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Research on Legislative Guarantee for Scientific and Technological Innovation in Anhui Province

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Abstract

The digital age has stimulated innovation momentum and brought about new types of digital risks. Legislative guarantee for scientific and technological innovation is the key to driving the new productive forces and supporting the high-quality development of the digital economy. At present, the national-level legislation on scientific and technological innovation in China presents a pattern of "strategic guidance - legislative strengthening - reform guarantee". However, in legislative practice, Anhui is faced with three dilemmas: the lack of digital justice in the legislative mechanism, the ineffective connection between legislative content and the development needs of new productive forces, and the insufficient integration and absorption of digital governance practice in the legislative process. To this end, with the allocation of rights and obligations as the basic category and liability regulation clauses as the normative carrier, an institutional framework should be constructed from three dimensions: comprehensive value guidance, innovation-oriented encouragement, and prudent and inclusive supervision. This will realize the in-depth integration of legal norms for scientific and technological innovation and local governance practice, and provide a solid legal guarantee for Anhui to build a source of scientific and technological innovation.

Keywords

Scientific and technological innovation; legislative protection; Anhui's legislation

1. Introduction

Contemporary scientific and technological innovation is reshaping industrial forms and growth models, and has increasingly become the core force driving the development of new productive forces and enterprise transformation. The innovation process is not only related to the construction of Chinese path to modernization, but also affects the evolution of the global strategic competition pattern. The Law of the People's Republic of China on Scientific and Technological

Progress revised and implemented in 2021, as well as the goal of the "innovation-driven development strategy" clarified at the Third Plenary Session of the 20th Central Committee of the Communist Party of China, has provided important guidance for the construction of China's scientific and technological innovation system and institutional supply. Entering the digital age, scientific and technological innovation has achieved full-factor penetration into the digital economy, and its influence has been transformed into new productive forces through a nonlinear mechanism.

Relying on its scale effect and network externality, the digital economy continues to empower various fields such as digital government affairs, digital culture, digital society and digital ecological civilization. Responding to the structural transformation of the digital age by legislative means, breaking the barriers to the flow of innovation factors, and resisting new risks through optimizing resource allocation are not only the implementation of the Overall Layout Plan for the Construction of Digital China, but also conducive to promoting the modernization transformation of the science and technology governance system.

General Secretary Xi Jinping emphasized that "to advance Chinese path to modernization, science and technology must take the lead, and scientific and technological innovation is the only way forward". During his inspection in Anhui, he endowed Anhui with the strategic positioning of "building an influential source of scientific and technological innovation, a gathering place for emerging industries, a new highland for reform and opening up, and a comprehensive green transformation zone for economic and social development". At present, Anhui adheres to science and technology taking the lead, gives full play to the initiative in innovation, promotes the formation of a unified pattern of scientific and technological innovation across the province, and continuously improves the capacity for original innovation. Against this background, carrying out research on legislative guarantee for scientific and technological innovation in Anhui is an inevitable choice to respond to the legal needs of the digital age and a practical task to serve local development.

Theoretically, exploring how Anhui guarantees the development of scientific and technological innovation through legislation can accumulate experience for the deepening of the topic of science and technology legislation in local theory. Since the reform and opening up, under the institutional framework of "twofold enthusiasm" of the central and local governments, the space for local legislation has been continuously expanded, and relevant theories have been gradually enriched. However, compared with other fields, the theoretical accumulation of local science and technology legislation is still weak. Therefore, starting from the theoretical dimension to explore how Anhui guarantees innovation through legislation is conducive to consolidating the theoretical foundation of local science and technology legislation. From a practical perspective, analyzing the realistic

dilemmas and feasible paths of Anhui's promotion of scientific and technological innovation legislation can provide specific references for local legislative practice. In the process of promoting scientific and technological innovation legislation, Anhui needs to coordinate multiple relationships, including the relationship between national rule of law and local rule of law, and the relationship between scientific and technological progress and legal systems, all of which are issues that must be carefully addressed in legislative design. At the same time, scientific and technological innovation legislation should also respond to the institutional needs of collaborative innovation under the background of the integrated development of the Yangtze River Delta, and provide a legal guarantee space for the cross-regional flow and in-depth integration of technical factors.

2. Development Pattern of Legislation on Scientific and Technological Innovation

Since the reform and opening up, China's legislation on scientific and technological innovation has experienced continuous changes in concepts and content, and its development context is closely related to the industrial revolution driven by information technology. The Decision of the Central Committee of the Communist Party of China on the Reform of the Scientific and Technological System issued and implemented in 1985 laid the policy foundation for subsequent science and technology legislation. Subsequently, the Law of the People's Republic of China on Scientific and Technological Progress issued in 1993 is known as the basic law in the field of science and technology, and has an extremely high status in both the construction of the rule of law and the development of science and technology. The Decision on Accelerating Scientific and Technological Progress in 1995 put forward the "rejuvenating the country through science and education" development strategy, that is, the idea that "science and technology are the primary productive forces". Since then, China's science and technology legislation process has entered a fast lane, and a normative system centered on the Law on Scientific and Technological Progress and covering many laws such as the Patent Law and the Law of the People's Republic of China on Promoting the Transformation of Scientific and Technological Achievements has gradually taken shape. By clarifying the relationship between rights and obligations, defining the responsibility boundary, the principles and code of conduct for scientific and technological innovation activities have been determined. Since the Fourth Plenary Session of the 18th Central Committee of the Communist Party of China put forward the strategic deployment of "comprehensively advancing the rule of law", China has adhered to scientific and technological innovation as the core and promoted comprehensive innovation within the framework of the rule of law. In 2021, The Data Security Law of the People's Republic of China and the Personal Information Protection Law of the People's Republic of China were successively issued, reflecting the governance

strategy of both fully releasing the value of data elements and protecting the personal privacy rights in the digital age. In 2022, the Central Committee of the Communist Party of China and the State Council issued the Opinions on Constructing the Basic Institutional System for Data and Better Playing the Role of Data Elements, which provided policy guidance for constructing China's basic institutional system for data. The Third Plenary Session of the 20th Central Committee of the Communist Party of China reaffirmed the "innovation-driven development strategy" and systematically explained the connotation of the times of "deepening the reform of the scientific and technological system".

Overall, the current legislation on scientific and technological innovation presents an institutional pattern driven by three aspects: "strategic guidance - legislative strengthening - reform guarantee", and a modern legal system for science and technology is taking shape. Vertically, through the mechanism of the central government establishing the basic framework through legislation, local governments refining it according to local conditions, and grassroots pilots feeding back and optimizing, an institutional chain connecting the upper and lower levels has been formed. Horizontally, there are both basic laws providing principled guidance, such as the revised Law on Scientific and Technological Progress in 2021, and a series of operational normative documents, such as the Regulations on National Science and Technology Awards. From a time dimension, the legislation on scientific and technological innovation has experienced an evolution from decentralization and departmentalization to domainization and systematization. However, restricted by the legislative orientation of "being broad rather than detailed" at a specific stage, the current norms still have problems such as many policy clauses, few operational rules, and insufficient connection between norms, and the institutional system needs to be improved. Entering the digital age, legislation on scientific and technological innovation needs to respond to the new demands of data element governance, integrate the concepts of informatization and intellectualization into institutional design, and at the same time establish the bottom-line constraints of safety and green development. The accelerated advancement of innovation activities in the digital age has also brought new risks, such as unstable information ecology, uncertain property rights and interests, and threatened privacy and security, which have profoundly changed the social context of institutional operation. Faced with the structural changes in social practice, only by safeguarding scientific and technological innovation by legal means can social stability and institutional continuity be maintained.

3. Multiple Challenges Faced by Anhui's Legislation on Scientific and Technological Innovation

At present, Anhui has made initial explorations in promoting legislation on scientific and technological innovation. In 2021, Hefei's Regulations on Scientific and

Technological Innovation, Anhui's first comprehensive legislation on scientific and technological innovation, was issued, which for the first time defined the collaborative mechanism of "basic research, technological research and development, transformation of achievements, talent support, science and technology finance, and intellectual property rights" in the form of legislation. A series of subsequent regulations have provided legal guarantees for innovation subjects. However, in the practice process, the legislative level is still faced with three structural challenges: the lack of digital justice in the legislative mechanism, the ineffective connection between legislative content and the development needs of new productive forces, and the insufficient integration and absorption of digital governance practice in the legislative process. These factors together constitute the realistic obstacles to the systematic construction of Anhui's legislation on scientific and technological innovation.

3.1. Lack of Digital Justice in the Legislative Mechanism

The formulation and continuous operation of any legal system rely on the legislative mechanism, which should not only respond to social changes through procedural justice, but also gather diverse demands through substantive justice and transform the demands into an operable normative system. However, the existing science and technology legislation has not fully expressed digital justice, and it is difficult to effectively respond to the governance challenges brought about by the "abuse of algorithms" and "technological revolution". First of all, the current legislative thinking is still bound by the traditional concept of justice and has not fully adapted to the demand of the digital age for the in-depth integration of technical logic and innovation laws, which restricts the theoretical depth and practical breadth required for scientific and technological innovation legislation. Secondly, the current legislative perspective is still biased towards the justice arrangement in the physical space, and fails to effectively regulate the injustice caused by algorithm operation and data flow in the virtual space. Plagued by the limited cognition and practice of traditional justice, and the legal norms caused by the blind spot in this spatial dimension, it is difficult to fully protect the rights and interests of citizens in the digital space, and the scientific and technological innovation legislation has not fully realized the balance of interests. Finally, in the digital age, due to data bias, inaccurate and opaque algorithm design and other reasons, the phenomena of "algorithm discrimination" and "digital injustice" may be aggravated, which not only unbalances the "power-right" structure, but also hinders the protection of the rights and interests of digital vulnerable groups, even hinders the realization of human rights and undermines social equity. In this context, it is urgent to balance the rights and interests of different subjects in the digital age through legislative means and safeguard digital justice.

3.2. Ineffective Connection between Legislative Content and the Development Needs of New Productive Forces

New productive forces take innovation activities as the core driving force, and their evolution track not only reflects the general laws of productive forces development, but also provides direction guidance for scientific and technological innovation legislation. However, an observation of the current legislative content shows that its content framework still mainly adheres to the logic of rights and interests allocation under the traditional industrial form, which neither forms an effective connection with the inherent requirements of new productive forces nor achieves in-depth integration with digital technology. It is difficult to provide institutional momentum for industrial transformation and upgrading, and even unable to effectively stimulate innovation activities in emerging fields.

From the perspective of evolution, although new productive forces are born out of the traditional economic model, their operation mechanism is reshaping the landscape of scientific and technological innovation, while the current legal system has not completed adaptive changes. The specific manifestations are as follows: First, for workers, the leap of new productive forces puts forward higher expectations for the skill structure and comprehensive quality of human capital, but the institutional incentives for workers' innovation activities are not perfect, and there are still gaps in the property rights arrangement to protect innovation income. This institutional vacuum makes it difficult for workers' creative potential to be fully realized, which fundamentally weakens the growth foundation of new productive forces. Second, for the means of production, although digital technology has significantly improved operational efficiency and reduced unit costs, the fragmented state of the institutional system has hindered the digital and intelligent transformation of traditional equipment. Third, for the objects of labor, their forms are rapidly changing from material forms to data forms. As a new type of operating tool, algorithms are promoting the in-depth digitalization of the objects of labor by virtue of their accurate identification and efficient scheduling capabilities.

On the one hand, the formation of new productive forces emphasizes original innovation and disruptive innovation, which has brought great changes in the field of scientific and technological innovation, while the current content of scientific and technological innovation legislation has not made adaptive changes. First of all, although new productive forces have significantly stimulated efficiency improvement, their inherent operation mechanism has also put forward many inadaptable challenges to the current legal system of scientific and technological innovation. For the core element of workers, the development of new productive forces puts forward higher requirements for their professional skills and comprehensive quality, but at the institutional level, there is still a lack of incentive measures for workers' skill innovation and a property rights mechanism to protect their innovation income. This institutional absence leads to the difficulty in fully

activating and releasing the potential innovation capacity of workers, thus hindering the formation of new productive forces from the source. At the same time, for the means of production, although digital technology has significantly improved production efficiency and reduced unit costs, the imperfect institutional system has hindered the digital and intelligent transformation of traditional means of production. In addition, for the objects of labor, their forms are rapidly changing from material forms to data forms. As a new tool, algorithms are promoting the in-depth digitalization of the objects of labor by virtue of their accurate identification and efficient scheduling capabilities.

On the other hand, in the process of reshaping the relations of production, new productive forces, although showing a strong institutional traction, present a pattern of "practice first, norms lag behind" in some emerging fields. Although there are various types of systems, their normative role still needs to be strengthened, which directly restricts the restrictive effect of the current scientific and technological innovation law on the new behavior patterns derived from new productive forces. Specifically, first, the boundary between legal relations among new workers, digital means of production and objects of labor is vague. The lack of definition makes it difficult for the innovation achievements spawned by new productive forces to be timely confirmed and protected by law. At the same time, the legislative organ cannot timely adjust legal norms through effective practical feedback and evaluation, making it difficult for norms to keep pace with practice. Second, restricted by the different forms of digital economy development in different regions and industries, the "new quality" elements at the productive forces level and the legal system are not in a simple linear state. This state makes it difficult for the law to accurately act on the productive forces, which to a certain extent slows down the release of new quality functions. At the same time, the development logic and institutional needs of the two main lines of "digital industrialization" and "industrial digitalization" are different, which is also easy to cause the dislocation and disconnection between the legal efficiency of scientific and technological innovation legislation and the actual social effect. Third, focusing on data as the core element, in terms of ownership definition, transaction circulation, income distribution and security protection, the practical exploration of new productive forces has far outpaced institutional supply. The insufficient regulation will bring great risks to the exchange and sharing of data, and may even alienate data rights into a "private power" serving personal interests, breaking the "power-right" structure and being unfavorable to the development and improvement of scientific and technological innovation legislation.

3.3. Insufficient Integration of Digital Governance Practice in the Legislative Process

Legislation on scientific and technological innovation needs to take into account the

inherent logic of legislative activities and the practical demands of digital governance, so as to establish an institutional framework that deeply integrates legislative logic and digital practice. However, at this stage, due to the lack of a connection mechanism among multiple subjects, the legislation on scientific and technological innovation is still insufficient in the observation and transformation of the practical dimension. Specifically, on the one hand, the legislative procedure has not fully absorbed the practical achievements of digital rule of law. Legislation on scientific and technological innovation should have the dual functions of factual description and value orientation, and play the role of the rule of law in guiding the value of innovation practice. But from the actual operation, the current legislation has not done a good job in the analysis and reconstruction of the new legal relations in the digital age, and the allocation pattern of rights and obligations is difficult to fully cover the practical fields of scientific and technological innovation and new productive forces, which restricts the space for technological progress and industrial upgrading. Faced with the new challenges brought about by the digital wave, the relevant legislation shows obvious lag and fracture: the collection and use of biometric information lack special institutional norms, the attribution of liability in autonomous driving scenarios is in a legal vacuum, and the boundary of content property rights of generative artificial intelligence has not been clarified. These problems have to a certain extent dampened the enthusiasm of innovation subjects. On the other hand, the legislative procedure has not fully explored the experience and materials of the digital transformation in various fields such as economy, politics, culture, society and ecological civilization, making it difficult to complete the leap from theoretical design to institutional practice. The economic operation in the digital age has broken through the traditional temporal and spatial boundaries, and has a profound impact on the content composition and evolution direction of scientific and technological innovation legislation. Faced with the great changes in the flow mode and allocation rules of innovation factors, the legislation on scientific and technological innovation urgently needs to build a new institutional framework that is compatible with mode innovation and rule reconstruction, and fully release the social value of the system while ensuring the normative effect.

4. Realization Path of Legislative Guarantee for Scientific and Technological Innovation in Anhui in the Digital Age

Each generation will encounter new problems unique to its era, and the solution of new problems inevitably calls for the creation of new rules. Although these new rules can draw experience from the existing system, their fundamental orientation must adapt to the needs of the future society and the concept of justice in the future. In this sense, the legislation on scientific and technological innovation in the digital age needs to take the allocation of rights and obligations as the basic category and the setting of liability clauses as the normative carrier, and seek institutional

balance between the tensions of abstraction and embodiment, dynamics and statics.

4.1. Guiding the Legislation on Scientific and Technological Innovation with a Four-in-One Value Paradigm

The essence of law is not to passively record social facts, but to actively shape behavior patterns. The contemporary legal context requires that the legislation on scientific and technological innovation must accurately grasp the evolution trend of digital technology, deeply understand the inherent laws of scientific and technological changes, put the development needs and safety protection of human beings at the priority level of values through institutional design, and ensure that the achievements of scientific and technological innovation truly benefit human society. Legislation on scientific and technological innovation should not only comply with the own logic of digital technology, but also realize value coordination in the interest pattern of multiple subjects, so as to resolve potential conceptual conflicts, prevent ethical risks, and form an organic unity of innovative development and safe operation. With the rise of new productive forces, the value orientation of scientific and technological innovation legislation should transcend the traditional dual framework of efficiency and fairness, and build a four-in-one value system with "efficiency as the foundation, fairness as the core, safety as the guarantee, and human rights running through it", so as to guide legislative activities with comprehensive value pursuit and stimulate innovation potential.

First, in the dimension of efficiency, the legislation on scientific and technological innovation should clarify the institutional legitimacy of digital means fully empowering the efficiency of production and circulation. The development of new productive forces requires data elements and digital technology to empower the improvement of efficiency. The efficient circulation, sharing and use among different production factors enrich and reconstruct the efficiency value, which is the first thing to be confirmed by the legislation on scientific and technological innovation. Second, from the legislative perspective of digital justice, the legislation on scientific and technological innovation should further expand the legal connotation of fairness and justice through institutional integration. The institutional expression of fairness and justice in the process of scientific and technological innovation legislation is essentially a rational construction of the concept of justice in the times, and also better protects the right of individuals to pursue a better life. Third, science and technology security is an important part of the national security system and has important strategic significance. Forging a science and technology security system is not only a competition of technical capabilities, but also a comprehensive test of the country's strategic planning, governance mechanism optimization and the level of legal construction. Implanting the concept of security into the institutional system through scientific and technological innovation legislation not only promotes national security and development, but also provides solutions for confronting

global scientific and technological hegemony and diverse transnational challenges. Finally, respecting and protecting human rights is a constitutional principle of China and a basic requirement for all legislative activities, which requires that the legislation on scientific and technological innovation needs to strengthen ethical values so as to realize and protect the value of human rights. There are many ethical risks in the digital age, such as data security problems and privacy infringement risks that may be brought by artificial intelligence technology. Transforming the protection of human rights from the theoretical level to real practice through legislative means can not only effectively prevent risks, but also protect digital human rights and avoid the lack of values in legislative activities.

4.2. Strengthening the Innovation-Oriented Legislative Guidance

To encourage innovation, it is first necessary to establish an institutional arrangement covering the whole process of talent development. Anhui's science and technology legislation should institutionalize and confirm the various rights enjoyed by scientific researchers and form a clear list of rights and interests. Specifically, it is necessary to cover key contents such as the setting of the empowerment ratio in the ownership of job-related scientific and technological achievements, the mutual recognition of the practicing qualifications of cross-border scientific research talents, and the circumstances of fault tolerance and exemption for scientific research dishonesty, so as to stimulate the internal vitality of innovation subjects. At the same time, it is necessary to improve the capital support pattern with the participation of multiple subjects. On the one hand, through the form of laws and regulations, clearly stipulate the growth ratio of government investment in science and technology, and establish a performance evaluation system matching the special science and technology funds. On the other hand, it is necessary to support the establishment and development of market-oriented scientific and technological innovation funds, and confirm the legitimate rights and interests of social capital participating in scientific and technological innovation activities by legislative means. Explore the implementation of the "negative list" management system for scientific research funds, expand the discretion of universities and enterprises over scientific research funds, and improve the efficiency of resource allocation. In addition, Anhui's legislation on scientific and technological innovation also needs to focus on strengthening the two sectors of data governance and intellectual property protection. In terms of data protection, the opening boundary of public data should be defined through legislation, the basic rules for the compliant circulation of enterprise data should be established, and a hierarchical and classified data protection mechanism should be constructed. In terms of intellectual property protection, it is necessary to explore the establishment of a fast right confirmation channel and a punitive compensation system for infringement, and set up special intellectual property protection clauses in core industries to provide more targeted

legal guarantees.

4.3. Guaranteeing the Implementation of the System with a Prudent and Inclusive Supervision System

Guaranteeing the effective implementation of various institutional arrangements of Anhui's scientific and technological innovation legislation with supporting supervision systems is the key to grasping the dynamic balance between "inclusiveness" and "prudence". First, improve the whole-process supervision in the field of science and technology services. Clarify the access conditions, practicing norms and corresponding legal liabilities of professional service institutions such as intellectual property agencies and technical evaluation institutions through legislative means, and realize the whole-process and closed-loop supervision of the practicing behaviors of service institutions. Second, explore the establishment of inclusive supervision rules for specific regions and new scientific research models. In innovation resource-intensive areas such as free trade zones and high-tech zones, more open supervision standards can be set through legislation; for new scientific research organization forms such as the "tackling key problems by open bidding" model, focus on supervising the fairness of project selection, the standardization of process management and the clarity of achievement ownership, and establish a mechanism combining dynamic tracking and in-process and post-event supervision. Third, explore the introduction of prudent supervision innovation tools in the field of cutting-edge technology. We can learn from the institutional experience of the "regulatory sandbox", select enterprises that meet the conditions stipulated by laws and regulations to enter the sandbox to carry out technological research and development and application testing that break some restrictive clauses at the current stage, and at the same time ensure that "reform can only be carried out within the scope of the law". Fourth, strengthen the dynamic adjustment and feedback loop of the supervision system. Establish a "direct public opinion" channel for reflecting problems, widely collect the evaluation opinions of innovation subjects such as enterprises and scientific research institutions on the supervision effect through various means such as network platforms and special forums, and incorporate relevant suggestions into the supervision efficiency evaluation system to promote the accurate and dynamic connection between the supervision system and innovation practice.

5. Conclusion

Strengthening the legislative guarantee for scientific and technological innovation is an important support for Anhui to build the strategic positioning of "three places and one zone", and also an inevitable requirement for serving the national strategy of the integrated development of the Yangtze River Delta. The technological iteration and risk evolution in the digital age put forward higher requirements for

local legislation. Anhui's legislation on scientific and technological innovation should take the allocation of rights and obligations as the core and liability regulation as the guarantee, coordinate the three dimensions of value paradigm, legislative orientation and supervision system. It should not only respond to the legislative demands of digital justice, integrate the values of fairness, efficiency, safety and human rights into institutional design, but also strengthen the innovation-oriented legislative guidance and build a full-cycle institutional support covering talents, capital, data and intellectual property rights. What's more, it is necessary to establish a prudent and inclusive supervision system to seek a dynamic balance between stimulating innovation vitality and preventing systemic risks. Relying on the innovation mechanism to provide legal guarantee for scientific and technological innovation, lay a solid legal foundation for the development of new productive forces, and provide an Anhui model for local scientific and technological innovation legislation.

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