attributed to AI, the developer's responsibility can be reduced appropriately.

3.5 Notary Supervised AI Voluntary Guardianship System

It goes without saying that, as an independent third-party certifying body, the involvement of a notary in the entire process of intended guardianship is of great significance. The notary's credibility and proof can help the guardianship agreement to be implemented better, and can also fix the rights and obligations of both parties to the agreement. In the whole process of intended guardianship, the notary organisation is able to carry out a full range of certification supervision before, during, and after the process, to ensure the integrity of intended guardianship.

In the presence of a notary public, the ward and the developer of the AI sign an Intended Guardianship Agreement. The notary not only witnesses the signing of this one agreement but also examines the AI product. In other words, the notary examines the AI's system settings, the condition of the machine, etc., and elaborates on the performance of the AI, the degree of intelligence (strong AI or weak AI), the storage, processing, and sending of the data, etc., in the notary's words. This practice is actually an *ex ante* preventive measure to prevent the inability to determine mutual responsibility in the event of future infringement disputes by fixing the state of the AI.

When the ward loses civil capacity, the AI developer sends the relevant product data to a notary for data preservation. The notary compares the relevant data to ensure that the AI has not been tampered with or processed. Throughout the guardianship process, the AI sends all behavioural data to the notary for evidence fixation. The notary uses blockchain technology to store the data to ensure the authenticity of the material. When there is a cause of infringement, the notary transmits the data to the court, which conducts a trial based on the principles of the rules of tort liability.

3. CONCLUSION

Currently, AI technology is not mature enough to be used well in intentional monitoring. It is impractical to rely solely on AI in the guardianship process. Involving developers can, on the one hand, make decisions that satisfy the true wishes of the ward, and on the other hand, resolve the present controversy that AI cannot become a civil subject. The developer signs an agreement with the ward, using AI to monitor the guardian's behaviour and ensure that the ward's legitimate rights and interests are not violated. In addition, the data is transmitted to a notary for storage. When there is a cause of infringement, the notary transmits the various data retrieved by the AI to the court, which helps the court to determine the allocation of responsibility. Also in guardianship, the notary can supervise the signing of the agreement and confirm its content. This is effective in preventing disagreements that arise, while also strengthening the protection of the rights of the ward. At present

, AI still faces significant legislative, technical, and ethical limitations and obstacles, but this does not affect its ability to become a very important tool in the system of intentional guardianship.

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