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ChatGPT Class Generative Artificial Intelligence Criminal Subject Problem Thinking

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Abstract

With the ongoing exploration of artificial intelligence research and development, traditional AI research has shifted towards generative artificial intelligence. This transition has given rise to various legal and ethical issues associated with generative AI. At its core, generative AI is fundamentally a large language model that relies on extensive algorithms and training data to produce results. While its infrastructure remains centered around the language model, it differs significantly from previous search engine technologies. Therefore, ChatGPT generative artificial intelligence is still a "tool", which cannot independently generate consciousness and does not have the ability to identify and control. The "human-like" characteristics shown by ChatGPT generative artificial intelligence in the process of use cannot be used as the basis for judgment that it should become the subject of criminal responsibility. The research on the relevant legal issues of ChatGPT generative artificial intelligence should be based on the framework of China's existing legal system.

Keywords

Generative artificial intelligence; Subject of criminal responsibility; The ability to identify; Control ability

1. The Basic Principle of ChatGPT Class Generated Artificial Intelligence

The basic principle of ChatGPT class generation artificial intelligence is simply to give it any length above, and then use its own model to produce the next word. If you give me the word "I", it will produce two words like "I think" so that a complete statement can be obtained by repeating it. ChatGPT can do only this, and all the answers we see are based on the same model.

ChatGPT can answer the long content by combining the next word with the previous one, and then the next, and repeating it repeatedly, which is the process of "self-regression generation" [1]. As the previous generation of "I think", it takes "I think" as a new above at the next generation, and then generates a new version of "I want to eat", and then the next time it produces "I want to eat" as the new content above.

Two main elements lead to GPT generation, any above and the training model. You can think of the model as the brain of GPT, and the different ones above and even the same ones produce different subparagraphs because every "human" brain is not the same. In fact, it can be used to use "parrot tongue" to make an image metaphor, the parrot taught by different owners is different. For example, some masters teach "I want to eat", so it will say this sentence, while some masters teach "I am a bird", the next time someone says "I", the parrot will say the latter sentence.

However, we understand that parrots can be unpredictable and occasionally mimic speech. To prevent GPT from generating arbitrary sentences, it is essential to train the model effectively. And the way to train is to give GPT a huge amount of excellent learning materials so that all the learning is completed, which is equivalent to GPT can finish in a very short time and we may take decades or even hundreds of years to learn what we can finish, and it will not have a forgetting curve.

2. Can ChatGPT Generation Artificial Intelligence Become the Subject of Criminal Responsibility

At present, there is affirmation and negation in the academic circle on whether ChatGPT can become the responsible subject of criminal law, but from the point of view of most scholars at present, the majority of people hold the negative theory. A few scholars also believe that it should be taken into account as a new subject of criminal responsibility and should be legislated accordingly. Scholars who hold a positive view, from the perspective of legislation, believe that at present, should not be limited to the scope of the traditional subject of criminal responsibility [2].

2.1 The Criminal Responsibility Subject of ChatGPT Class Generated Artificial Intelligence Is Definitely

Scholars who hold the theory argue that generative artificial intelligence should take responsibility for its actions under the control of "free will". At present, China's criminal legal system is still built on the basis of traditional personality. It is difficult to include artificial intelligence in this system, but the breakthrough of generative artificial intelligence to free will to some extent makes it the possibility of becoming the subject of criminal responsibility [3].

At present, ChatGPT class generated ai related crimes can be divided into three cases. The first is the crime carried out by generative artificial intelligence as a criminal tool. The second is the crime committed by generative artificial intelligence as a criminal object. The third is the crime committed by ChatGPT itself as a "human".

The author thinks that ChatGPT generation artificial intelligence is a new thing, but as mentioned above, ChatGPT's intelligence is only the output of text by using algorithms and training. The reason why people think it's like a "person" is that developers use different training models and single-word solders to create a large "library" in which ChatGPT has learned how to "think". But the human brain is extremely complex and delicate, and for now, generative artificial intelligence is not enough to break away from its own consciousness of self-thinking, or human thinking. For the emergence of ChatGPT class-generated artificial intelligence, we apply the right perspective to it. In fact, its basic principles are not difficult to understand.

2.2 The Criminal Liability Subject of ChatGPT Class Generated Artificial Intelligence Is Negative

Scholars who hold the theory are not appropriate to be the subject of criminal responsibility if ChatGPT generation artificial intelligence can be independent from the perspective of "self-consciousness". Based on the theory of freedom of will, scholars analyze whether ChatGPT constitutes the subject of criminal responsibility. ChatGPT generated artificial intelligence is not an animal with "consciousness", nor can it become the intended subject of natural person's will. From the perspective of the current calculation principle of ChatGPT, the reason why it can show the same language expression as human beings still depends on the computational force of program [4]. Some scholars who hold the negative theory believe that ChatGPT cannot be "human" at all, so it should not be included in the category of "human" stipulated by law. They define "intelligent man" not "human" from the perspective of the life of "human", or the origin of natural nature. Completely negative scholars believe that "man" can be produced naturally through the choice of nature, is an independent and living life, is a born and emotional advanced animal. So ChatGPT can't be a "person" at this point.

Marx once said, "consciousness is the product of the long-term development of the material world, the functional attribute of the human brain, and the subjective image of the material world." People will feel that ChatGPT answers questions in the same way as humans, as if they were in their own way. But they are not actually the subject of consciousness, but just the collection of existing information [5]. The traditional ethical view holds that the premise that the behavioral subject has the ability to be responsible is to be able to make decisions according to their own "self-will" and "self-moral" [6].

The author believes that ChatGPT generative artificial intelligence is a bit of a failure to recognize that ChatGPT generated artificial intelligence is not able to be delivered naturally as human beings. However, it is too metaphysical if the theory of "freedom of will" can be used as the judgment standard of ChatGPT generative artificial intelligence as the subject of criminal responsibility. "Free will" originally originated from Augustine, who believed that "free will" was created by God. The term "free will" was later applied to philosophy. Hegel believes that the philosophy of free will refers to the philosophical discussion on the nature of human free will. In Hegel's view, freedom is dominated and controlled by the actions of his own thinking under the self-resistance of no external interference or external interference. Therefore, we cannot simply judge whether ChatGPT generated artificial intelligence has independent will to determine whether it constitutes the subject of criminal responsibility.

3. ChatGPT Class Generated Artificial Intelligence Subject Qualitative

The author thinks that the research we are doing now is all the research on the current laws in China's existing legal framework. We must study the criminal law on the current effective criminal law in China, but we cannot get out of this framework, otherwise all the research will become worthless.

3.1 Discussion of The Recognition and Control Ability of ChatGPT Class Generated Artificial Intelligence

The premise of a crime is to have criminal responsibility, and to have criminal responsibility, the subject of the action must have criminal responsibility ability, in other words, must be a suitable subject in the criminal law, and crime is objectively an act, must require the actor to express his inner meaning to the outside and implement the process. In this way, if a criminal act is required, it must be required that the act is under the control of the will of the actor. The behavior in the criminal law should have the following characteristics: one is to be governed by the consciousness of people, the other is to be able to change and affect objective things, and the third is to be expressly prohibited in the criminal law [7]. So crime is actually equal to will plus action. The author believes that whether ChatGPT generation artificial intelligence can constitute the subject of criminal responsibility cannot be used as a reference to whether it has the characteristics of "humanoid" as a reference, but should return to the essence of crime.

3.1.1 What Is the Ability of ChatGPT Generation Artificial Intelligence

The criminal law of China is a criminal law that strictly follows the basic principles of legality of crime and punishment. According to professor Zhang Mingkai's theory, "ability is the manifestation of people's conscious initiative and the characteristic of people's understanding of the real world and dominating the world. The so-called ability to recognize is the ability of the actor to understand the world. The actor can realize the nature of his or her behavior, and it can process and obtain the content he or she has known in the brain.

Although ChatGPT1 from 2018 to today's GPT4 has developed at an amazing rate, its own algorithm infrastructure has not changed radically, and the difference is only the increase in learning resources, from the initial 5GB to the present 45 TB. Its reference volume has also risen from 117 million to 10 billion [8]. From this point, ChatGPT class-generated artificial intelligence is only based on the "behavior" made by algorithms and programs. What the founder of GPT said in an interview was that GPT's "self-aware" remarks themselves were not credible, and why did users think GPT, like a person, could answer any question? You can even talk to us, but these are just the result of a lot of training materials.

As a kind of cognitive force, recognition ability requires the human brain to process through a certain process to form a natural thinking, so as to reflect the objective world, Engels said in the theory of anti-duolin: "What is thought and consciousness, where they come from, then you will find that they are the products of the human brain, and that man is the product of nature, and that develops in their environment and with that environment [9]. The human brain is complex and sophisticated. Now most deep neural network models are mimicked in the human brain, which is built on this basis, but in fact, People still know little about the structure and structure of the basic nerve endings of the human brain, the law of operation, the realization of advanced brain function, etc. Therefore, in brain science, there is still a lack of reliable supporting materials for the processing mechanism of human brain information and the formation mechanism of human intelligence [10]. In other words, the degree of neuron learning of ChatGPT generation artificial intelligence depends on the limitations of human beings. From this perspective, how can ChatGPT generation artificial intelligence break through the limitation and have independent consciousness?

It can usually be divided into general recognition ability and criminal law recognition ability. General recognition ability refers to the ability of individuals to distinguish between right and wrong, good and evil, beautiful, ugly, fat and thin cognition ability. It is a comprehensive psychological phenomenon of individual consciousness, cognition, intelligence and skills, which is a standard for judging the meaning of individual criminal law [11]. Therefore, there is no sense of autonomy.

3.1.2 ChatGPT Class Generated Artificial Intelligence Control Ability

It is generally believed that recognition ability is the basis and premise of control ability, and without recognition ability, there is no control ability. This reflects that the actor realizes that his behavior is "harmful", and at this point, he can prevent or control the result. There is no problem with constitutionalism. The ability of responsibility is the prerequisite for the possibility of disexamination of the actor, and also the basis for identifying right, good, and evil.

The author believes that the "control ability" and "behavior" shown by ChatGPT generation artificial intelligence are only the extension of the behavior and control of developers or users.

3.2 Whether ChatGPT Class-generated Artificial Intelligence Can Be Used as the Dialectic Demonstration of Criminal Subject

As mentioned above, we study academia to focus on the present moment, Article 17, 18, 19 and 30 of the criminal law of China have made clear provisions on the subject of criminal responsibility and the ability of criminal responsibility, that is, only natural persons and units can assume criminal responsibility as criminal subject. Through the above ChatGPT class-generated artificial intelligence is only based on algorithms and programs to embody the characteristics of "humanoid humanity". Therefore, at present, it is impossible to become the subject of criminal responsibility.

Can ChatGPT generation artificial intelligence become the subject of criminal responsibility in the future? The author believes that this problem will not occur in a short time, because whether it is how complex the neural structure and reconstruction of the brain from a medical perspective, whether it's mechanical from the stack of algorithms and programs, ChatGPT generation artificial intelligence is enough to perfect "reprocessing" the human brain. Even in today's medicine, it is still impossible to fully explain the operation law of human brain. To become the subject of criminal law, we must have cognitive factors and will factors, while ChatGPT generation artificial intelligence itself is only a tool attribute, and naturally it does not have subjective factors. If we want to take ChatGPT generation artificial intelligence as the subject of criminal responsibility, it is certain to have a great impact on China's existing legal system. As far as the criminal law of our country is concerned, only property and personal punishment, if the punishment is imposed on it is money or imprisonment. However, scholars who argue that ChatGPT generation artificial intelligence should be the subject of criminal responsibility should not talk about this problem. If only for conviction and no punishment, what's the point of a conviction?

4. Conclusion

With the rapid development of ChatGPT generation artificial intelligence, it is normal to worry, because as a new thing, it may not be perfect in many ways, Therefore, there is no objection from the perspective of legislative foresight to advocate that such generative artificial intelligence should be taken as a criminal subject to achieve the purpose of regulation. It is not only possible to explore its "sin" but to keep quiet about "punishment".

The author admits that the writing of this article due to the deficiency of their own theoretical level, only for some of the problems made some simple views, for some of the views and the explanation of proper nouns is not very in-depth, but also hope that readers can correct.

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