Research on the Construction of the Rule of Law in Cyberspace under Multi-subject Co-governance

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Abstract

In the 21st century, the Internet has developed rapidly, cyberspace has been expanding, and various problems in cyberspace have followed: telecommunications fraud cannot be cured; all kinds of dangerous public opinion is flooding cyberspace; rumors are everywhere, causing serious problems loss. Behind all these phenomena is the lack of full play of the government's leadership role, the lack of normalized governance mechanisms for governance entities such as functional departments and social groups, and the lack of awareness of prevention among various cyberspace entities. Therefore, in order to build a Multi-subject cyberspace legal system, it is necessary to give full play to the leading role of the government; establish a normalized governance mechanism; and strengthen the awareness of prevention and strengthen the supervision of network information. Coordinate and cooperate among all entities to jointly promote the process of legal construction in cyberspace.

Keywords

Cyberspace; Legal Construction; Synergy and Cooperation; Multi-subject Co-governance.

1. Background

Tim Berners Lee opened the door to the internet age in the 1990s. Since then, the interconnected cyberspace has been expanding day by day, riding on the east wind of rapid economic development. As of January 2021, the number of Internet users in the world is as high as 4.66 billion, of which Chinese Internet users account for one-fifth of the global Internet users, and the total number of Internet users has reached 989 million. In June 2021, the number of Internet users in China reached 1.011 billion. The Internet penetration rate is 71.6%.

As cyberspace continues to expand, cybersecurity issues ensue. Telecom fraud has been rampant in cyberspace since the 1990s, and in the early 21st century, telecom fraud quickly spread across the country. Since 2010, the amount of telecommunications fraud in the country has increased year by year, and it was most rampant in 2016.

In addition to telecommunications fraud, the extent to which personal information is leaked on the Internet should also be taken seriously. According to data from the China Internet Research Report, the leakage of personal information in cyberspace has always accounted for a high proportion. Since 2016, personal data breaches have accounted for more than one-fifth of the total number of people suffering from cybersecurity problems, and in 2016, the number reached 32.9% of the total number of Internet users. (The data comes from the 39th to 47th Statistical Report on the Development of China's Internet Network from the China Internet Network Information Center. http://www.cnnic.net.cn/hlwfzyj/).

In addition to the above two kinds of network security problems, personal devices have been infringed by Trojans and viruses, and personal account and password theft are also very serious, according to the relevant data of the "Statistical Report on the Development of China's Internet Network", since 2014 The proportion of personal devices affected by Trojans and viruses and the theft of personal accounts and passwords accounted for nearly 50% of the total number of

Internet users, and then slowly declined, but the total proportion of each year still exceeded a quarter of the total number of Internet users. (The data comes from the 39th to 47th Statistical Report on the Development of China's Internet Network of the China Internet Network Information Center. http://www.cnnic.net.cn/hlwfzyj/).

According to the above description, we can understand that with the rapid development of the Internet era, the problems existing in cyberspace are increasing. It can be said that the network problem is far more than the above, the "keyboard man" who insults others on the Internet, insults the country and martyrs on social software, and arbitrarily fabricates rumors to spread, all of which have caused heated discussion and a lot of attention in society.

2.　There are Deficiencies in Cyberspace Governance at this Stage

Although at this stage, China already has a relatively complete legal system for the governance of cyberspace, there are still some problems in specific operations, resulting in the process of legalization of cyberspace being hindered. Therefore, in order to accelerate the process of the rule of law in China's cyberspace, it is necessary to sort out these problems one by one and find countermeasures.

2.1.　The Government's Leadership Role has not been Fully Utilized

First of all, the governance of China's cyberspace relies on the traditional governance model of "control + punishment", and it is this governance model that has led to the failure to give full play to the leadership role of the government. Today, governments govern cyberspace by issuing various regulatory controls and documents to constrain cyber behavior. But the management of cyberspace is more complex than it really is, so it cannot be fundamentally solved.

Second, the position of the government in solving cyberspace problems restricts the government's leadership in cyberspace. When the government solves the network problem, the measures it takes are top-down, and the entire process of dealing with the problem is rigorous and credible, and this process requires a lot of time and manpower and material resources, which leads to the lack of timeliness for problem solving.

Finally, the various government departments are managed separately, and the rights and responsibilities between the various departments are not detailed enough, which also leads to the government's fatigue in responding to cyberspace issues. At present, the Cyberspace Law Enforcement System of the Chinese Government is a pyramid-shaped law enforcement system with vertical hierarchical management. But nowadays, with the rapid development of the network, the public's dependence on the network is very high, and (According to article 8 of the Cybersecurity Law, the State Cyberspace Administration is responsible for the overall planning and coordination of network security efforts and related supervision and management efforts. The competent departments for telecommunications under the State Council, public security departments, and other relevant organs shall, in accordance with the provisions of this Law and relevant laws and administrative regulations, be responsible for network security protection and supervision and management within the scope of their respective duties.) today's cyberspace requires a more perfect governance system.

2.2.　Lack of Normalized Governance Mechanisms

First of all, China lacks normalized cyberspace governance organizations, institutions and supporting resources and facilities; secondly, the normalization of network governance needs to have laws to follow, and the rules for network security are insufficient; finally, the transformation of the governance model requires a lot of time and sufficient experience, so China's normalized governance mechanism also needs a certain amount of precipitation.

2.3. Lack of Awareness of Prevention

Whenever there is a security problem in cyberspace, the main body of governance is passive to solve the problem, and the awareness of prevention is not strong. The reasons for this are as follows: First, the lag of the law. As is well known, there are always problems before there are solutions, but this law is doomed to the lag of the law. Therefore, the desired effect cannot be achieved. Second, the prevention mechanism is not perfect. Cybersecurity issues are different from other problems, network security problems are difficult to predict, always appear out of time, making it difficult to prevent.

3. The Necessity of Multi-agent Co-governance of Cyberspace

3.1. There are Loopholes in Government Governance

As mentioned above, cyberspace is an ideological realm that is very different from the real world. The causes of problems in cyberspace are complex, diverse, and uncontrollable. Therefore, only when public power organs work together with all sectors of society to allow all sectors of society to participate in cyberspace governance can the desired results be achieved.

We can find from the above content that when the public power organs exercise their powers, they cannot do without the help of relevant social organizations, and the same is true for network security, and the network service providers and social organizations are one of the most important components of cyberspace.

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3.3. The Complexity of Cyberspace

The complexity of cyberspace requires Multi-agent participation in Co-governance. Internet subjects use mobile phones or computers to carry out activities in cyberspace, which is anonymous and difficult to trace; people from all walks of life are of mixed qualities; the coverage of cyberspace is global; exchanges between countries are not limited by geography and time; and the complexity of cyberspace can be seen.

National governance belongs to "rigid governance", and social organizations participate in cyberspace governance, which belongs to "flexible governance". Only by combining the two can we meet the challenges posed by the complexity of cyberspace.

3.4. The Need to Maintain Social Order

The process of building the rule of law in cyberspace and the process of building the rule of law in society present a positive correlation, so out of the need to maintain social order, cyberspace needs to be governed by multiple subjects and cooperate to participate in the construction of the rule of law.

First of all, the disorder in cyberspace must be man-made, and the disorder in cyberspace must have an impact on real society. Secondly, the healthy and orderly development of cyberspace is one of the important guarantees for the stability maintenance of the real social order, and the stability of the cyberspace order can drive the effective operation of the real social order.

4. Build a Multi-subject Co-governance System for Cyberspace Rule of Law

Based on the above, the construction of a Multi-subject cyberspace legal system has a practical necessity in solving network security problems. As far as the governance system is concerned, a top-down vertical system should be implemented, and at the same time, the division of labor among the main bodies at all levels should be clearly coordinated and cooperated, and various things and problems in cyberspace should be jointly handled, breaking the single government governance mode, and building a legal pattern in cyberspace with a new and diversified linkage-based overall coordination method. [1]

4.1. The Government Plays a Leading Role

In the process of building the rule of law in cyberspace, the government has an unshirkable responsibility to be in a dominant position. As an organ of public power, the government exercises the function of managing public affairs on behalf of the state, so the government needs to serve as the "general commander" of the construction of the rule of law in cyberspace, break the previous unified governance model, and give full play to its leading role.

Enhance the government's overall planning capacity

The government should strengthen decision-making and overall coordination, cooperate with various entities in the division of labor, coordinate operations, severely crack down on cybercrime, manage network public opinion, and special governance in areas such as e-commerce. The government should make a unified deployment and clarify the work requirements of unified powers and responsibilities among various departments to ensure that all work is implemented in specific departments.

Incentivize all parties to participate in governance

The government should be brave as a pathfinder, actively explore effective ways to govern cyberspace, and unite social organizations and netizen groups to participate in cyberspace governance. The government should take into account the resources, manpower, and governance systems at all levels, encourage all parties to actively participate in cyberspace governance, and achieve a new pattern of coordinated governance.

Governance is both rigid and soft

First, strengthen information and data security, with the mandatory provisions of the law to ensure that information and data security is not infringed by law; second, increase the intensity of flexible policy services, such as the establishment of local network security management organizations, or the establishment of evaluation systems to create a "clear cyberspace".

Efficient operation of the regulatory mechanism

The government is in the position of the general leader, and should supervise the governance behavior and achievements of all parties, and evaluate or correct their shortcomings. The first is to standardize the daily management form of network service providers and punish violations of laws and regulations. The second is the management of web services that are regularly exposed in cyberspace. Finally, it is a convenient channel for the rights and remedies of netizens.

4.2. Establish Normalized Governance Mechanisms

An efficient and orderly governance system should be based on a normalized governance mechanism, so it is important to establish a normalized governance mechanism to ensure the rapid pace of the construction of the rule of law in cyberspace.

Collaborative innovation

Cooperative innovation means that while performing its own duties, each entity should give convenience to other parties to better exercise their functions and powers. Moreover, when exercising its authority, it does not stick to its own terms of reference, and interacts and

consults among various subjects, taking the construction of the rule of law in cyberspace as the primary goal of its work.

Disclosure of Information

Because each subject is at a different level, the information obtained by each body is different. In order to maximize the power of each subject, it is necessary for each subject to disclose the information obtained without infringing on personal privacy and trade secrets.

Checks and balances

Mutual checks and balances do not mean that the various subjects are opposed to each other, but that the actions of other subjects need to be supervised on the basis of coordination and cooperation. Therefore, we should strengthen the cultivation of the values of each subject, establish social consensus, shape the public spirit of society, and continuously cultivate the ideological consciousness and moral self-discipline of each subject.

Feedback mechanism

On the one hand, it is necessary to increase the participation of all parties and broaden the participation channels for the construction of the rule of law in cyberspace; on the other hand, it is also necessary to build a corresponding feedback mechanism to provide a more convenient information platform for all subjects.

4.3. Each Entity Establishes a Prevention Mechanism

For the construction of the rule of law in cyberspace, the most important point is to sound the alarm bell for a long time, strengthen the awareness of network security problems, and strengthen the construction of prevention mechanisms.

Strengthen the monitoring and management of network information

The government should increase the sensitivity to bad information, and under the premise of protecting the basic rights and freedoms of netizens, monitor and delete bad information in a timely manner to prevent the expansion of adverse effects. Severely crack down on illegal and criminal activities on the Internet to prevent harm.

Enhance online and offline communication

The order chaos or security problems in cyberspace are often not a single cyber incident, but are closely related to the real society, and the contradictions or problems in the real society accumulate, resulting in disorder or problems in cyberspace. Therefore, it is very necessary to strengthen the docking of online and offline and establish high-speed and effective communication channels.

Cultivate netizens' awareness of the rule of law

The first is to vigorously promote the spirit of the rule of law and make the vast number of netizens clearly aware that "cyberspace is not an illegal foreign land." Do not believe in rumors, do not spread rumors, and cultivate the ability to distinguish between true and false information. The second is to cultivate netizens' awareness of the rule of law, think rationally about disorderly phenomena and security issues in cyberspace, and actively respond to relevant departments. The last is to enhance the awareness of fraud prevention and arm yourself with the idea of the rule of law.

5. Conclusion

In order to bring the principle of legal tax system to enter the hearts of the people, it requires every staff member of the tax authority to enforce the law in the tax law enforcement process and actively popularize the law.First, strengthen the legal training of tax law enforcement personnel, and establish the first front of tax law enforcement. On the one hand, advanced technology can be used to keep real-time video recording of the whole process of tax law

enforcement, so that when tax law enforcement disputes arise, they can be consulted.On the other hand, an electronic display screen for tax enforcement will be set up to make the progress of tax enforcement public in accordance with the law, so that the tax process is "visible" and that taxpayers can supervise tax enforcement.Second, strengthen tax publicity-related laws to enhance taxpayers' legal awareness.We will carry out special activities to popularize tax law, so that taxpayers can know the rights they enjoy according to law in the process of tax revenue.In the process of handling tax business, publicize tax-related knowledge, and gradually enhance the authority of the law in the hearts of taxpayers.

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