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HOW TAKEOUT PACKAGING UNDERMINES CONSUMER RIGHTS: AN EMPIRICAL INVESTIGATION

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Abstract: This paper, through empirical investigation, exposes the hidden violations of consumer rights in takeout packaging and attempts to propose corresponding countermeasures. The research findings reveal that takeout packaging issues pose invisible infringements on consumers' right to information, right to opt, right to just and fair dealings, and right to food safety. Consequently, this paper suggests establishing and improving laws, policies, and standards for takeout packaging, constructing a comprehensive and efficient regulatory mechanism, enhancing diversified dispute resolution mechanisms, and clarifying platform responsibilities and obligations.

Keywords: Takeout packaging; Hidden violations; Consumer rights; Right to information; Right to opt; Right to just and fair dealings; Right to food safety

1 INTRODUCTION

In recent years, China has entered a new phase of economic development, characterized by profound adjustments in economic models and industrial structures. The rapid growth of digital economy, platform economy, and sharing economy has been particularly notable. The takeout industry, as a product of the "lazy economy" and "fast-paced lifestyle" under the internet economy, has flourished alongside the expansion of platform economies. According to the "Annual Report on China's Sharing Economy Development (2019)" released by the State Information Center, the revenue share of the online food delivery industry experienced a significant increase from 1.4% to 10.6% between 2015 and 2018, with an average annual growth rate of approximately 117.5%, which is 12.1 times that of the traditional catering industry. [1]By 2021, the number of food delivery users had reached 540 million, and the revenue share of online food delivery had risen to 21.4%, doubling from 2018, thereby occupying a pivotal position within the catering industry. [2]While consumers initially seemed to enjoy increasing convenience and benefits, over time, the market has seen the emergence of numerous violations of consumer rights that are difficult to detect, with takeout packaging being a prime example.

Takeout packaging refers to containers, materials, and auxiliary items used in the circulation process to protect products, facilitate storage and transportation, and promote sales, employing specific technical methods. [3]In practice, as the use of takeout packaging has surged, some hidden issues have emerged: (1) Pricing issues, such as opaque pricing and excessive charges; (2) Quality issues, including packaging damage, leakage, and poor heat retention; (3) Environmental issues, such as over-packaging and plastic pollution. These issues infringe on consumer rights, disrupt market order, and exacerbate environmental pollution.

The initial purpose of setting packaging fees for takeout meals was to reduce the use of plastic shopping bags, guide consumers to use plastic bags rationally, and promote "green consumption". [4]However, the reality appears to deviate from this objective. Therefore, our research team raises the following concerns: First, is the pricing of takeout packaging fees reasonable? Second, in the process of charging packaging fees, are consumer rights respected and protected? Can consumers clearly understand the composition of these fees? Lastly, is the hygiene and safety of the packaging up to standard? Can it ensure that food safety is not compromised?

Given this context, this study aims to expose the hidden infringements on consumer rights in takeout packaging through multi-faceted investigations and propose corresponding recommendations and countermeasures. The ultimate goal is to establish and improve legal, policy, and standard systems, construct efficient regulatory mechanisms and diversified dispute resolution mechanisms, protect consumer interests, reduce environmental pollution, and promote the green and sustainable development of the takeout industry.

2 EMPIRICAL RESEARCH DESIGN

To comprehensively understand the hidden issues in the takeout industry and explore their infringements on consumer rights, this study primarily employs a combination of questionnaire surveys and in-depth interviews. For the questionnaire survey, convenience sampling and purposive sampling methods were used, distributing questionnaires to target consumer groups through social media, online forums, and email. To further investigate the underlying reasons behind merchants' packaging fees and their choice of packaging materials, the research team conducted face-to-face or telephone interviews with various takeout merchants in Guangzhou.

In analyzing and discussing the research results, this study utilized the Wenjuanxing platform and its SPSSAU platform for statistical analysis of questionnaire data. Interview transcripts were machine-transcribed and then manually organized and categorized by the research team to ensure accurate and in-depth understanding.

2.1 Questionnaire Survey

After literature review, focus group discussions, and preliminary surveys, the research team designed the "Takeout Packaging Issues Questionnaire." The questionnaire consists of 24 questions, divided into demographic information and main sections. The demographic section collects basic information such as gender, age, and occupation. The main section comprises four scales: (1) Perception of packaging costs, including transparency and reasonableness of fees; (2) Perception of packaging quality, including issues encountered (e.g., cost, damage, insulation, environmental friendliness); (3) Packaging material types, including the materials provided by merchants and consumers' awareness and approval of the packaging; (4) Environmental friendliness of packaging, including consumers' understanding and use of the "none" option and their willingness to choose eco-friendly packaging. Except for multiple-choice questions, some survey questions used a Likert five-point scale, ranging from "strongly disagree" (1) to "strongly agree" (5).

From March to September 2024, the research team distributed the questionnaire widely online. By September 31, 2024, a total of 261 questionnaires were distributed, with 242 valid responses collected, yielding a response rate of 92.7%. The respondents were from regions including Guangdong, Shanghai, Beijing, and Shaanxi. Demographically, the gender ratio was 21:29 (male:female), with ages primarily between 18-50, and occupations including students, office workers, and freelancers. Given that takeout consumers are mainly young students and office workers, the sample is representative.

2.2 In-depth Interviews

From March to September 2024, the research team conducted semi-structured in-depth interviews with takeout merchants in Guangdong. The interviews aimed to comprehensively understand the current state of takeout packaging among merchants. In addition to collecting basic information and service profiles, the interviews focused on two issues: (1) The charging of packaging fees by takeout merchants; (2) The choice of packaging materials by takeout merchants. In selecting interviewees, the research team employed a combination of multi-stage random sampling and purposive sampling, ensuring sample diversity and randomness while considering the differences in packaging practices among merchants. All interviewees were informed of the interview's purpose, procedures, and confidentiality measures before the interviews began, and their informed consent was obtained.

3 ANALYSIS AND DISCUSSION OF RESEARCH RESULTS

Drawing on the investigation findings, this study identifies four primary areas of consumer rights infringements in takeout packaging: the right to information, the right to opt, the right to just and fair dealings, and the right to food safety.

3.1 The Right to Information

Article 8 of the "Law of the People's Republic of China on the Protection of Consumer Rights and Interests" (hereinafter referred to as the "Consumer Law") stipulates that consumers have the right to request information on the price, origin, producer, purpose, performance, specifications, ingredients, production date, shelf life, quality certification, usage instructions, and after-sales services of goods or services. The questionnaire data indicates that when asked whether merchants should provide detailed packaging information, the majority of consumers (72.8%) expressed a desire for sufficient information to make informed choices and only 29.5% of consumers believed that packaging information transparency was relatively high.

Further analysis of consumers' understanding of packaging details when ordering revealed that most consumers lacked sufficient information. Specifically, 65.9% were unaware of the type, specifications, performance, and grade of packaging materials; 50.57% were unclear about packaging costs; 32.18% were unaware of detailed packaging fees; and 28.74% were unaware of hidden charges. Only 6.13% of consumers claimed to know all the above information. This highlights a significant lack of transparency in takeout packaging information, with most consumers making choices without adequate knowledge.

3.2 The Right to Opt

Article 9 of the "Consumer Law" stipulates that consumers have the right to independently choose goods or services. However, our in-depth interviews reveal that most takeout businesses generally follow industry practices by sourcing from the same suppliers, resulting in very limited options for packaging materials and undermining consumer freedom of choice. The survey results show that while preferences for different types of meal boxes vary by cuisine, plastic materials still dominate merchants' choices, accounting for 86.21% of packaging. The use of eco-friendly materials such as paper boxes (33.33%) and biodegradable meal boxes (30.65%) has increased, while foam boxes (9.96%) and aluminum foil (18.01%) are less common but still hold a market share. For packaging bags, ordinary plastic bags remain the most common type, accounting for 83.14%, followed by biodegradable plastic bags (31.42%), paper bags (36.4%), and cloth bags (11.11%).

Regarding consumers' perception of merchants' packaging choices, only 16.09% of consumers reported being offered diverse packaging options, indicating that the majority (83.91%) were not given the right to opt. Additionally, 10.73%

of consumers felt that the packaging chosen by merchants was unsuitable. Therefore, It is evident that the majority of takeout businesses have not placed sufficient emphasis on or adequately considered the personalized needs of consumers. All in all, they have neglected their market responsibilities because of their failure to expand the range of packaging materials and safeguard consumers' right to opt.

3.3 The Right to Just and Fair Dealings

Article 10 of the Consumer Law stipulates that consumers have the right to just and fair dealings, including quality assurance, reasonable pricing, and accurate measurement, when purchasing goods or receiving services. They also have the right to refuse coercive trading practices by business operators. However, in the current online food delivery industry, platforms control the actual information about goods or services and possess strong dynamic pricing capabilities. They often exploit this ability to engage in "personalized pricing" for consumers, failing to disclose the true prices of goods or services. Additionally, individual consumers are often unable to determine whether the online prices they see are consistent with those seen by other consumers. [5]This frequently results in excessively high consumer prices.

The survey results reveal that a significant portion of consumers (55.17%) agree that food delivery packaging fees are too high. Among them, 31.42% of consumers "somewhat agree," while 23.75% "strongly agree." Only a small minority either "somewhat disagree" (5.75%) or "completely disagree" (3.07%).

To further explore this issue, analysis of the answers to the question "In the past six months, which of the following unreasonable packaging fee practices have you encountered?" reveals the following probabilities of occurrence (see Table 1):

Table 1 Hidden Issues in Food Delivery Packaging Fees

Issue	Example	Probability of Occurrence
Excessive fees	Packaging fees account for an excessively large proportion of total expenses, even exceeding the price of the goods.	42.15%
Unreasonable pricing methods	Businesses charge by "portion," calculating fees based on the quantity or volume of goods, requiring consumers to pay for multiple portions even when fewer bags are used.	42.15%
Overcharging or multiple charges	Charging packaging fees for items that do not require additional packaging, such as canned beverages.	26.82%
Inconsistent fee standards	Significant differences in packaging fees for similar goods across different businesses, or even within the same business for items of the same size and weight but different flavors.	24.90%
Disproportionate fees to material quality and cost	Businesses use low-quality, inexpensive materials but charge high fees.	36.02%
Other issues	Consumers cannot cancel duplicate packaging fees; The milk tea shop enforces the use of insulated bags for drink delivery; there is a discrepancy in packaging fees between online and offline orders; and the labeling of packaging fees is unclear.	0.77%

In summary, the above analysis results indicate that high packaging fees and various unreasonable charging practices constitute coercive trading behaviors by takeout businesses, infringing on consumers' right to just and fair trading.

3.4 The Right to Food Safety

To analyze the prevalence and frequency of food safety issues caused by takeout packaging, the research team conducted a frequency distribution analysis of the questionnaire item, "Have you encountered the following issues when ordering takeout?" The data shows that among consumers who selected "poor insulation, susceptibility to moisture, poor sealing, etc.," occasional encounters were the most common (57.73%), followed by frequent encounters (23.71%), and always encountering such issues was the least common (4.12%). For "chemical residues, unsanitary conditions, environmental unfriendliness, etc.," occasional encounters were the most frequent (51.61%), followed by frequent encounters (30.11%) and always encountering such issues (7.53%).

These results may seem to be positive. However, the truth lies in the fact that many consumers may not directly perceive the hazards of packaging materials in daily consumption. Issues such as chemical residues, unsanitary conditions, or environmental unfriendliness not only reflect inadequate physical properties of materials but may also indicate the potential migration of harmful components. For example, poorly insulated and sealed packaging cannot effectively isolate external contamination, potentially leading to food moisture, oxidation, or microbial contamination, accelerating food spoilage. Chemical residues primarily originate from additives in packaging materials, such as plasticizers and bisphenol A. Unsanitary packaging conditions may lead to microbial contamination, such as bacteria and mold. Additionally, harmful components in materials may migrate into food during storage and transportation. For instance, phthalates and bisphenol A in plastic packaging may leach into food when exposed to high temperatures or oily foods, while fluorescent whitening agents in paper packaging may transfer to food upon contact. [6]Therefore, the survey results still demonstrate that the occasional or frequent incidence of non-standardized packaging in takeout food

should not be disregarded, as it may pose significant health risks to consumers and result in serious food safety concerns, which could lead to substantial violations of consumers' right to food safety.

4 COUNTERMEASURE ANALYSIS: PROTECTING CONSUMER RIGHTS

Based on the above analysis of empirical investigation data and literature review, the research team has formulated some countermeasures aimed at enhancing consumer rights protection within the rapidly evolving food delivery industry.

4.1 Establishing and Improving Laws, Policies, and Standards for Takeout Packaging

Currently, China's legal regulations on takeout packaging are scattered across laws such as the Consumer Protection Law, Price Law, Food Safety Law, Environmental Protection Law, and Product Quality Law. Basic consumer rights such as the right to information, right to opt, and right to just and fair dealings are only broadly outlined in the Consumer Protection Law. The Solid Waste Pollution Prevention and Control Law provides guiding provisions on the responsibility for pollution caused by takeout packaging waste. Although the Circular Economy Promotion Law and the Clean Production Promotion Law mention environmental requirements for takeout packaging, they lack detailed implementation guidelines.[7]

At the policy level, while there are policies addressing food safety and environmental management, specific packaging requirements for the takeout industry are still lacking. Although the government advocates for eco-friendly packaging and reducing plastic pollution, the lack of systematic policy support for takeout packaging has led to practical challenges for businesses in implementing environmental policies, such as cost control and supply chain management, resulting in limited enforcement.

In terms of standards, a dedicated standard system for takeout packaging has yet to be established. Existing standards primarily focus on food quality and safety, with insufficient detailed regulations on the selection, use, and recycling of packaging materials. This lack of clear guidance for producers and consumers in choosing packaging materials poses challenges for the green development of the takeout industry.

Establishing and improving laws, policies, and standards for takeout packaging does not refer to a single regulation but rather a scientific system comprising multiple laws, policies, and standards related to takeout packaging. Vertically, this system should include national laws and regulations, local government standards, and industry standards set by associations and major platforms. Horizontally, it should cover the production, sale, use, and recycling of takeout packaging, ensuring comprehensive management from source to end.[7]

4.2 Constructing a Comprehensive and Efficient Regulatory Mechanism

First, introduce a business behavior review mechanism to strengthen the examination and supervision of merchant qualifications, ensuring that they meet market entry standards with good credibility and service quality, thereby reducing disputes caused by improper business practices. Government departments should enhance business license approval processes, strictly control market entry thresholds, and establish comprehensive review mechanisms covering product development, pricing, and packaging to promptly identify and correct behaviors that may harm consumer rights.[8]

Second, strengthen the dual regulatory responsibilities of administrative departments and takeout platforms, forming a multi-stakeholder governance model led by the government, with industry associations and the public as supplementary forces. Accelerate the construction of an online regulatory information system, enhance the data analysis capabilities of industrial and commercial administrative departments, and improve the collection and management of online market entity information. By establishing a comprehensive database of online business entities and implementing credit rating functions, ensure the precision and efficiency of regulatory work. Regularly conduct spot checks on takeout packaging, requiring producers, users, and sellers to rectify non-compliant packaging materials within a specified period and guiding them to transform their production and sales methods.[9]

4.3 Improving Diversified Dispute Resolution Mechanisms

Platform-internal dispute resolution mechanisms, characterized by independence, convenience, and professionalism, provide consumers with efficient avenues for resolving disputes. This study analyzed data on the outcomes of complaints regarding packaging issues on platforms. Consumer satisfaction with platform complaint handling showed some divergence, with the highest proportion being "somewhat satisfied" (40.71%), followed by "neutral" (47.14%). This indicates that most consumers hold neutral or somewhat satisfied attitudes toward the resolution outcomes.

However, relying solely on platform-internal complaint mechanisms is insufficient. Expanding judicial remedies is essential. In practice, the amounts involved in consumer-merchant disputes are often small. Considering litigation costs, specialized small claims courts and online small claims platforms can be established, with relaxed standards for small claims in consumer disputes. Additionally, strengthening consumer associations' litigation rights and establishing consumer dispute arbitration tribunals can effectively address issues such as lengthy litigation time and adducing evidence difficulties.[10]

4.4 Clarifying Platform Responsibilities and Obligations

From the perspective of basic legal relationships, the completion of a takeout transaction involves three parties: the consumer, the platform, and the merchant. As an intermediary in civil law, the platform is obligated to provide contracting opportunities and facilitate the completion of transactions. Specifically, in the takeout ordering process, the platform must provide accurate merchant information, supervise merchants in disclosing packaging information, and facilitate the formation of contracts between consumers and merchants. Simultaneously, the platform must ensure that consumers have the right to autonomously choose whether to use packaging during the contracting process.

From the perspective of platform responsibilities, takeout platforms, as profit-making entities that distribute profits to shareholders and other investors, inherently bear social responsibilities. Given the significant influence of takeout platforms in social life, they should actively promote resource conservation and environmental protection through various means within the platform. Leveraging their extensive user base and communication capabilities, platforms should advocate for eco-friendly packaging materials and reduce unnecessary packaging through internal and external channels.

5 CONCLUSION

This study, through an in-depth investigation of the hidden takeout packaging issues, reveals the infringements of consumers' rights to information, right to opt, right to just and fair dealings, and right to food safety in takeout packaging. To address these issues, we propose several countermeasures, including establishing and improving laws, policies and regulations for takeout packaging, constructing efficient regulatory mechanisms, enhancing dispute resolution mechanisms, clarifying platform responsibilities and obligations to protect consumer rights, and promote the sustainable development of the takeout industry.

Finally, the issue of takeout packaging is not only a matter of consumer rights protection but also a concern for people's livelihoods, national grassroots rule of law, and social sustainable development. Through this research, we hope to draw widespread attention from all sectors of society and promote the introduction and improvement of relevant laws and policies, contributing to the construction of a healthier and greener takeout ecosystem. Future research could further explore how technological innovation can optimize takeout packaging solutions and how international cooperation and exchange can be promoted in a globalized context to jointly address this global challenge.

COMPETING INTERESTS

The author has no relevant financial or non-financial interests to disclose.

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THE CHINESE LOGIC OF FAIR COMPETITION REVIEW UNDER THE THRESHOLD OF INSTITUTIONAL CHANGE: RECONSTRUCTION OF THE GOVERNMENT-MARKET RELATIONSHIP BASED ON THE TRANSFORMATION OF THE SOCIALIST MARKET ECONOMY SYSTEM

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Abstract: Adjustment of government-market relations in the context of deepening transformation of the socialist market economy system is not only the core proposition of the theoretical innovation of the socialist market economy with Chinese characteristics, but also the strategic issue of systematic openness in the transformation of the global governance system. This paper takes the fair competition review system as a research sample, and based on the cross-analytical framework of institutional economics and regulatory jurisprudence, systematically explains the regulatory logic and realization path of this institutional innovation on the dynamic adjustment of government-market relations in the transition period. The study shows that the evolution of China's fair competition review system is characterized by the synergistic evolution of the triple logic of politics, economy and rule of law - in the political dimension, it is the dialectical unity of political leadership and system supply under the centralized and unified leadership of the Party Central Committee, and in the economic dimension, it reflects the deepening demand for the reform of market allocation of factors to break administrative monopoly, while in the rule of law dimension, it shows the deepening demand for the reform of market allocation of factors to break administrative monopoly. The dimension of the rule of law highlights the inherent requirements of the transformation from administrative control to the rule of law governance paradigm. Through the construction of the "pilot-propagation" system implementation mechanism, the dynamic balance between the central coordination of regulatory authority and local exploration of system innovation has been realized, forming a paradigmatic model of gradual and adaptive system innovation. From the perspective of system effectiveness, this model not only effectively regulates the path-dependent inertia of the traditional planned economy system, but also prospectively prevents the externality risk of the neo-liberal governance paradigm, and provides an institutional innovation paradigm for the emerging market economies to build a modern economic governance system in which the government is competent, the market is effective, and the rule of law is in order. The theoretical value of this paper lies in the fact that by revealing the composite power mechanism of political potential, market law and rule of law in the process of China's institutional change, it not only expands the explanatory dimension of institutional economics theory in transition economies, but also, more importantly, constructs an autonomous knowledge system of the basic theories of competition policy; and its practical revelation lies in the fact that it provides an operational system optimization for the construction of a new era of perfecting the market-determined factor allocation mechanism and advancing the rule of law-oriented business environment. Its practical revelation is that it provides an operable system optimization path for improving the market-determined factor allocation mechanism and promoting the rule of law business environment in the new era.

Keywords: Institutional change; Fair competition review; Government-Market relations; Socialist market economy; Chinese logic

1 INTRODUCTION

1.1 Background of the Study

Global competition policy has been converging under the dual impetus of the WTO rules system and regional trade agreements, but this process is encountering the deep-seated challenge of the differences in institutional endowments among countries. As the largest developing country, the uniqueness of China's socialist market economy system is centered on the dialectical unity of "effective market" and "competent government": on the one hand, it needs to follow the universal law of market economy and interface with international rules, and on the other hand, it must be based on the basic national conditions of the primary stage of socialism to safeguard the economy. On the one hand, it is necessary to follow the general law of market economy and connect with international rules, and on the other hand, it is necessary to safeguard economic sovereignty based on the basic conditions of the primary stage of socialism. Against this background, the fair competition review system, as a "system converter" connecting government governance and market mechanism, has become a key institutional innovation to crack the stubborn problem of administrative monopoly and build a national unified market. By the end of 2023, China's various regions and departments had reviewed a total of 1,412,700 newly introduced policies and measures, cleaned up 3.4 million policies and measures of

various types, and repealed, revised and corrected 75,000 policies and measures that violated the law (Synthesizing the relevant data in the "Annual Report on China's Anti-Monopoly Law Enforcement 2019" of the Antimonopoly Bureau of the State Administration for Market Supervision and Administration, the "Annual Report on China's Anti-Monopoly Law Enforcement 2020" of the Antimonopoly Bureau of the State Administration for Market Supervision and Administration, the "Annual Report on China's Anti-Monopoly Law Enforcement 2022" of the State Anti-Monopoly Bureau and the relevant data in the State Antimonopoly Bureau's Annual Report on China's Antimonopoly Enforcement 2023); the effectiveness of the system has been improved year by year, vigorously safeguarding the nation's unified market and fair competition, and effectively breaking down barriers and obstacles to improving the basic system of a fair and competitive market economy. However, in certain industries or fields, private enterprises still face high barriers to entry, including administrative approvals, industry monopolies, local protection and other hidden barriers[1]. This shows that the release of system effectiveness still faces deep obstacles. In essence, the system's operational difficulties reflect the structural tension of the "government-market" relationship in the transformation of the market economy: how to maintain the government's macro-control capacity while curbing undue interference of administrative power in market competition constitutes the core proposition of modernized governance in China.

1.2 Literature Review

Two paradigms have been formed in the international academic research on the relationship between competition policy and the institutional environment: the new institutional economics school emphasizes the role of formal rules in constraining economic behavior [2], but it is difficult to explain the institutional efficacy of China's informal governance mechanisms; the theory of the developmental state pays attention to the shaping of market systems by political power structures[3], but its analytical framework of "inclusive institutions" is difficult to be compatible with the specificities of China's party-governance system. Scholars generally agree that the fair competition review system plays an important role in regulating administrative monopoly. Chi, I.D. and Hao, Y.D. point out that the fair competition review system can help fundamentally contribute to the construction of a unified national market, especially in solving the problems of serious discriminatory industrial policy interventions, market segmentation, and weak regulation of natural monopolies[4]. Liu Bingbing and Liu Jingjiao, on the other hand, from the perspective of restricting administrative monopoly-type competition policy, emphasize that the fair competition review system can enhance the level of competition in industries, reduce the degree of institutional transaction costs of enterprises and the degree of credit resource misallocation among enterprises[5]. Meanwhile, Meng Yanbei further adds that the fair competition review is one of the important measures of industrial policy reform to conduct competition assessment of industrial policy measures and minimize the damage of industrial policy measures to competition[6]. In the process of building a high-standard market system, the fair competition review system has been given an important role. Ma Jiantang mentions that the system has been made more complete by optimizing the business environment legislative protection, and has strengthened the equal protection of all types of market entities[7]. In addition, Sun Jin also believes that the fair competition review system can implant competition genes and provide optimization paths for government regulation, preventing administrative monopoly from the source and improving the efficiency of resource allocation[8]. Wang Xiaoye, on the other hand, suggests that in the process of revising the antitrust law, priority should be given to the problems that urgently need to be solved in law enforcement, and that the process of reforming China's economic system and the status quo of law enforcement agencies should be taken into account[9]. In addition, the relationship between the fair competition review system and industrial policy has received extensive attention. Liu Dahong reiterated the concept of equality of rules for market subjects, arguing that state economic intervention must not violate and destroy fair competition in the market[10]. while Chen Zhao et al. combined with historical lessons and pointed out that in the future, it is necessary to accelerate the transition from selective industrial policy to functional industrial policy, liberalize market access, and continuously promote the fair competition review system[11]. Ye Guangliang et al. constructed a government-enterprise interaction model and found that competition policy and functional industrial policy are conducive to improving the efficiency of market competition[12].

Although research on fair competition review has accumulated rich results, there are two major problems: first, the effectiveness of the self-review mechanism. Li Junfeng raised the issue that the "self-review" mechanism may be unable to review due to lack of capacity or unwilling to review due to distorted incentives[13]. He suggests that information on the competition compliance status of a specific administrative organization should be included in the reference factors of cadre appointment and dismissal assessment, and that an information processing mechanism should be constructed to solve the dilemma. Similarly, Jin Shanming criticizes the existing fair competition review system for the serious homogenization of textual norms of implementation and the single rigid mode of practice, and the lack of externalized constraints[14]. Second, how to promote the fair competition review towards the direction of rule of law. Scholars have put forward different opinions on this. Sun Jin calls for the advancement of fair competition review into constitutional review to promote the rule of law in competition[15]. Wang Xianlin proposes to clarify the basic status of competition policy and establish corresponding principles such as the basic requirements of the fair competition review system, so as to revise and improve the anti-monopoly law[16]. In addition, Zhang Zhanjiang, from the perspective of competition neutrality, argues that it is necessary to return the antitrust law to its constitutional linkage to improve its authority, and at the same time improve its general regulatory framework[17].

1.3 Historical Evolution

1.3.1 1993-2007: Institutional emergence - structural conflicts between legislative foundations and local protection

The enactment of the Anti-Unfair Competition Law in 1993 marked the historic start of the rule of law in China's competition policy. At the beginning of the legislative process, Article 7 of the Law explicitly prohibited administrative powers from restricting the free flow of goods, but in practice it was systematically dissolved by local protectionism. In 2001, a county government in Anhui Province restricted the entry of foreign fertilizer enterprises into the local market by setting up additional inspection links and levying surcharges, and was ultimately notified of the violation of the Law by the former State Economy and Trade Commission [18]. This case is one of the typical cases of anti-administrative monopoly in the early stage of China, which reflects the central government's efforts to combat local protectionism and provides a practical reference for the subsequent refinement of administrative monopoly regulation in the Anti-Monopoly Law. The effectiveness of the system at this stage is limited by two structural contradictions: first, the local government has alienated its administrative power into a market segmentation tool under the mechanism of fiscal decentralization and GDP assessment; second, the means of governance relies on after-the-fact investigation and punishment of individual cases and lacks a systematic preventive mechanism. A survey conducted by the Development Research Center of the State Council in 2004 showed that, out of the 3,156 questionnaires collected from enterprises, 59% of the respondents believed that the local government would protect important raw materials. Government will protect important raw materials, and even 69% of the questionnaire that the local government will limit the proportion of local enterprises to distribute foreign products, etc. [19], indicating that there is a significant gap between the legal text and the practical effect. This provides a realistic direction for the subsequent institutional innovation - how to curb the distortion of market competition by administrative power from the root.

1.3.2 2008-2015: Period of institutional exploration - antimonopoly law enforcement and institutional limitations

After the implementation of the Anti-Monopoly Law in 2008, the regulation of administrative monopoly was incorporated into the framework of the rule of law, but the inherent defects of the system design constrained the effectiveness of the practice. In November 2013, the Third Plenary Session of the 18th CPC Central Committee decided to "deepen the reform in a comprehensive manner", and put forward a new theory of "the market plays a decisive role and the government's role is better utilized", which raised the importance of fair competition to a new historical level. The Third Plenary Session of the 18th CPC Central Committee decided to "comprehensively deepen the reform" in November 2013, and put forward the new assertion that "the market plays a decisive role and the government plays a better role", which raises the importance of fair competition to a new historical level. At the Plenary Session, General Secretary leader pointed out that the Political Bureau of the Central Committee believes that, in the face of the new situation and new tasks and requirements, the key to comprehensively deepening the reform is to further form a fair and competitive development environment, further enhance the vitality of economic and social development, further improve the efficiency and effectiveness of the government, further realize social justice, further promote social harmony and stability, and further improve social harmony and stability, and further enhance the development of a fair and competitive environment. further promote social harmony and stability, and further improve the Party's leadership and governing ability. The "further formation of a development environment with fair competition" is a prerequisite for "the market to play a decisive role and the government to play a better role[20]." The case of the Shandong Provincial Department of Transportation designating passenger transportation enterprises in the province to use a specific GPS service provider in 2015 exposed the then existing system of decentralized antitrust enforcement powers and the need for a more efficient and effective government [21]. Institutional obstacles to decentralized anti-monopoly enforcement: the price regulator and the industry and commerce department delayed the investigation due to disputes over the division of powers, and it took five months to complete the enforcement. These contradictions pushed the decision makers to realize that fragmented enforcement actions are difficult to eradicate administrative monopoly, and there is an urgent need to build a preventive institutional system. From March 2015, "Several Opinions on Deepening the Reform of Institutional Mechanisms and Accelerating the Implementation of the Innovation-Driven Development Strategy" "Several Opinions on Promoting the Reform of Price Mechanisms" and other central government documents successively put forward the idea of "speeding up the establishment of a coordinated system of competition policy and industry, investment and other policies", "exploring the implementation of a fair competition review system", and "gradually establishing the fundamental status of competition policy", etc. Since June 2015, the NDRC and the former Legislative Affairs Office of the State Council have started to draft a fair competition review system. drafting the fair competition review system. The NDRC formed the manuscript on the basis of the results obtained from years of research on competition policy, and with reference to the experiences and practices of developed countries and regions in the coordination mechanism between competition policy and other economic policies. After consulting departments, governments, experts, scholars and enterprises for many times, the draft was submitted for consideration in accordance with the procedures [22].

1.3.3 2016-2021: System building period - system building and review mechanism innovation

The introduction of the State Council's Opinions on the Establishment of a Fair Competition Review System in the Construction of the Market System (Guo Fa [2016] No. 34) in 2016 marked the entry of the system into a systematic construction phase. Its innovativeness is reflected in three aspects: first, the establishment of a dual-track mechanism of "self-review + external supervision", which requires the policy-making authorities to conduct compliance review at the document drafting stage; second, the construction of 18 review criteria in four categories, namely, market access, flow of commodities, operating costs, and business conduct, forming the world's first complete indicator system for administrative monopoly; third, the establishment of a fair competition review system through policy clearance and the

introduction of a new system of indicators; and third, the establishment of a fair competition review system through policy clearance and the establishment of a new system of indicators. indicator system; third, through the combination of policy clearance and incremental review, Xu Shaoshi, Chairman of the Finance and Economic Committee of the National People's Congress (NPC), made the "Report of the Law Enforcement Inspection Group of the Standing Committee of the National People's Congress on the Inspection of the Implementation of the Law of the People's Republic of China on the Prevention of Unfair Competition" in the 24th Meeting of the Standing Committee of the Thirteenth National People's Congress (NPC) on December 23, 2020. As mentioned in the Report, in accordance with the principle of "who formulates, who examines", the relevant departments have carried out stock clearance and incremental scrutiny of normative documents, focusing on examining policies and measures relating to market access, industrial development, investment promotion, bidding and tendering, government procurement, and other policies and measures involving the economic activities of market entities. Since 2016, a total of 1.89 million documents have been sorted out nationwide, and more than 30,000 documents involving local protection, designated transactions and market barriers have been cleaned up and abolished. In addition, since the implementation of the fair competition review system in 2016, local pilots have provided key experience for the improvement of the system: Fujian Province has carried out a province-wide fair competition review publicity work, the Standing Committee of the Fujian Provincial People's Congress has launched a special review of fair competition in the market to clean up the market, Jiangsu, Anhui, Hainan and other places have included the work of fair competition review in the training system of the Party school, Beijing, Liaoning, Jiangsu and Zhejiang have carried out a fair competition Review of incentive work, Hainan introduced investment promotion, government-enterprise cooperation in the field of fair competition review guidelines, to carry out Hainan Province to implement the "General Office of the Central Committee of the Communist Party of China, the General Office of the State Council issued <Opinions on the strengthening of anti-monopoly and in-depth promotion of fair competition policies and measures> notice" assessment, Tibet set up the country's first fair competition review of the Council of the Expert Pool and has been a clear division of experts to assist the autonomous region of the departments Fair competition review related work, Zhejiang to carry out the province's fair competition review on-site sampling inspection work, Shanghai to carry out fair competition review will review the work of the assessment, Henan in the province's government departments above the county level to comprehensively establish a fair competition review of the internal specific agency unified review work mechanism (specific agency unified review), Zhejiang, Anhui and other places to carry out government procurement and bidding areas of the work of the special assessment, Inner Mongolia to establish the Inner Mongolia has established a system for publicizing typical cases of fair competition review, and Jiangsu, Shanghai, Anhui, Zhejiang and Hainan have launched fair competition review contests. However, the implementation of the system still has shortcomings, on May 9, 2020, the State Administration of Market Supervision jointly with the National Development and Reform Commission, the Ministry of Finance, the Ministry of Commerce and other four departments jointly issued the "Notice on Further Promoting the Work of Fair Competition Review", which puts forward the implementation of the Fair Competition Review System is a major decision-making deployment of the CPC Central Committee and the State Council to deepen the reform of the economic system. It is believed that the fair competition review work has achieved positive results, but there are still review rules still need to be improved, the system is not sufficiently rigid constraints, the ideological understanding of some regions and departments is not in place, and the quality of the review of policies and measures is incomplete and not high, among other salient issues[23]. This indicates that the formal review still needs to be deepened towards substantive fairness.

1.3.4 2022 to present: system deepening period - upgrading and deepening implementation of the rule of law

Strategies such as the construction of a unified national market, the construction of an optimized business environment, and the promotion of the development and growth of the private economy have pushed the fair competition review system deeper and deeper into the rule of law. 2022 The Anti-Monopoly Law, which was revised in June 2022, enshrined the fair competition review system into the law, and the Fair Competition Review Rules for the Bidding and Tendering Sector, which was led and issued by the National Development and Reform Commission (NDRC) on March 25, 2024, has filled in the Fair Competition Review System Rules blank, providing a reference for policy-making authorities to accurately understand and apply the review standards, helping to standardize the government's bidding and tendering policy-making behavior, solving the problem of barriers to bidding and tendering transactions set up by local government departments, and safeguarding a fair and competitive market environment. 2024 The State Council published the Regulations on the Review of Fair Competition in June 2024, establishing three breakthroughs: the scope of the review was extended to draft legislation, the It established a cross-sectoral joint review mechanism, and made it clear that the State Council regularly carries out inspections of the construction of fair competition review work mechanisms, the implementation of fair competition review work, and the handling of reports by local people's governments at and above the county level. 2025 On February 28, the Implementation Measures for the Regulations on Fair Competition Review were issued and formally came into effect on April 20, 2025. 2026 It further strengthened the rigid constraints on fair competition review, and established three breakthroughs. It further strengthens the rigid constraints on fair competition review, maintains a fair and competitive market order, and accelerates the construction of a unified national big market.

1.3.5 Evolutionary patterns: institutional resilience in progressive adaptation

The evolution of China's fair competition review system shows a distinctive feature of "gradual adaptation": in the early period (1993-2015), it was dominated by issue-driven reforms, responding to local protectionism through the Anti-Unfair Competition Law and the Anti-Monopoly Law; after 2016, it shifted to strategically-led innovation, and

systematization of the system was promoted by top-level design. Its success lies in two major institutional advantages: first, the centralized and unified leadership of the CPC ensures the stability of the reform direction, and the risk of institutional innovation is controlled through the mechanism of "central decision-making-local pilot-experience dissemination"; second, the combination of "effective market" and "competent government" is the key to the success of the reform. Second, the dialectical unity of "effective market" and "competent government" enables the system to respond to the demands of enterprises and to respond to technological changes (e.g., regulation of the digital economy) in a forward-looking manner. History has shown that the resilience of China's institutional change stems from practical rationality - while maintaining the stability of the core framework, it has absorbed local innovations and balanced diversified interests through gradual adaptation, providing a Chinese solution to modernize the governance of the world's transition economies.

2 THEORETICAL FRAMEWORK: THE TRIPLE LOGICAL INTERACTION OF INSTITUTIONAL CHANGE

2.1 Political Logic: Party Leadership and Institutional Provision of Policy Pilots

The construction of the socialist market economy system with Chinese characteristics has always been based on the centralized and unified leadership of the Party as the fundamental political guarantee. In the generation and evolution of the fair competition review system, the core of the political logic is reflected in the composite system supply mode of "top-level design leading-local pilot innovation-central authority absorbing". The Central Committee for Comprehensively Deepening Reform (formerly the Central Deepening Reform Group), as the core decision-making hub for institutional innovation, delineates the reform framework through strategic deployment (e.g., the Opinions on Establishing a Fair Competition Review System in the Construction of the Market System in 2016), and at the same time releases the space for local innovation by relying on the mechanism of policy pilots. For example, in 2017, the National Development and Reform Commission's Bureau of Price Supervision, Inspection and Anti-Monopoly refined the pilot experience into the "Implementation Rules for the Fair Competition Review System (Provisional)" (NDRC Price Supervision (2017) No. 1849) on the basis of summarizing the experience of carrying out the fair competition review work and the third-party evaluation of the pilots to form the "Pilot-Assessment-Promotion" closed loop of institutional reproduction. The uniqueness of this political logic lies in the fact that not only does it ensure the consistency of the direction of reform through the political authority of the Party, but also realizes the flexibility of the system with the help of the mechanism of "hierarchical experimentation", which effectively resolves the structural contradiction between the unified system of norms and the differentiated governance needs of the localities. As Deng Xiaoping once said, "a good system can make the bad people can not be arbitrary, a bad system can make the good people can not be fully good, and will even go to the opposite[24]". The essence of this is that the CPC, as a "meta-governor" of institutional change, has been able to transform political potential into institutional effectiveness, avoiding the risk of institutional fragmentation that is common in countries in transition.

2.2 Economic logic: Market-Oriented Reforms Forcing the Transformation of Government Functions

The economic logic is driven by the endogenous need to transform the socialist market economy system. Hurwitz (2006) rigorously demonstrates that under the neoclassical economic environment class, there is no other mechanism that can achieve a Pareto-optimal allocation with lower information costs than the competitive market process[25]. Also for the pure exchange neoclassical economic environment class, Jordan (1982) further proved that the competitive market mechanism is the one that utilizes the least amount of information and produces an efficient allocation of resources [26]. Does a similar conclusion hold in the case of an economic environment class that includes production? Tian (2006) gives an affirmative answer and a rigorous proof by applying mathematical tools such as differential topology and algebraic topology [27]. As Deng Xiaoping said, "Our leading organs at all levels are in charge of a lot of things that they should not be in charge of, that they cannot be in charge of, that they cannot be in charge of, and that can be handled very well as long as there are certain rules and regulations, and that they are put down there, in enterprises, undertakings, and social units, and that they are allowed to deal with them on their own really in accordance with the system of democratic centralization, but when they are brought collectively to the party and government leading organs and to the central government departments, then they will have a very difficult time [28]". With the strengthening of the decisive role of the market in resource allocation, the traditional industrial policy-led government intervention model is increasingly facing the problem of distortion of resource allocation caused by administrative monopoly. Between 2013-2022, the State Council further decentralized and liberalized the government, liberalized market access, and comprehensively implemented the negative list system for market access, and the list of management measures has been reduced by 64% compared with the beginning of the establishment of the system, and the administrative licensing matters have been All administrative licenses are included in the list management. Over the years, more than 1,000 administrative licenses have been canceled and decentralized, investment projects approved at the central government level have been reduced by more than 90%, production licenses for industrial products have been reduced from 60 to 10 categories, and the approval time for the whole process of engineering and construction projects has been compressed to no more than 120 working days [29]. Zheng Bei, deputy director of the National Development and Reform Commission, mentioned in the "Report of the State Council on Promoting the Development of the Private Economy" at the 10th

Meeting of the Standing Committee of the 14th National People's Congress on June 25, 2024 that "contradictions in terms of market access and access to factors are still more prominent, and implicit barriers to the entry of private enterprises into some key areas still exist. Some private enterprises still have difficulties in obtaining equal access to capital, talents, technology, data and other factor resources. The protection of private enterprises' property rights and entrepreneurs' rights and interests is still insufficient; laws and regulations to safeguard the development of the private economy are not yet perfect; administrative law enforcement and criminal justice have yet to be optimized; and cases of rumor-mongering, discrediting of private enterprises, and infringement of entrepreneurs' personal rights, personality rights, and property rights still exist. There are still shortcomings in the implementation of policies and the provision of services, and the phenomena of "glass door", "spring door", and "revolving door" still exist in the implementation of some policies, while the construction of integrity in government affairs in some places has yet to be strengthened. In some places, the integrity building of government affairs needs to be strengthened, and the problem of "serial debts" of enterprises still needs to be solved." This tension has forced the government to shift its functions from "pre-approval" to "post-approval supervision", and the fair competition review system is precisely the institutional vehicle for this transformation. The promotion of the negative list management mode (e.g., the matters covered by the Negative List for Market Access (2022 Edition) have been reduced by 64% compared with the establishment of the Negative List in 2018 [28]) is essentially to reconfigure the rules of "government-market" interactions through the delineation of the boundaries of the government's power. The evolution of economic logic shows that market-oriented reform is not only the goal of institutional change, but also the driving force of institutional innovation - when local governments compete to implement selective industrial support policies in pursuit of GDP growth, the resulting regional market segmentation has given rise to the need to strengthen the system of fair competition review, resulting in the formation of a "market failure-government failure" and a "market failure-government failure". The spiral evolution path of "market failure - government intervention - system correction".

2.3 The Logic of the Rule of Law: Evolution from Policy Review to Rule of Law-Based Safeguards

The logic of the rule of law has marked a profound transformation of China's competition policy governance paradigm. In the early days, the fair competition review mainly relied on self-examination by administrative organs, and there was a systemic flaw of "acting as both athlete and referee". On February 12, 2019, in order to strengthen the external support for the fair competition review, improve the quality of the review, ensure the effectiveness of the review, and promote the in-depth implementation of the fair competition review system, according to the Opinions of the State Council on Establishing a Fair Competition Review System in Market Opinions on Establishing a Fair Competition Review System in the Construction of the Market System (Guo Fa [2016] No. 34), the State Administration for Market Supervision and Administration (SAMSA) researched and formulated the Implementation Guidelines for Third-Party Evaluation of the Fair Competition Review on February 12, 2019, which was revised on April 26, 2023. On June 24, 2022, in accordance with the Thirty-Fifth Meeting of the Standing Committee of the Thirteenth National People's Congress Decision on Amending the Anti-Monopoly Law of the People's Republic of China, the fair competition review system was formally incorporated into the law, and Article 5 of the Anti-Monopoly Law stipulates that "The State establishes and improves the fair competition review system. Administrative organs and organizations authorized by laws and regulations with the function of managing public affairs shall conduct a fair competition review when formulating regulations involving the economic activities of market players." On June 6, 2024, Premier Li Qiang issued the Regulations on Fair Competition Review (State Council Decree No. 783), which further strengthened the external supervision of the fair competition review, and explicitly established mechanisms for building a comprehensive fair competition review of sampling, handling of reports, supervision, assessment and evaluation, and concurrent review. On February 28, 2025, the Measures for Implementing the Regulations on Fair Competition Review (State Market Supervision and Administration Order No. 99) was issued and came into force on April 20th. It further strengthens supervision and safeguards, provides for supervisory rectification, interviews, written reminders and urges, administrative recommendations and other dispositive measures for violation of the provisions of the Regulations, and makes good connection with the Anti-Monopoly Law, further strengthens the accountability, and safeguards the system to be implemented on the ground.

At the level of judicial practice, in the 2019 "Fujian Quanzhou Haisi Ship Appraisal and Consulting Co. v. Fuding City Bureau of Ocean and Fisheries Abuse of Administrative Power to Restrict Competition" (Fujian High People's Court. Administrative Judgment (2019) Min Xing Zhong No. 159), the Fujian Higher People's Court found that when the administrative act under appeal is the designation of a specific operator, the operator thereby excluded from participation in market competition has an As Haisi Ship Appraisal Company was not one of the appraisal organizations in the Fujian Provincial State-owned Assets Supervision and Administration Commission's filing list, it considered that the Fuding Municipal Bureau of Ocean and Fisheries, in the provisions of the implementation plan of the marine fishing vessel renewal and reconstruction project, had designated the fishermen of the fishing vessels involved to choose appraisal organizations to appraise the cost of the fishing vessels from the list of appraisal organizations filed with the Fujian Provincial State-owned Assets Supervision and Administration Commission, thereby precluding them from participating in the fair competition in the market of the cost of appraisal of the fishing vessels, and initiated the action. The court held that the plaintiff had an interest in the administrative act under appeal and was qualified as a plaintiff in accordance with the law. The "Fuding City Standardized Marine Fishing Vessel Renewal and Reconstruction Project 2015-2016 Annual Implementation Plan" (Dinghai Fishery (2018) No. 136) issued by the Fuding City Bureau of Ocean

and Fishery limits the scope of the relevant fishermen's selection of assessment organizations to the Fujian Provincial State-owned Assets Supervision and Administration Commission's filing directory, which in fact excludes other assessment organizations with corresponding assessment qualifications, including the Haisi Ship Appraisal Company, from participating in the market competition on a fair basis. This violates Article 32 of the Anti-Monopoly Law: "Administrative organs and organizations authorized by laws and regulations with the function of managing public affairs shall not abuse their administrative power to restrict or in a disguised manner restrict units or individuals to operate, purchase or use goods provided by their designated operators." The relevant provisions of the Anti-Monopoly Law were amended in 2022 to include the "sound fair competition review system" in the law, marking the upgrading of the review mechanism from a policy tool to an administrative body. The amendment of the Antimonopoly Law in 2022 included "improving the fair competition review system" in the law, marking a major breakthrough in elevating the review mechanism from a policy tool to a legal system. The deepening of the rule of law process is reflected in a triple shift: in terms of normative form, from scattered departmental regulations to systematic legal norms; in terms of implementation mechanism, from campaign-style cleanup to regularized supervision; and in terms of accountability, from internal notification and criticism to judicial accountability. However, it should be noted that the current system is still subject to such practical constraints as insufficient legalization of the review criteria (e.g., only 4 of the 18 review criteria have a clear legal basis). According to Articles 8 to 11 of the Regulations on Fair Competition Review, the review criteria are categorized into four types and 19 items; however, only four of the criteria have a clear basis in law or administrative regulations, while the remaining criteria are mostly in principle or lack the support of a higher-level law. For example: Article 8, Restrictions on market access and exit: based on Article 37 of the Anti-Monopoly Law, but the specific operational rules are not clear. Article 9, Restricting the free flow of goods: some of the provisions can be traced back to Article 34 of the Anti-Monopoly Law on territorial monopolization, but most of the provisions lack a direct legal basis. Article 10, Affecting the Cost of Production and Operation: It is only stipulated that "without the basis of laws or administrative regulations or without the approval of the State Council", it shall not be implemented, but the specific legal provisions are not specified. Article 11, Influence on production and operation behavior: Some provisions are related to the prohibition of administrative monopoly under the Anti-Monopoly Law, but they do not fully match) and limited scope of judicial review (abstract administrative acts are not justiciable), which reflects the progressive nature of the rule of law and points the way to the optimization of the system.

2.4 Interactive Mechanisms: Dynamic Equilibrium of the Triple Logic of "Pressure-Response-Adaptation"

The interaction of political, economic and rule of law logic is not a linear superposition, but rather a dynamic equilibrium realized through "pressure identification - subject response - system adjustment" in the system change. In the field of digital economy regulation, this interactive mechanism is particularly significant: market disorder caused by the uncontrolled expansion of the platform economy (pressure of economic logic) → the Central Reform Group deployed a "strengthened anti-monopoly" special action (political logic response) → the revision of the Anti-Monopoly Law to add a special chapter on the platform economy (rule of law logic solidification) → the pilot data elements market Fair competition rules (a new round of institutional adaptation). In this process, political logic provides authorization for reform legitimacy, economic logic sets the agenda for institutional innovation, and rule of law logic reduces transaction costs through rule stability. The synergy of the three is not spontaneous, but rather relies on the advantages of the socialist system with Chinese characteristics to achieve organic integration - the centralized and unified leadership of the Party ensures the consistency of the goals of the three logics, the laws of the market economy constitute the objective constraints on the design of the system, and the rule of law provides procedural safeguards for the balance of multiple interests. This dynamic equilibrium mechanism not only avoids the defects of mechanical determinism of "structure-function" in the Western theory of institutional change, but also transcends the paradigm of "market-government" dichotomy in traditional transition economics, and provides a new theoretical perspective for explaining the resilience of China's institutional innovation. It also transcends the "market-government" dichotomy paradigm of traditional transition economics, providing a new theoretical perspective to explain the resilience of institutional innovation in China.

3 INTERNATIONAL COMPARISONS AND THE UNIQUENESS OF THE CHINESE PROGRAM

3.1 Differences with the EU State Aid Control System

The difference in institutional design between China and the EU in terms of competition policy is essentially a fundamental divergence in the logic of economic governance and institutional objectives. The EU's State Aid Control (SAC) system is centered on the maintenance of free competition in the single market, emphasizing the prevention of market segmentation and distortion of competition by limiting member states' financial subsidies to specific enterprises. Its institutional logic is rooted in Article 107 of the Treaty on the Functioning of the European Union (TFEU), which requires member states to obtain the approval of the European Commission for any aid that may affect trade. In practice, there is a significant "double standard" in the EU: on the one hand, through the "Recovery and Resilience Fund" and other mechanisms to provide high subsidies to the local green industry (cumulative total of more than 65 billion euros in 2015-2024), but on the other hand, the Chinese electric car. On the one hand, it provides high subsidies to local green industries through mechanisms such as the "Recovery and Resilience Fund" (more than 65

billion euros in 2015-2024), while on the other hand, it launches countervailing investigations and imposes temporary tariffs on Chinese electric vehicles, reflecting the essence of protectionism under the appearance of "prioritization of rules" [30].

In contrast, China's fair competition review system is value-oriented in terms of "overall economic security" and focuses on balancing market competition with national strategic objectives. Its institutional design not only covers ex ante review of administrative monopolies (e.g., the Fair Competition Review Regulations require policymaking authorities to conduct review and assessment at the drafting stage), but also integrates regional development disparities through the goal of a "national unified market". For example, in response to local governments' efforts to protect industries in disguise through technical standards or localization rate requirements, the Regulations explicitly prohibit "disguised restrictions on market access" and enforce rectification through the central inspection mechanism. The root cause of this difference lies in the differences in governance structures: the EU, as a federation of sovereign states, needs to coordinate the interests of member states through supranational institutions; while China, as a unitary state, can rely on the centralized and unified leadership of the Party to achieve vertical synergy of "top-level design - grass-roots level implementation" and avoid the risk of institutional fragmentation [31].

3.2 Implications for Developing Countries

The evolution path of China's fair competition review system provides a paradigm reference for developing countries to solve the "system transplantation dilemma". The traditional theory of system transplantation often ignores the adaptability of the local governance structure, for example, Latin American countries directly introduced the U.S. antitrust law, but due to the lack of judicial independence, resulting in "paper compliance". The core of China's experience lies in embedding institutional innovation into the "party-government coordination mechanism", forming a dynamic balance between political authority and market laws. The specific performance is as follows: First, the political potential to drive the reform, the central deep reform group (committee) through policy pilots to release the local innovation space, such as Zhejiang Province in 2019 to take the lead in the introduction of third-party assessment mechanism, the fair competition review from procedural compliance to the substantive effectiveness of the second is the mechanism of social co-governance, through the assessment and evaluation (review of the effectiveness of the performance of the local government performance appraisal) and public participation (the opening of the State Council), and the public participation (the State Council). Secondly, the social co-rule mechanism, through assessment and evaluation (incorporating the effectiveness of the review into the performance evaluation of local governments) and public participation (opening the State Council's "Internet+Inspection" platform), to build a diversified supervision network, and to break the motivational paradox of "self-censorship" [30]. This "embedded" system transplantation path requires developing countries to fully consider the local political and economic structure when borrowing external rules, rather than simply copying the judicial review model of the EU.

3.3 Core Qualities of Chinese Logic

First, the Party's leadership serves as the "meta-governor" of institutional change. The centralized and unified leadership of the Party ensures the stability of the direction of reform and the effectiveness of implementation. For example, the amendment of the Antimonopoly Law in 2022 to include a fair competition review system in the law is essentially a legislative process to transform the Party's strategy of "national unified market" into national will. Compared with the EU member states' games over subsidy policies, China's political system can effectively curb the short-sighted behavior of sectoral and local interest groups.

Secondly, the "practical rationality" of the path of progressive reform. China's institutional evolution follows the progressive logic of "problem identification - local pilot - system diffusion - rule of law solidification". Taking administrative monopoly regulation as an example, it relied on the Anti-Unfair Competition Law to correct individual cases in the early stage (1993-2007), and then shifted to the systematic construction of a fair competition review system in the market system after 2016, and further upgraded the rule of law through the Fair Competition Review Regulations in 2024. This "trial-and-error-adaptation" mechanism reduces the risk of reform. For example, the transformation of the regulatory rules for the digital economy from "inclusive and prudent" to "equal emphasis on regulation and development" is precisely based on the accumulation of pilot experiences in the platform economy. The accumulation of pilot experiences.

Thirdly, the "institutional reproduction" of the pilot extension mechanism. Through the mechanism of "local pilot - centralized absorption - national promotion", China has transformed regional innovations into universal rules. A typical case is the "cross-regional review and collaboration mechanism": the Chengdu-Chongqing region has explored cross-regional joint review, and by the end of 2024, it had realized 626 pieces of fair competition cross-examination and mutual evaluation of policies and measures in adjoining regions [32], and endeavored to crack the regional market barriers, and the model was later absorbed by the Regulations as follows "Encourage the establishment of cross-regional and cross-sectoral review mechanisms". This path of "grass-roots innovation - top-level integration" not only avoids the social costs of radical reforms, but also adapts to the needs of regional differentiation through institutional flexibility.

China's "Trinity" model offers an alternative to the neoliberal paradigm in the context of global institutional competition. Its core value lies in curbing the negative externalities of "local government GDP competition" through the authority of the Party, while relying on the rule of law to constrain the boundaries of government intervention; avoiding

transitional shocks through gradual reforms, and reserving space for rule updating through experimental mechanisms; and incorporating exceptions such as "national security" and "green development" into the review criteria, reflecting developing countries' concerns about national security. The inclusion of exception clauses such as "national security" and "green development" in the review criteria reflects the reasonable demands of developing countries for "policy space".

Hurwitz emphasized in his 2007 Nobel Prize for Economics acceptance speech: "If implementation is impossible or inevitably costly, then even the most appealing system can only be a utopia". In contrast, the EU's institutional design is overly reliant on judicial review and member state gaming, making it difficult to effectively harmonize the contradictions between green transformation and fair competition (e.g., the "carbon border adjustment mechanism" triggers trade backlash in developing countries); and competition policy under the U.S. federal system has led to regulatory arbitrage due to differences in interstate legislation. The uniqueness of China's proposal lies precisely in the reconstruction of the "government-market" relationship, which contributes an institutional paradigm for global economic governance that is both effective and resilient.

4 PATHS TO INSTITUTIONAL OPTIMIZATION: TOWARDS A NEW PARADIGM OF COLLABORATIVE GOVERNANCE

4.1 Upgrading the Rule of Law: Institutionalization from Policy Instruments to Legal Rules

The upgrading of the fair competition review system under the rule of law is a key path to break the dilemma of "self-censorship" and enhance the rigidity of the system. In the future, the implementation of the fair competition review should strive to achieve a threefold breakthrough: first, the legalization of the review standards, the upgrading of the existing 18 review standards into legal provisions, and the clarification of detailed rules such as "prohibiting the restriction of competition in the disguise of technical standards, qualification certification, etc.", so as to avoid the abuse of local discretionary power. Reference can be made to the EU Transparency Directive, which requires local governments to publicize the competition impact assessment reports of industrial policies. Second, the judicial remedy procedure should be improved to expand the scope of administrative litigation and allow market players to file lawsuits against policies that do not fulfill the review procedure or whose review conclusions are obviously improper. In the future, legislation should be passed to clarify the starting conditions and adjudication standards for judicial review. Thirdly, accountability should be rigidized, and local officials who intentionally circumvent the review should be held accountable and included in the scope of exit audits of leading cadres. Gradually, review violations should be linked to the promotion of officials, so as to enhance the effectiveness of the political accountability mechanism.

4.2 Digital Empowerment: Building an Intelligent Regulatory Ecosystem

Digital technology has provided a new tool for cracking the review information asymmetry and regulatory lag. Currently, local review data are scattered in the intranet systems of various departments, forming a "data island", and the practice of Jiangsu Province's online monitoring and evaluation system for fair competition review shows that the construction of a national unified review information platform needs to achieve three levels of integration: first, data collection intelligence, through API interfaces to open the market supervision, development and reform, finance and other departmental databases. First, intelligent data collection, through the API interface to market supervision, development and reform, finance and other departments to collect policy text, enterprise complaints, administrative penalties and other data. Second, risk warning modeling, development of machine learning-based monopoly identification algorithms, for example, semantic analysis of keywords such as "localization rate" and "preferential procurement" in the policy text, and prediction of the probability of violation in combination with the historical case database. Third, blockchainization of regulatory collaboration, using blockchain technology to build a cross-regional review collaboration chain to ensure that traces of policy modifications are traceable and tamper-proof.²⁰²¹, Jiangsu took the lead in the country in launching a municipal-level fair competition review big data assessment system, exploring the use of the Internet, big data and other technologies to resolve conflicts.²⁰²², in May 2022, it successfully declared a pilot project for the construction of the State Administration of Market Supervision's Fair Competition Review Informatization Project, insisting on the province's unified planning and implementation of a pilot project. In May 2022, it was successfully declared as a pilot project of the State Administration of Market Supervision's Fair Competition Review Informatization Construction, insisting on the combination of the province's unified planning and the development of local strengths, putting on-line the provincial-level Fair Competition Review Big Data Evaluation System, and pushing the municipalities to set up the evaluation system of local characteristics. In addition, the use of data special analysis of specific reviews, build the province's fair competition review monitoring center big screen, the system user can independently set the time interval, the scope of the object, the violation of the standard and many other indicators, to generate targeted statistical analysis report, to provide reference for the government at all levels.²⁰²³, Jiangsu successfully on-line fair competition review online monitoring and evaluation system version 3.0, the launch of data Kanban, Robot Little Competition Q&A, double random sampling, document review and other new functions, fair competition review work more intelligent, standardized, professional. 2023 January - August, the province monitored the stock of more than 210,000 documents, monitoring more than 2,000 new documents every day, found 241 documents at risk, and has identified and corrected 74 documents in violation.

4.3 Reconstructing Incentive Mechanisms: Cracking the Implementation Bias under GDP Orientation

The root cause of the selective implementation of the review system by local governments lies in the conflicting values of the current performance appraisal system. In the current assessment system for officials, traditional economic indicators such as GDP growth rate still dominate, while the weight of indicators reflecting the effectiveness of fair competition governance is significantly low. Reconstructing the incentive mechanism needs to start from three aspects: First, the appraisal weight reset, the review of the compliance rate, hidden barriers to clear the amount of indicators into the high-quality development of comprehensive performance evaluation, the weight of no less than 15%. Second, the financial rewards and penalties linked to the central financial transfer payments and local review of the effectiveness of the linkage, for two consecutive years the rate of violation of the standard exceeds the region to deduct 10% of the special subsidies. Thirdly, there is an innovative error-tolerance mechanism, with the establishment of a "reform risk fund" to provide transitional compensation to regions that have experienced a short-term decline in economic growth as a result of the elimination of local protection.

5 CONCLUSION: GENERATION OF INSTITUTIONAL RESILIENCE IN A SPIRAL EVOLUTION

If a country wants to cross the development trap, it has to break the stumbling block of all kinds of vested interests, and break the locking status of ineffective or even negative transitional institutional arrangements across the board through comprehensive and integrated reforms with coupling, so as to make the institutional equilibrium leap to a new more efficient and fairer and more just state. The evolutionary trajectory of China's fair competition review system profoundly interprets the compound logic of institutional change under the socialist market economy system. Its core feature is the spiral cycle of "driven by political potential - forced by market law - solidified by the rule of law": the centralized and unified leadership of the Party gives political authority to the reform through the top-level design (e.g., the Opinions on Strengthening Anti-Monopoly and Deeply Promoting the Implementation of the Fair Competition Policy, which was considered and passed by the Central Committee of Reform and Reform in 2021), and the contradictions in the process of marketization (e.g., local protectionism) are also reflected in the evolution of the system. Contradictions in the marketization process (e.g., regional market segmentation due to local protectionism) create an endogenous demand for institutional innovation, while the rule of law process of the fair competition review system upgrades stage-by-stage experiences into stable rules. This process is not a linear progression, but a reciprocal movement of "practice breakthrough-rule adjustment-practice again", for example, the policy transition of platform economy regulation from "inclusive and prudent" to "regulating and developing at the same time". For example, the policy transformation of platform economic regulation from "inclusive and prudent" to "equal emphasis on regulation and development" is the product of the dynamic balance of political decision, market feedback and rule of law constraints. This institutional resilience stems from the dialectical unity of socialism with Chinese characteristics, "effective market" and "active government", which not only avoids the trap of market fundamentalism of neoliberalism, but also transcends the path dependence of the traditional planned economy.

COMPETING INTERESTS

The authors have no relevant financial or non-financial interests to disclose.

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THE THEORETICAL LOGIC AND SYSTEMATIC CONSTRUCTION OF THE JUVENILE CRIMINAL RECORD EXPUNGEMENT SYSTEM

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Abstract: The label of a previous criminal record severely impedes the resocialization process of juvenile offenders. To counteract this negative effect, establishing a system for the elimination of minors' previous criminal records has emerged as a prevalent trend in the international community and a widely shared social consensus. This system serves as special protection for minors' rights and interests and is an inevitable requirement for promoting the construction of criminal integration. Although current Chinese laws have already established the exemption of minors from the obligation to report previous criminal records and the system for sealing criminal records, a genuine system for eliminating minors' previous criminal records has yet to be established. In judicial practice, it still confronts numerous challenges, including ambiguous regulations on the methods of elimination, a narrow scope of application, and unclear stipulations regarding the probation period for elimination. Thus, guided by the principle of legality of crimes and punishments, a systematic construction of this system should be implemented to effectively safeguard minors' rights to reintegrate into society.

Keywords: Juvenile criminal record expungement; Criminal record sealing; Theoretical logic; Reintegration

1 INTRODUCTION

Establishing a juvenile criminal record expungement system to help minors involved in crimes reintegrate into society is an inherent requirement for implementing the holistic view of national security, maintaining social stability, and promoting the modernization of the national governance system and governance capacity.

Against this background, China has successively carried out exploratory work on the juvenile criminal record expungement system. For instance, a proposal to add a juvenile misdemeanor expungement system to the Criminal Law has been placed on the legislative agenda. However, the juvenile criminal record expungement system has not yet been truly established in China. The existing criminal record sealing system has alleviated the practical demand for such a system to some extent, but it fails to adequately highlight the particularity of protecting minors' rights and interests.

Although academia has recognized the importance of the juvenile criminal record expungement system, existing research has mainly focused on conceptual definitions, basic principles, and legitimacy of the expungement system[1], without paying sufficient attention to the interaction between the expungement system and the criminal record sealing system or the systematic construction approach for the juvenile criminal record expungement system. This shows that China's juvenile criminal record expungement system is still in its initial stage, lacking an operable overall design scheme and failing to form a comprehensive legal protection system for minors.

Therefore, this paper takes the theoretical logic and systematic construction of the juvenile criminal record expungement system as its core research focus and addresses the following three interrelated and progressively advancing issues: First, it explores the theoretical logic of the juvenile criminal record expungement system, explaining why this system is legitimate and necessary. Second, it focuses on the specific practice of the juvenile criminal record expungement system, extracting and revealing its practical characteristics and real-world problems from current regulations. Finally, in response to the specific operational issues of the juvenile criminal record expungement system, it proposes actionable improvement plans and systematically constructs the juvenile criminal record expungement system.

2 THEORETICAL LOGIC OF THE JUVENILE CRIMINAL RECORD EXPUNGEMENT SYSTEM

2.1 External Logic: The Expungement System is an Inevitable Requirement of Integrated Criminal Justice

Integrated criminal justice is a research methodology in criminal law proposed by Chinese scholar Professor Chu Huaizhi. It refers to the integration of criminal law and criminal procedure law to revitalize the overall resources of criminal rule of law, fully leverage its functions in crime governance and human rights protection, better implement the criminal justice policy of "reducing arrests, cautious prosecution, and prudent detention," minimize unnecessary arrests and detentions, and thereby safeguard the legitimate rights and interests of criminal suspects and defendants[2]. Through integrated criminal justice research, the relationships between laws can be better coordinated, contradictions and conflicts in legal application can be reduced, and the consistency and coherence of legal application can be promoted, which is conducive to improving judicial efficiency. In addition, integrated criminal justice can help judicial authorities more accurately grasp the nature and characteristics of crimes, formulate more scientific and reasonable

legal application standards, achieve differentiated treatment of different crimes, and thus better respond to changes in crime structures. It is evident that the juvenile criminal record expungement system is a positive response to the construction of integrated criminal justice for the protection of minors' legal rights and interests.

In the process of continuous improvement and development of the criminal justice system, the juvenile criminal record expungement system has gradually become an important issue of concern. This system does not exist in isolation but is an inevitable product and important component of the concept of integrated criminal justice. It is of great significance for realizing fairness and justice in criminal justice, protecting the rights and interests of minors, and maintaining social harmony and stability. As a special social group, minors are physiologically and psychologically immature, with relatively weak cognitive abilities and self-control, and are susceptible to negative external influences that may lead them to commit crimes. This particularity determines that juvenile justice cannot be simply equated with adult justice. Therefore, it is necessary to establish special mechanisms different from those for adults. The juvenile criminal record expungement system is a concrete manifestation of this particularity in the field of juvenile justice, and the concept of integrated criminal justice further strengthens the particularity of protecting minors' rights and interests.

In fact, integrated criminal justice supports the juvenile criminal record expungement system from multiple dimensions. At the conceptual level, integrated criminal justice, through the coordinated efforts of public security organs, procuratorates, courts, and other institutions, conveys to society the judicial concept that "minors are highly adaptable and should be given opportunities for rehabilitation," reshapes society's acceptance of minors involved in crimes, and creates a favorable social atmosphere for the expungement system. At the methodological level, the effective implementation of the juvenile criminal record expungement system cannot rely solely on a single judicial process. Integrated criminal justice can integrate investigation, prosecution, trial, and other judicial processes to ensure the effective operation of the expungement system. At the ideological level, the particularity of juvenile justice lies in prioritizing the protection of minors' rights and interests. Integrated criminal justice runs this principle through the entire judicial process, from case filing to the final decision on whether to expunge records, always striving to minimize the harm of judicial procedures to minors and help them return to the right path, ensuring that the handling of juvenile cases is conducive to their growth and development. Through integrated operation, it provides judicial protection for minors involved in crimes that is different from that for adults, promoting their genuine rehabilitation and reintegration into society.

2.2 Internal Logic: The Interactive Relationship Between the Expungement System and the Criminal Record Sealing System

Criminal records and criminal history (prior convictions) exhibit a dialectical unity—the former serves as the object of evaluation, while the latter constitutes the evaluative conclusion. The two are not equivalent. Criminal records refer to objective documentation by state authorities regarding an individual's criminal conduct, whereas criminal history denotes the adverse legal status derived from such records.

As a carrier of objective facts, criminal records meticulously document the specifics of an individual's past criminal acts, including the time, location, means, and consequences of the offense. They represent a neutral, value-free account of the criminal event itself. In contrast, a criminal history is a normative evaluative judgment based on these records. When an individual possesses a criminal record, the law applies certain standards to affix the label of "having a criminal history." This label not only reflects past criminal conduct but also embodies society's negative assessment of the behavior[3].

The criminal record sealing system serves as the foundational prerequisite for the expungement system. Since the evaluation constituting a criminal history originates from criminal records, expungement must begin with sealing. Only after a minor's criminal records have been properly sealed can the evaluative consequences (i.e., the criminal history) be eliminated[4]. The expungement system represents a deeper institutional development beyond record sealing. After a reasonable observation and evaluation period confirms that the minor has demonstrated the capacity and conditions for social reintegration, this system fundamentally removes the barriers created by past criminal conduct. It restores their equal social standing.

Some scholars have observed that record sealing and expungement are two sides of the same coin—neither can stand alone[5]. These systems operate in complementary yet distinct dimensions: Record sealing functions at the procedural/factual level, primarily protecting privacy rights. When a juvenile case reaches a specific stage and meets defined criteria, judicial authorities seal the records. This process restricts public access to prevent arbitrary queries or dissemination, thereby minimizing negative impacts on the minor's future. Expungement operates at the substantive/evaluative level, representing a more profound legal remedy. It aims to fully restore the individual's social status and civil rights. Expungement legally erases the evaluative consequences of past crimes, freeing the minor from all legal restrictions tied to their criminal history and enabling reintegration under a "clean slate"[6].

2.3 Core Value: Special Protection for Juvenile Rights in the New Era

Throughout societal development, the treatment of minors with criminal records has remained a profoundly significant issue. In the new era, China has placed increasing emphasis on protecting juvenile rights, enacting a series of laws and regulations that establish preferential safeguards for this vulnerable group. In fact, as early as the late 20th century, the UN Convention on the Rights of the Child established the principle of the "best interests of the child," requiring states

to take all appropriate measures to ensure children's rights are fully protected. The newly revised Law on the Protection of Minors (2021) codified the "most favorable treatment for minors" principle, which aligns closely in both connotation and value with the international standard. This represents a localized adaptation of the "best interests" principle within China's legal framework, serving as the foundational philosophy and basic tenet of juvenile judicial protection[7].

Adult criminal behavior typically stems from rational deliberation—a "conscious defiance" of social order, often involving premeditated violations of established norms. In contrast, juvenile delinquency is more accurately characterized as an "incidental phenomenon" during development. Minors undergo critical physical, psychological, and moral formative stages where their cognitive abilities, judgment, and self-control remain underdeveloped. External negative influences during this vulnerable period may inadvertently lead them astray, resulting in passive engagement in criminal acts[8]. This passivity underscores juveniles' unique circumstances and justifies specialized judicial protections.

As German scholar Liepmann observed, "Punishment itself is a form of education." Beyond retributive functions, penalties serve rehabilitative purposes through correction, education, and moral transformation. China consistently adheres to the governance principles of "education first, punishment supplementary" and the operational guideline of "educate, influence, and redeem" for juvenile offenders. The educational approach prioritizes protection—compared to purely punitive measures, it intervenes in minors' development through constructive methods that guide positive growth, exerting deeper and more lasting impacts on their wellbeing.

The juvenile criminal record expungement system plays an irreplaceable role in safeguarding special rights and facilitating reintegration. By eliminating discrimination and barriers from prior convictions, it enables minors to access education, training, and career development in a fair and inclusive environment, equipping them with essential social competencies. Simultaneously, the system fosters societal acceptance of rehabilitated youth, cultivating a supportive atmosphere for reintegration. Through neutralizing the adverse effects of criminal records, the expungement mechanism creates optimal social conditions for juvenile development—a concrete implementation of both the "best interests" and "most favorable treatment" principles.

3 CURRENT STATUS OF THE JUVENILE CRIMINAL RECORD EXPUNGEMENT SYSTEM

3.1 Historical Evolution of the Juvenile Criminal Record Expungement System

The localized exploration of the juvenile criminal record expungement system has a long history in China. In its early stages, as the concept of special protection for minors gained traction, legal scholars began focusing on the issue of juvenile criminal records. Drawing on international experiences while adapting to China's national conditions, scholars initiated theoretical research on the expungement system.

Concurrently, practical explorations were undertaken at the local level. Courts in Hebei, Shanghai, Sichuan, Shandong, Jiangsu, and other regions established pilot programs and introduced relevant regulations and measures[6]. A significant legislative milestone was achieved in 2012 when Article 275 of the Criminal Procedure Law explicitly stipulated that criminal records should be sealed for individuals who committed crimes under the age of eighteen and received sentences of five years imprisonment or less.

This marked China's first statutory establishment of a juvenile criminal record sealing system, complementing the 2011 Amendment VIII to the Criminal Law, which introduced provisions exempting juveniles from the obligation to report their criminal history. These legal developments demonstrated efforts to mitigate the adverse consequences of juvenile criminal records and provide special protection for minors, laying a partial legal foundation for the expungement system. However, it is important to note that China has not yet formally established a comprehensive juvenile criminal record expungement system.

3.2 Normative Examination of the Juvenile Criminal Record Expungement System

As mentioned earlier, the criminal record sealing system and the expungement system respectively belong to the two dimensions of procedural law and substantive law. From the perspective of procedural law, the provisions regarding the criminal record sealing system are relatively comprehensive. The 2012 revised Criminal Procedure Law formally established the juvenile criminal record sealing system. In 2022, the "Two Supremes and Two Ministries" jointly issued the "Implementation Measures for the Sealing of Juvenile Criminal Records," which further refined the regulations, clarifying the content of sealing, sealing measures, inquiry procedures, sealing entities, and accountability mechanisms. However, from the substantive law perspective, there is a clear lack of legislative provisions regarding the juvenile criminal record expungement system. There are no unified legislative stipulations on the specific methods of expungement, scope of application, probation periods, etc., leading to inconsistent standards in pilot programs across different regions and making practical implementation difficult.

Taking the "Pilot Scheme for the 'Expungement of Criminal Records' of Juvenile Offenders" first introduced by the Pengzhou People's Court in Sichuan Province in 2007 as an example: the scheme first limited the applicable subjects to minors who were under the age of eighteen at the time of the crime and were sentenced to fixed-term imprisonment of five years or less, while excluding recidivists and first-time or occasional offenders with relatively serious criminal circumstances; secondly, the initiation method was mainly by the court ex officio; finally, a certain probation period was set, but the specific probation period was not clearly defined. This shows that although the scheme made provisions

regarding the applicable subjects, methods, and probation periods for the expungement of juvenile criminal records, the provisions were relatively general and still needed further clarification and refinement.

3.3 Practical Dilemmas in the Juvenile Criminal Record Expungement System

Undoubtedly, establishing a juvenile criminal record expungement system in China is a complex and systematic project involving multiple factors, including theoretical research, legislative construction, judicial practice, social attitudes, and the broader social environment. The transition from conceptualization to practical implementation of this system requires specific environmental support and a series of supporting institutional safeguards. Consequently, the advancement of the juvenile criminal record expungement system in China inevitably faces several practical obstacles, primarily manifested in the lack of relevant legal provisions and narrow applicability.

3.3.1 Unclear provisions on expungement methods

There are various conceptual approaches to expunging juvenile criminal records, but legal norms and practical operations remain ambiguous. The main methods include automatic expungement, application-based expungement, and pardon-based expungement, yet each lacks clear and uniform standards.

- Automatic Expungement:

This refers to the automatic removal of a juvenile's criminal record if, within a legally prescribed period, the minor does not engage in any conduct prohibited under expungement regulations. This model offers procedural simplicity and certain advantages: It significantly conserves judicial resources, allowing authorities to allocate more attention to other pressing judicial matters. It prevents minors from being subjected to non-standardized evaluations during the process, mitigating the negative psychological effects of a criminal record and facilitating smoother reintegration into society[6].

- Application-Based Expungement:

Under this method, a minor who has complied with all expungement requirements during a statutory probation period—without violating any prohibitive conditions—may, upon the expiration of the probation period, submit an application to a designated state authority along with supporting documentation. The authority then conducts a comprehensive review of the materials and the minor's conduct during the probation period. If the review is favorable, the expungement request is approved[9]. However, the conditions, procedures, and specific discretionary standards for such applications remain undefined in law.

- Pardon-Based Expungement:

This involves the expungement of a criminal record through a pardon granted by the head of state. Yet, the scope, frequency, and specific rules for pardoning juvenile records lack clear stipulation[10].

The absence of clear expungement methods leaves judicial authorities without uniform standards or procedures when handling cases, leading to irregular practices that undermine judicial efficiency and quality. In addition, unclear requirements for evidence and documentation in expungement applications may spark conflicts between applicants and judicial bodies during evidence collection and review, potentially affecting case outcomes.

3.3.2 Narrow scope of application

Under China's current legal framework, the provisions on exemption from criminal record reporting obligations and the criminal record sealing system strictly limit the applicable subjects to minors sentenced to fixed-term imprisonment of five years or less. A deeper analysis reveals the unreasonableness of this restriction.

Some minors may commit relatively serious offenses due to momentary impulsiveness or negative environmental influences, yet they possess strong rehabilitative potential and capacity for reform. However, due to the limitations in the current system's scope of application, these minors are excluded and continue to suffer the negative effects of a criminal record. They face various forms of discrimination in daily life, which may foster antagonistic attitudes toward society, further alienate them from social integration, significantly increase their risk of recidivism, and contribute to social instability[11].

Concurrently, society must allocate more resources to manage and supervise these minors with criminal records, resulting in resource wastage and increased social costs. This clearly contradicts the fundamental objective of modern criminal policy to promote offenders' rehabilitation.

Furthermore, the Criminal Procedure Law's provisions on criminal record sealing only apply to minors convicted of misdemeanors, while excluding minors for whom the procuratorate decides not to prosecute or whom the court exempts from criminal punishment.

3.3.3 Unclear provisions on the probation period for expungement

The expungement system typically stipulates a probation period—a specific timeframe after a minor completes their sentence or is legally exempted from punishment, dedicated to comprehensively and thoroughly assessing the minor's repentance and reform regarding past criminal conduct[10].

Regarding minors who have been sentenced to public surveillance, criminal detention, probation, fixed-term imprisonment of varying durations, or exemption from criminal punishment, China's current laws and regulations have not yet established specific provisions on eligibility conditions for initiating criminal record expungement procedures and required duration of the probation period prior to expungement.

Due to the lack of clear provisions on the probation period, judicial authorities face difficulties in determining when to process the expungement of a minor's criminal record during implementation. This ambiguity may lead to discrepancies in handling methods across different regions and cases, undermining the uniformity of judicial standards and, consequently, the fairness and authority of the judiciary. Moreover, minors involved in crimes may endure prolonged

psychological stress due to uncertainty about when their criminal records will be expunged, adversely affecting their mental health and normal lives.

4 SYSTEMATIC CONSTRUCTION OF THE JUVENILE CRIMINAL RECORD EXPUNGEMENT SYSTEM

4.1 Guiding Principle: The Principle of Legality

The principle of legality, embodied in the maxim "no crime without law, no punishment without law," requires that the application conditions, procedures and legal consequences of the juvenile criminal record expungement system must be explicitly prescribed by law. Neither the scope of application nor the procedural requirements can be arbitrarily expanded or restricted.

Article 11 of the Legislation Law provides that matters concerning crimes, punishments and deprivation of citizens' political rights must be prescribed by law. Although criminal record itself does not constitute punishment, the collateral consequences of record reporting functionally resemble disqualification penalties. From the perspective of legal certainty and normative requirements, any restrictions or deprivations of rights arising from criminal records should be clearly defined in statutory law to prevent uncontrolled expansion. Public power must not exploit criminal records to extend punitive authority or impose extra-legal penalties on offenders.

In practice, beyond laws, administrative regulations and local rules, many entities impose occupational restrictions on individuals with criminal records through recruitment policies or internal regulations. This creates a situation where both public and private actors appear empowered to restrict offenders' qualifications, potentially leading to governance disorder and violating the fundamental spirit of "no punishment without law" under the principle of legality.

It is evident that regulations on criminal records that do not conform to the proper hierarchical legal framework should be systematically reviewed and rectified[12]. The "law" in the principle of legality should be strictly construed as statutes enacted by the National People's Congress and its Standing Committee. While laws such as the Civil Servant Law, Judges Law and Prosecutors Law may legitimately restrict employment of those with criminal records, other normative documents lack such authority. Since criminal record provisions concern deprivation of citizens' fundamental rights, they must be strictly limited to NPC legislation to prevent excessive penalties and maintain compliance with the principle of legality.

4.2 Pathways for Constructing a Juvenile Criminal Record Expungement System

To address the practical challenges identified in the juvenile criminal record expungement system, a systematic framework must be established under the guidance of the principle of legality. This ensures the system operates scientifically and reasonably within the rule of law, achieving a balance between legal and social outcomes to comprehensively protect the legitimate rights and interests of minors.

4.2.1 Refinement of expungement methods

The expungement system should primarily utilize application-based elimination, supplemented by automatic elimination, with pardon-based elimination reserved for special circumstances. Application-based elimination should be the main approach as it grants minors the initiative to seek expungement and respects their autonomy. The applicants should principally be the minor offenders themselves. However, considering some minors' young age and immature mental development may limit their understanding of consequences, or other objective factors may prevent them from applying personally, the law should authorize guardians to apply on their behalf to ensure effective implementation of the system and protection of minors' rights. When no guardian exists or when guardians face conflicts of interest or inability to apply, juvenile protection organizations or procuratorial organs should assume this responsibility to provide necessary legal support.

The accepting authority should preferably be the juvenile court that rendered the original judgment, as these specialized courts possess the necessary expertise and experience to properly evaluate expungement applications while considering minors' unique circumstances. Applicants must submit comprehensive materials including details of the offense, demonstration of remorse, rehabilitation progress, and post-release adjustment in education and daily life. The court must conduct thorough review focusing on the minor's repentance, personal risk factors, and recidivism likelihood, potentially through community visits and school/workplace evaluations, before making a final expungement decision[9].

Automatic elimination serves as a supplementary approach that respects minors' developmental patterns. For minor offenses with limited harm where the minor remains law-abiding for a statutory period, records should be automatically cleared without requiring application. This reduces psychological burden and conserves judicial resources, though the elimination period must be carefully calibrated based on offense severity and the minor's age to maintain appropriate legal deterrence without hindering reintegration.

In special circumstances such as during national celebrations or other significant occasions, pardon-based elimination may be granted to qualified minors meeting criteria including minor offenses, exemplary rehabilitation, or outstanding contributions during emergencies. The pardon power should be exercised by designated state authorities (the head of state or a specialized pardon committee) following strict review procedures that evaluate the minor's contributions and social impact to ensure fairness and appropriateness.

4.2.2 Appropriately expanding the scope of application of the criminal record expungement system

Most countries that have established juvenile criminal record expungement systems generally do not impose specific requirements regarding the severity of offenses. For example, Article 21 of the Beijing Rules emphasizes the confidentiality of juvenile offender records and explicitly states that these records cannot be cited in subsequent adult proceedings involving the juvenile, without distinguishing between minor and serious offenses. In China, the scope of application of the juvenile criminal record expungement system should not be limited to minor offenses only. From a more comprehensive and legally sound perspective, the system should apply to all juveniles sentenced to fixed-term imprisonment or lesser penalties. Even for some juveniles sentenced to more than five years of fixed-term imprisonment, it cannot be conclusively determined that they necessarily pose a greater personal danger. The probation period for expungement should be differentiated based on the severity of the offense, with longer probation periods set for those receiving heavier sentences, rather than categorically excluding them from the scope of application.

However, from the strategic perspective of safeguarding national security, ensuring social stability, and protecting public safety, and in line with the policy orientation of strictly combating and effectively preventing drug crimes, the identification mechanisms for special recidivists and drug re-offenders exhibit the notable characteristic of having no time limitations. Given the significant harm and severe impact of these types of crimes, applying the expungement system to individuals who have committed such offenses may weaken the deterrent effect of the law and increase social security risks. Therefore, crimes endangering national security, terrorist activities, organized crime, and drug offenses should not be eligible for the expungement system[6].

Additionally, records of non-prosecution and conditional non-prosecution should also be sealed. It must be clarified that if such records become known to the public, they are highly likely to negatively impact the juvenile's reintegration into society. Juveniles who receive non-prosecution should be presumed innocent; in terms of the degree of culpability, they are clearly less culpable than those sentenced to fixed-term imprisonment of five years or less, and their non-prosecution records should be strictly sealed[13].

4.2.3 Refining the provisions on the probation period for criminal record expungement

The primary purpose of establishing a probation period for criminal record expungement is to conduct a comprehensive assessment of the offender's personal dangerousness and likelihood of recidivism. The probation period should be set scientifically and reasonably based on multiple factors, including the nature and circumstances of the juvenile's crime, the severity of the punishment, and their rehabilitation progress.

Globally, the French Penal Code sets corresponding probation periods based on specific sentences. For example, if an offender is sentenced to imprisonment of no more than one year, their rights may be restored five years after serving the sentence. If the sentence is no more than ten years, the probation period extends to ten years after serving the sentence. The Russian Penal Code determines the probation period primarily based on the severity of the crime and the imposed penalty. Specifically, if an offender is sentenced to a penalty less severe than deprivation of liberty, the probation period is one year after serving the sentence. For minor or medium-severity crimes, the probation period is three years after serving the sentence[14].

Drawing on international practices and considering China's specific legal context, the probation period for juvenile criminal record expungement in China should be established as follows:

- Exemption from criminal punishment or imposition of supplementary punishment only: A probation period of six months is appropriate.
- Public surveillance or criminal detention: A probation period of one year is appropriate.
- Fixed-term imprisonment of less than five years: A probation period of three years is appropriate.
- Fixed-term imprisonment of five years or more: A probation period of five years is appropriate.

The probation period should commence from the date of completion of the sentence or the granting of a pardon. For juveniles given a suspended sentence, the probation period for expungement should begin after the completion of the suspension period and be equal in duration to the suspension period. If a juvenile demonstrates significant meritorious performance during the execution of their sentence, the above time limits may be waived.

Additionally, a dynamic adjustment mechanism for the probation period should be established. If a juvenile demonstrates exceptional performance during the probation period—such as active participation in psychological counseling or vocational training with excellent results, or outstanding contributions to public welfare activities—the probation period may be appropriately shortened. Conversely, if the juvenile violates laws, regulations, or probation requirements, the probation period may be extended. This approach not only incentivizes active rehabilitation but also ensures the seriousness and effectiveness of the system.

5 CONCLUSION

The establishment of a juvenile criminal record expungement system carries profound significance. It not only creates a more tolerant judicial environment for minors involved in crimes to reform themselves and reintegrate into society but also fully demonstrates the state's and society's deep concern for juveniles who have gone astray. This system accurately embodies the value of justice in law, reflecting both special protection for minors and the fairness of the legal system, thereby achieving an organic unity of legal and social effects[15].

Educating and rehabilitating juvenile offenders to facilitate their reintegration into society is a paramount task in juvenile protection. The construction of a juvenile criminal record expungement system is imperative. The systematic development of this system is a vast, complex, and multifaceted social endeavor. In addition to the legislative improvements mentioned earlier, it requires the establishment of a comprehensive social collaboration mechanism, with

strong support from multiple sectors including judiciary, administration, civil affairs, human resources, education, and labor. Together, these efforts should form a tripartite protection system integrating family therapy, school education, and community correction[9].

By taking the systematic construction of the juvenile criminal record expungement system as an opportunity, advancing institutional development and theoretical exploration may contribute modestly to China's legal safeguards for juvenile rights and interests. This initiative not only aligns with international standards for juvenile justice but also reflects the humanitarian spirit of the rule of law, paving the way for a more inclusive and rehabilitative approach to juvenile delinquency in China.

COMPETING INTERESTS

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HAMLET AS A MODEL OF ETHICAL LEADERSHIP: A COMPARATIVE ANALYSIS OF COMPASSION, EQUALITY, AND MORAL JUDGMENT

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Abstract: Throughout history, the question of what constitutes great leadership has spurred philosophical debates, literary inquiry, and political analysis. From Machiavelli's cold calculation to Rousseau's social conscience, ideas of leadership oscillate between power and principle. William Shakespeare's *Hamlet* offers a compelling dramatic space to explore this tension. Prince Hamlet, while often criticized for his hesitation and internal torment, ultimately presents a vision of leadership grounded not in control or charisma, but in moral introspection, emotional authenticity, and egalitarian respect. In contrast, King Claudius—outwardly more decisive and effective—embodies a leadership model marred by self-interest, manipulation, and moral vacuity. By comparing these two figures, *Hamlet* becomes not only a tragedy of revenge, but also a meditation on ethical governance and the invisible burdens of truly principled leadership.

Keywords: Hamlet; Ethical leadership; Compassion; Equality; Moral judgment

1 INTRODUCTION

What defines ethical leadership in a world riddled with ambition, betrayal, and moral ambiguity? This question, while often asked in the context of political theory or corporate governance, finds surprising resonance in the world of literature—particularly in William Shakespeare's *Hamlet*. Written at the turn of the 17th century, the play has traditionally been read as a tragedy of revenge, madness, and existential doubt. Yet beneath its familiar narrative lies a rich discourse on leadership, one that continues to challenge modern assumptions about authority, decisiveness, and moral responsibility[1-3].

In *Hamlet*, Shakespeare presents two contrasting models of leadership: the introspective, emotionally transparent Prince Hamlet, and the shrewd, politically effective King Claudius. At first glance, Hamlet appears ill-suited to lead—he hesitates, grieves openly, and questions the morality of his actions. Claudius, by contrast, is composed, strategic, and outwardly capable[4,5]. However, as the play unfolds, it becomes increasingly clear that effectiveness without ethics leads to hollow rule, while ethical reflection, even when burdened by doubt, carries a deeper form of legitimacy.

This paper argues that *Hamlet* offers a counterintuitive but profound vision of ethical leadership—one grounded not in dominance or expediency, but in compassion, equality, and moral judgment. Through a close reading of key scenes and character dynamics, this analysis reconsiders *Hamlet* not as a failed leader, but as a philosophical model for governance rooted in emotional integrity and moral courage. By juxtaposing Hamlet's moral struggle with Claudius's calculated control, we uncover the enduring relevance of Shakespeare's vision of principled leadership in a world that often values power over conscience[6].

2 COMPASSION AS A FOUNDATION FOR MORAL AUTHORITY

2.1 Emotional Transparency and Moral Depth

At the heart of Hamlet's leadership potential lies his compassion—an emotional depth that allows him to connect with others beyond duty or power. From the play's outset, Hamlet is plunged into mourning, and unlike the polished court around him, he refuses to feign recovery. His "inky cloak" (1.2.77) is not simply a sign of performative grief but an expression of enduring love and psychological honesty. He rejects his mother Gertrude's request to "cast thy nighted color off," and instead insists that his mourning "shows" only the surface of the emotions within.

In a court governed by appearances and decorum, Hamlet's emotional transparency is a striking divergence. It signals not weakness, but integrity—his refusal to conform to the sanitized expectations of royal conduct reflects a profound moral awareness. This unwillingness to suppress genuine feeling sets Hamlet apart as a figure willing to prioritize emotional truth over public image. It is precisely this capacity for vulnerability that suggests Hamlet's potential for ethical leadership, where transparency becomes a form of strength.

2.2 Love, Loss, and the Ethics of Feeling

This same sincerity informs Hamlet's relationship with Ophelia. Despite the complications that arise later in the play, Hamlet's early love letters—praised by Polonius for their eloquence—reveal a depth of feeling that transcends royal obligation or performative courtship. He writes not about her beauty or status, but about love as a genuine, almost

spiritual force. These expressions are not tools of seduction, but confessions of a soul capable of profound emotional investment.

Hamlet's emotional intensity, often the target of critique, is better understood as moral intensity. He is a leader who feels the pain of others and allows that pain to shape his decisions. His interactions are never mechanical; they are layered with empathy and memory, as seen in his later lamentation over Ophelia's grave. Hamlet is not merely performing emotion—he inhabits it fully, and in doing so, redefines what it means to lead with a conscience.

3 EQUALITY AND THE DEMOCRATIC IMAGINATION

3.1 Friendship without Hierarchy

Unlike Claudius, whose leadership depends on secrecy, surveillance, and hierarchy, Hamlet's worldview leans toward equality and open discourse. His relationship with Horatio is perhaps the most profound example. "Give me that man / That is not passion's slave," Hamlet tells Horatio, "and I will wear him / In my heart's core, ay, in my heart of heart" (3.2.63–65).

This declaration reveals not only Hamlet's admiration for rationality but also his willingness to place a courtier on equal emotional footing. Their bond is not one of command and obedience but of mutual respect. Horatio is not a flatterer or sycophant; he is Hamlet's intellectual equal and moral anchor. In recognizing Horatio as a peer, Hamlet models a kind of leadership where value is determined by character, not class—a rare virtue in a royal figure, and one that anticipates later democratic ideals.

3.2 Public Dialogue and Shared Suffering

Hamlet's egalitarianism also emerges in the graveyard scene, where he converses with the gravedigger as an intellectual and existential equal. Unlike other nobles who might disdain the laborer's speech, Hamlet appreciates the wit and earthy wisdom of the common man. He listens. He asks questions. His leadership ethos is built not on command but on dialogue. In this moment, Hamlet does not merely tolerate the working class; he honors them with the dignity of genuine engagement.

Even his most famous soliloquy, "To be, or not to be," though deeply personal, reflects collective suffering. Hamlet does not speak only of princely dilemmas but of "the oppressor's wrong, the proud man's contumely, The pangs of despised love, the law's delay" (3.1.70–71). His language invokes the grievances of an entire society. In articulating this shared experience of pain and confusion, Hamlet becomes a voice for the voiceless—a citizen-leader who mourns alongside his people and does not isolate his struggles from theirs.

4 RATIONAL JUDGMENT AND THE ETHICS OF DELAY

4.1 Conscience before Action

Critics often accuse Hamlet of inaction. Yet what appears as delay is, in truth, moral discernment. After the Ghost reveals Claudius's guilt, Hamlet does not rush to vengeance. Instead, he tests the spirit's claims through performance—the famous "play within the play." "The play's the thing / Wherein I'll catch the conscience of the King," he says (2.2.601–602).

This strategy is both cautious and brilliant. Hamlet uses art not as a weapon, but as a mirror, reflecting the inner truths that Claudius has tried to obscure. His decision to verify the ghost's story before taking action demonstrates a principled resistance to blind retribution. It shows that Hamlet is not only capable of reflection but insists upon it, refusing to let impulse override justice. He demands a leadership grounded in evidence, not assumption.

4.2 Ethical Calculation, Not Indecision

Hamlet's decision not to kill Claudius during prayer further illustrates his ethical rigor. He worries that murdering Claudius in confession will send his soul to heaven, rendering justice incomplete. "Now might I do it pat, now he is praying," Hamlet says, "and now I'll do't. And so he goes to heaven— And so am I revenged?" (3.3.73–75). This moment is not one of cowardice, but one of moral calculation, in which Hamlet considers the spiritual and ethical implications of his actions.

By resisting the urge to strike simply because the opportunity presents itself, Hamlet elevates the ethical bar for leadership. He is not content with vengeance for its own sake; he wants justice that aligns with a deeper sense of moral coherence. In delaying, he underscores that righteous leadership requires not haste, but careful deliberation—even when the personal stakes are high.

5 CLAUDIUS: A MACHIAVELLIAN SHADOW

5.1 Polished Speeches, Hollow Ethics

In sharp contrast to *Hamlet's* moral anguish, Claudius embodies a model of leadership grounded in manipulation, image control, and political expediency. He is a consummate rhetorician, delivering well-crafted speeches that project stability

and rationality. His language is smooth, calculated, and persuasive—designed not to reflect truth, but to engineer consent. At the beginning of the play, he skillfully navigates the court's unease by addressing his brother's death and his own marriage to Gertrude in one breath, carefully balancing mourning with statecraft: "With mirth in funeral and with dirge in marriage" (1.2.12). This oxymoronic phrasing is not poetic sincerity—it is deliberate ambiguity, a linguistic sleight of hand designed to soothe and distract.

Yet beneath this rhetorical polish lies moral rot. Claudius himself confesses the hollowness of his piety when he kneels in apparent prayer, saying, "My words fly up, my thoughts remain below: Words without thoughts never to heaven go" (3.3.97–98). This moment is a striking emblem of his character: eloquent in performance, empty in conviction. He speaks of repentance, yet clings to the rewards of his crime. Leadership, for Claudius, is not a burden of ethical stewardship but a game of appearances—one where words are tools, not truths.

The disjunction between his outward charisma and inward corruption reveals a fundamental weakness in his rule. His control is built on illusion, not legitimacy. The danger of such leadership is not merely its dishonesty, but its fragility: when power relies on concealment, it must constantly defend itself against exposure. Thus, Claudius lives in fear of discovery, leading not through trust but through surveillance, manipulation, and repression. What appears as strength is, in reality, a mask of insecurity.

5.2 Power without Humanity

Claudius's handling of crisis situations further exposes the moral bankruptcy of his governance. When Polonius is accidentally killed, Claudius shows no concern for the loss of a trusted advisor, nor for the emotional aftermath. Instead of holding a public funeral or acknowledging the event with sincerity, he chooses secrecy. "Bear him to the chapel," he instructs curtly, arranging a covert burial and instructing Rosencrantz and Guildenstern to manage the fallout. His response is less about justice or mourning and more about damage control. In stripping the event of ritual and transparency, he denies both Polonius and the state their due respect.

This lack of humanity is not an isolated act—it is a governing principle. Claudius consistently views people not as citizens or even as individuals, but as instruments. He manipulates Laertes's grief into a weapon, playing upon his rage to engineer Hamlet's death. He sends Hamlet to England with a letter ordering his execution, and later attempts to poison him in front of the court under the guise of a fencing match. These are not the actions of a conflicted ruler, but of a man who treats power as an end in itself.

Perhaps most damning is Claudius's vision of the state: not as a collective body bound by mutual responsibility, but as a stage upon which he must maintain control at all costs. Every relationship—familial, political, or diplomatic—is subordinated to his personal survival. He betrays Gertrude's trust, endangers Laertes, and sacrifices innocent lives without hesitation. His leadership, while decisive, is stripped of moral substance. It reflects what Niccolò Machiavelli might call *virtù*, but without the balancing force of ethical restraint.

In the world of *Hamlet*, Claudius functions as a dark mirror to the prince: where Hamlet hesitates out of conscience, Claudius acts out of fear; where Hamlet wrestles with morality, Claudius evades it altogether. His brand of governance warns of the dangers of power divorced from principle—of a rule that values efficiency over empathy, silence over truth, and appearance over justice. In the end, his reign collapses not because of Hamlet's strength, but because of his own internal decay. It is a tyranny doomed by the very hollowness it tries to hide.

6 CONCLUSION: LEADERSHIP AS A MORAL STRUGGLE

In *Hamlet*, Shakespeare offers more than a political drama or a tale of vengeance—he crafts a profound meditation on leadership as an intrinsically moral struggle. Through the character of Prince Hamlet, we witness not a flawless hero, but a man burdened by ethical responsibility, emotional depth, and an acute awareness of human fallibility. Hamlet does not seek power, nor does he relish the idea of ruling; instead, he grapples with the immense weight of justice, truth, and the cost of action. His hesitation—often misread as weakness—reveals a deeper moral calculus. Each delay, each soliloquy, each moment of doubt is not indecision, but deliberation, an insistence that leadership without conscience is no leadership at all[7,8].

In contrast, Claudius stands as a cautionary figure—decisive, articulate, and politically adept, yet devoid of the moral compass that might redeem his crown. His governance, though outwardly stable, is built upon murder, manipulation, and a calculated suppression of guilt. He demonstrates how effective leadership can become ethically corrosive when stripped of compassion and truth. Where Hamlet suffers for his morality, Claudius thrives in its absence—and yet, it is Hamlet who remains admirable, even in tragedy.

Shakespeare does not hand us a manifesto on leadership; rather, he offers a philosophical invitation to rethink its very foundations. He compels us to ask: Is greatness measured by the speed of one's decisions, or by the depth of one's introspection? Are the best leaders those who appear strong, or those who dare to feel deeply and err on the side of humanity?

Ultimately, *Hamlet* redefines what it means to lead. True leadership, the play suggests, does not lie in the assertion of control, but in the willingness to wrestle with uncertainty, to uphold moral integrity even at personal cost, and to carry power not as a badge of honor, but as a burden of ethical responsibility. In this light, Hamlet's story is not merely a tragedy of a man undone by indecision, but a portrait of principled leadership—wounded, flawed, but profoundly human.

COMPETING INTERESTS

The authors have no relevant financial or non-financial interests to disclose.

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NAVIGATING PRIVACY PROTECTION IN THE ERA OF DIGITAL PUBLIC SPACES

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Abstract: The International Education College of Jiangxi Normal University's research on "protection of privacy rights in public spaces" cannot be divorced from the spatial context and examined in "privacy rights". With the advent of the digital age, public space is no longer just a concept of physical space, but deeply integrated with digital technology, forming an integrated unity of physical and virtual spaces. The widespread coverage of public digital devices is impacting the traditional privacy protection system, and the demand for protecting individual privacy rights in public spaces is becoming increasingly prominent. This study systematically analyzes the historical evolution of privacy rights and the digitalization of public spaces from the perspective of digital public spaces. Through classic cases, it reveals three core dilemmas in privacy protection within China's digital public spaces. Based on this, this paper proposes pathways for implementing privacy protection in digital public spaces, examining legislative, judicial, and social governance perspectives.

Keywords: Privacy protection; Digital public spaces; Data sharing; Privacy law

1 INTRODUCTION

Privacy, as a fundamental element of human dignity, plays a crucial and undeniable role in shaping individual identity and social recognition. At the end of the 19th century, American private law scholars Louis D. Brandeis and others first explicitly proposed in their article "On the Right to Privacy" that "an individual's person and property should be fully protected", and defined the right to privacy as "the right to be let alone", advocating that it should be strictly protected by law. Since then, the concept of privacy has gradually entered the public eye and developed into an important right widely applied in judicial practice. With the continuous advancement of science and technology and people's increasing attention to the spiritual world, the connotation of privacy rights has evolved from the traditional "right to solitude," through concerns about controlling the flow of intimate information, to the contemporary emphasis on the right to control personal information. The scope of privacy rights has expanded significantly, and its boundaries have become increasingly blurred.

Entering the digital age, the rapid development of intelligent technology and innovation in social connectivity are profoundly reshaping the definition and boundaries of public spaces. Public video surveillance systems are widely covered in public areas, and mobile phones and other smart devices have become essential tools for people's daily lives and important channels for information acquisition. The continuous development of social media has prompted people to break through the limitations of traditional social networks through information exchange and sharing. Public space is no longer solely a physical concept but is deeply integrated with digital technology, forming an integrated unity of physical and virtual spaces. In this context, privacy information that was originally strictly protected in private spaces inevitably enters the public domain and becomes a part of public information. In digital public spaces, individuals, as data subjects, struggle to anticipate the dissemination of their personal information and potential privacy violations using conventional means. This creates a dilemma where personal privacy becomes unexpectedly exposed within ostensibly public contexts. The imperative to safeguard personal privacy rights within public spaces has grown increasingly urgent.

The rise of digital public spaces has had a strong impact on traditional privacy theory, and once effective privacy protection measures are gradually becoming inadequate in the new era. Therefore, there is an urgent need to comprehensively understand the trends and characteristics of public space digitalization, to delve into the challenges confronting privacy protection within these digital public spaces, and to identify new pathways for privacy protection suited to contemporary developments.

This article is based on the perspective of digital public spaces, focusing on the protection of citizens' privacy rights, and analyzing the evolution of public space digitalization and conceptualizing it through the lens of privacy protection. It reveals the key dilemmas facing privacy protection in China's digital public spaces. Finally, returning to the core values and fundamental objectives of privacy protection, this article explores new paths to solve the problem of privacy protection in digital spaces from the perspectives of legislation, government, and industry, deepens theoretical research on legal protection of privacy rights, and provides practical guidance for privacy protection in digital public spaces in the era of intelligent media.

2 THE FORMATION OF PRIVACY PROTECTION IN DIGITAL PUBLIC SPACES

2.1 The Historical Evolution of Privacy Rights

Academic consensus often traces the origin of privacy rights to 1890 when American scholars Wallen and Brandeis first introduced the legal concept of “privacy right” in their article “On the Right to Privacy” and defined privacy as “the right to be let alone”[1]. Since then, the right to privacy has gradually received high attention from academia and the judicial field.

Wallen and Brandeis believe that the “right to privacy” is a product of the development of the times and a recognition of new rights based on political, economic, and social changes. This definition expresses people’s traditional and naive longing for “privacy”, but it was considered excessively broad and ambiguous, and there is still controversy in some fields[2]. Firstly, setting aside their subjective descriptions, the two legal scholars did not provide a clear explanation of the specific connotation and extension of privacy rights, and at that time, privacy rights were not yet formally recognized in US common law, which made it difficult for privacy rights to fulfill their intended functions in specific judicial practices. Secondly, in terms of the scope and practical carrier of privacy protection, the two legal scholars defined privacy as “a right to protect an individual’s solitary state from external interference” based on the reality of their own private lives being excessively exposed, without explicitly defining the scope of privacy protection. However, it is worth noting that the privacy rights of citizens are constantly expanding with the development of the times and the advancement of technology. The scope of protection has expanded from an initial focus on “peaceful living” within private domains like the home, to encompass a broad range of personal life secrets and identifiable personal information. The boundaries of privacy rights have become increasingly blurred.

In recent years, academia and the judicial field have gradually recognized the complex characteristics of privacy rights in contemporary society - not only possessing multidimensional rights attributes, but also exhibiting significant dynamic and diverse values due to differences in application scenarios. In digital public spaces, privacy rights take on a digital dimension, primarily concerned with personal information that is susceptible to recording, analysis, and dissemination[2]. Due to the close relationship between privacy data and subject rights, large-scale data collection and processing in public spaces can readily trigger direct or cascading effects on the property rights and personal dignity of data subjects. This strong correlation has led to a structural coupling between contemporary privacy rights, especially privacy rights in digital public spaces, and individuals’ digital identity, social credit, and other rights, rendering traditional models of compartmentalized rights protection inadequate [3].

With the popularization of artificial intelligence technology and the evolution of smart city strategies, privacy rights are poised to become a cornerstone of social order in the digital age, and their institutional construction needs to respond to the paradigm shift of rights brought about by spatial reconstruction [4]. Strengthening digital privacy protection is not only related to individual rights, but also a technical prerequisite for maintaining the effectiveness of public space governance. It can be foreseen that in a future society with more advanced science and technology, the importance of privacy will become more prominent.

2.2 The Evolution of Digitalization in Public Spaces

The concept of privacy is multifaceted and contested, significantly impacting how citizens’ demands for privacy protection are met. The meaning of privacy rights continues to evolve and expand with societal development, and one of the most critical reasons is that it always relies on the specific social environment. Therefore, research on privacy protection must be situated within the specific context of “digital public spaces,” acknowledging this as the primary arena for contemporary privacy concerns.

The term ‘public space’ is often used interchangeably with concepts such as the public sphere and public places, both in Chinese and Western usage. German sociologist J ü rgen Habermas systematically elucidated the concept of the “public sphere”. He defined the public sphere as a domain of social life that should, in principle, be open to all citizens. Charles Taylor provided a unique interpretation of the concept of the public sphere from a social ontological perspective. He constructed the public domain as an open interactive field. In this space, the general public connects through diverse media, including publications, electronic products, and face-to-face communication, and discusses matters involving common interests. Habermas believes that public spaces are closely related to citizens’ social life and have a distinct “openness”; Taylor believes that public spaces are sites for the free expression and exchange of ideas, possessing a shared nature; Professor Zhang Min’an added that public spaces have “accessibility”. It can be seen that public space is generally regarded as an open physical space where citizens can freely enter, exchange and express their opinions[5].

With the acceleration of the global digital industry revolution, digital and information technologies have penetrated into people’s lives in all aspects. Wachal pointed out that “digitalization” refers to the use of digital communication and media infrastructure to reshape diverse facets of social life. The digitization of public spaces began with the widespread adoption of circular closed-circuit television systems in public areas[6]. This type of monitoring technology has been deployed on a large scale in public areas such as streets, squares, and transportation hubs, signaling an initial shift in the management of public spaces towards data-driven approaches. With the development of technology, the system gradually transitions from analog signals to digital signals, and through network and intelligent upgrades, more complex digital application scenarios have emerged. With the help of facial recognition, behavior analysis algorithms, and big data platforms, public space surveillance systems can actively track targets, identify anomalies, and even predict risks,

moving far beyond passive image recording. The shift from “recording” to “parsing” effectively transforms public spaces into computable, and often interoperable, data environments.

In the wave of information technology innovation, big data and cloud computing, as foundational technologies, are driving the digital revolution with unprecedented synergistic effects. This technological shift enables the collection, integration, and analysis of personal information at unprecedented speed and scale. On the one hand, data collection behavior has penetrated into daily life scenarios, from digital devices in libraries to community convenience service terminals. Various networked devices continuously and often unobtrusively capture user behavior traces. This covert data collection mechanism poses systematic risks to personal privacy, and data subjects’ rights to know and control their information are increasingly eroded by technological capabilities. On the other hand, due to the re-identification characteristics of big data, even seemingly anonymized information shared on social media can be re-identified through data aggregation and cross-referencing with other datasets, reconstructing identifiable personal profiles. Anonymous information is thus revealed, and personal privacy is also exposed.

The impact of the digital wave has made public space no longer just a concept of physical environment, but a space where the virtual and physical are intricately intertwined with digital technology.

3 THE DILEMMA OF PRIVACY PROTECTION IN CHINA'S DIGITAL PUBLIC SPACES

3.1 The Trade-off between Self Disclosure and Privacy Protection Interests

When an individual enters a public area, it inherently involves a limited disclosure of personal information. By using clothing, facial decoration, and verbal communication, individuals actively manage their self-presentation in public spaces, adjusting their external expressions and appearances according to the specific context. From this perspective, the disclosure of personal information in the public domain is increasingly functioning as a form of modern social currency, used strategically through subjective sharing to build and maintain interpersonal relationships. On the one hand, public spaces require a minimum level of information disclosure. This minimum level of information disclosure is not only a functional requirement for maintaining social order, but also a fundamental requirement for the efficient functioning of these spaces. For example, ride-hailing drivers are required to display license plates for identification, while passengers must disclose their location coordinates to facilitate the service. On the other hand, the disclosure of individual information not only promotes self-positioning, but also is a necessary prerequisite for building interpersonal networks. The essence of social interaction in public spaces can be attributed to the interdependence of individuals within social networks. The public disclosure of individual information can effectively suppress the spread of false information, clarify an individual's social roles and communication styles.

People need to disclose their personal information appropriately in public places, but it does not mean that the more personal information disclosed, the better. Among them, private information belongs to the content of personal information, and natural persons have both the personality right of privacy and the right to make independent decisions about personal information. In digital public spaces, personal information exhibits an inherent openness, and in the process of dissemination, the volume of associated data will continually expand. This goes against the pursuit of protecting privacy and personal interests, and the openness of information and data flow will undermine individuals' ability to exclusively control their private information. Therefore, there is a trade-off between the openness of self-disclosure and the privacy and exclusivity of privacy protection in digital public spaces.

3.2 The Tension Between Public Interests and Privacy Rights

The digitization of public spaces began with the large-scale deployment of public video surveillance equipment by government agencies and public institutions in public places. The intelligent monitoring network has achieved full coverage and its technological capabilities are constantly being upgraded, integrating advanced technologies such as biometric recognition and infrared imaging, enabling these systems to adapt to diverse scenarios and meet the varying requirements of different implementing bodies. For example, in order to prevent and combat illegal and criminal activities, law enforcement agencies establish video surveillance networks in open spaces; Public service providers such as educational institutions, medical institutions, and financial institutions have also extensively set up monitoring terminals in their jurisdictions based on security management considerations. The core purpose of installing video surveillance equipment in public areas is to maintain social security and order.

With the large-scale deployment of digital devices such as public video surveillance systems in public spaces, incidents of privacy infringement have become increasingly frequent, fueling public concern and anxiety. On the one hand, the increasing number of digital devices has intensified the threat to individual privacy rights. The installation location of the video surveillance system is concealed, and its monitoring methods and techniques are not easy to detect. People's various behaviors will be recorded as data traces. Individuals are constantly aware that their actions and daily lives may be recorded, stored, and potentially disseminated by ubiquitous surveillance systems. On the other hand, the increase in the number of digital devices will deepen the degree of privacy infringement[7]. For a specific individual, the real-time and interconnected nature of digital networks makes the consequences of privacy breaches difficult to predict and the scope of dissemination hard to contain. Consequently, the challenge of protection intensifies. Once personal privacy content is leaked, it is easy to have a huge impact on society, not only causing significant physical and mental distress to the affected individuals, but also arousing public questioning and resistance to surveillance governance. The deployment of digital devices is to safeguard public interests, but in balancing public interests and private rights, certain

principles and standards need to be followed. Privacy protections should only be overridden for reasons of public safety when an individual's actions within that public space themselves pose a genuine and imminent threat to public safety. The innovation of digital device technology has made personal privacy increasingly vulnerable, and the balance and contradiction between public interest and privacy protection rights are increasingly prominent in the trend of digitalization of public spaces.

3.3 The Conflict between Data Sharing and Privacy Protection Value Goals

Digital technology development offers significant opportunities for enhancing public safety, improving governance efficiency, and advancing the digital economy. However, it simultaneously poses substantial challenges to individual privacy rights in public spaces. Central to this tension is data sharing, a core driver of digital progress aimed at dismantling barriers to the open exchange, access, and utilization of data throughout its lifecycle. Conversely, privacy protection fundamentally seeks to safeguard personal space from unauthorized knowledge, interference, or infringement. This inherent conflict is intensified as the digital revolution reshapes societal operations and consumption patterns. As digitalization advances, personal activities and information become increasingly digitized, archived, and traceable by producers and distributors. Data mining techniques can exploit intimate details—such as family circumstances and consumer behavior—to construct comprehensive consumer profiles. While digital technology facilitates daily life, it also generates an autonomous force that operates independently of human control. This force elevates data security risks, amplifies the threat of privacy breaches, and presents unprecedented challenges for privacy protection in the digital age. The pervasive implementation of data sharing undermines traditional privacy protection paradigms. Historically, physical space served as the primary boundary for privacy, with legal safeguards focused on prohibiting unlawful intrusion into private domains. Digital technology, however, erodes the distinction between private and public spheres. The widespread deployment of digital surveillance and facial recognition technologies invalidates the “reasonable expectation of privacy” doctrine predicated on spatial divisions. Consequently, the boundaries delimiting public authority intervention in private life become increasingly ambiguous.

Privacy infringements resulting from digital surveillance are often irreversible. Personal information exists in a state of near-transparency within borderless digital spaces. Although contemporary legislation (e.g., China's Personal Information Protection Law) mandates conspicuous notice for data collection in public areas, it lacks detailed regulations governing subsequent data reuse and aggregation analysis. This regulatory gap inadvertently heightens the risk of personal privacy leakage. This specificity underscores the fundamental conflict between the imperatives of data sharing and the core values of privacy protection.

4 THE FORMATION OF PRIVACY PROTECTION IN DIGITAL PUBLIC SPACES

4.1 Recognizing the Privacy of Public Spaces and Improving the Legal System for Privacy Protection

The current Civil Code of China stipulates the protection of privacy rights, but lacks explicit provisions recognizing privacy rights in public places. With the continuous development of technology and society, personality rights are receiving heightened societal attention. With the continuous expansion of the connotation of privacy rights, the maintenance of privacy rights in public spaces is crucial. The privacy rights in public spaces have been legally recognized through case law in the United States, shifting the focus from the nature of the space itself to the protection of individual rights within that space. British law has not yet explicitly stipulated the privacy rights in public spaces at the textual level, but in practice, it acknowledges this citizen right. The approaches in both the UK and the US reflect a significant legal emphasis on individual privacy rights.

Based on the current status of privacy protection legislation in China and drawing on the experience of the United States and the United Kingdom, China can strengthen the legal provisions on privacy rights in public places. By clarifying the definition, scope, and measures of privacy rights in public places, China can provide citizens with a clear legal basis for exercising their privacy rights[8]. Firstly, the scope of privacy protection should be extended to public spaces based on practical necessity. Define the concept and protection scope of the right to privacy in public spaces, formally incorporate the right to privacy in public spaces within the scope of civil law protection. This would provide citizens with explicit legal safeguards and establish a clear basis for independent legal action within the civil law framework. Secondly, it is necessary to clarify the protection boundaries of citizens' privacy rights, calibrate compensation amounts, fines, and criminal penalties according to the severity of the infringement, and formulate a comprehensive regulatory plan to provide legal basis for law enforcement agencies to investigate and punish illegal acts that harm public privacy rights.

4.2 Improving the Privacy Rights Remedy Mechanism and Promoting Citizen Awareness and Education

The construction of a comprehensive mechanism for the relief of citizens' privacy rights constitutes a crucial safeguard for citizens' privacy rights, which can effectively prevent the occurrence of serious violations of citizens' privacy rights. It is an important content that cannot be ignored in the protection of citizens' privacy rights in the digital public space. The first thing to do is to allocate the burden of proof reasonably. Given that information service providers control vast amounts of public space data, a certain burden of proof could be allocated to them. Secondly, a punitive damages mechanism can be introduced. Diversified forms of responsibility and sanctions can be used, and the severity and

amount of punishment can incentive infringers to effectively fulfill their liability. Specifically, sanctions could include revoking the infringer's data collection licenses, listing them in credit reporting systems, and restricting their data collection permissions. If the infringement has caused serious consequences, the criminal responsibility of the infringing party should also be pursued in accordance with the law. Finally, it is necessary to clarify the direct and comprehensive relief standards. From the current privacy rights relief mechanism, there is a lack of mandatory procedures and clear compensation standards for remedies. Therefore, procedural provisions for privacy remedies and compensation standards should be improved.

The strengthened protection of personal rights and interests in China's Civil Code, complemented by the Personal Information Protection Law's specific regulation of data processing activities, marks the initial establishment of a privacy protection framework. This legislative process clarifies the legal privacy protection obligations that information processors should undertake in the digital age, as well as the supervisory and management responsibilities that relevant government departments should fulfill. In today's society, the continuous improvement of legal texts is only a basic requirement for the operation of the system. To effectively protect citizens' privacy in digital public spaces, it is essential to leverage awareness-raising and education channels to enhance individuals' awareness, promote the transformation of personal cognitive models, improve the level of control over their own information, and empower citizens to proactively protect their rights through legal channels when facing privacy infringement. Only in this way can the role of the privacy protection system be fully demonstrated, in order to repeatedly verify and improve existing privacy protection models in practical applications.

4.3 Developing Self-Regulatory Standards and Promoting Industry Self-Discipline Models

The industry self-regulation model in US law can effectively incentive market participants. Market participants can collaboratively develop enhanced privacy protection standards that build upon national legal requirements. Driven by market competition mechanisms, they can continuously enhance their own information protection level to attract more users. This model has shown outstanding positive effects.

Based on this model, combined with the characteristics of China's current legislative framework, it is not appropriate to grant information controllers excessive autonomy at this stage. In this context, piloting the establishment of network privacy protection certification bodies holds considerable innovative promise. Network privacy certification agencies carry out privacy and security certifications with social credibility, thereby enhancing user trust in compliant enterprises. At the same time, such organizations will conduct full process information security checks on certification subjects and strictly supervise the information processing of certification enterprises[9].

Balancing privacy protection and information flow in digital public spaces fundamentally involves adapting evolving information norms to the realities of technological innovation. During the construction of a self-discipline system, information management entities should also actively participate in the formulation of industry self-discipline conventions, enhance their compliance and legal awareness, and ensuring that industry practitioners fully understand the critical importance of protecting user information. The industry needs to build a communication bridge between information controllers and information subjects, safeguard data subjects' right to access their information, thereby helping to resolve tensions and build trust between the parties[10].

5 CONCLUSION

This study has systematically explored the theoretical foundations, practical challenges, and pathways for institutional optimization regarding personal privacy protection in digital public spaces. It has identified core tensions within digital public spaces: the trade-off between self-disclosure and privacy protection, the tension between public interests and individual rights, and the conflict between data sharing and privacy security. The essence of these tensions lies in the ongoing negotiation between the capabilities of digital technology and the boundaries of privacy during the process of digitization.

In response to the above difficulties, this article proposes one: advocate for specific legislation to formally recognize privacy rights in public spaces and establish a tiered protection framework; Secondly, promote the responsible deployment of privacy-enhancing technologies and establish comprehensive oversight and remedy mechanisms; Thirdly, by fostering industry self-regulation through certification and enhancing citizen digital literacy education, a multi-party collaborative governance pattern will be formed. This research creatively integrates the concepts of "privacy rights" and the "digitalization of public spaces," moving beyond traditional frameworks focused solely on physical spaces, and exploring feasible paths for privacy protection in public spaces in the digital age.

COMPETING INTERESTS

The authors have no relevant financial or non-financial interests to disclose.

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THE ROLE AND CONTRIBUTION OF MIDDLE-AGED WOMEN IN THE MODEL OF SHARED CARE FOR THE ELDERLY AND CHILDREN--A CASE STUDY OF AN INTEGRATED SERVICE CENTER FOR THE ELDERLY AND CHILDREN IN CITY B

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Abstract: This study focuses on an integrated service center for the elderly and the young in City B. It explores in-depth its transition from a single elderly care institution to an intergenerational co-care platform, with a special focus on the pivotal role played by middle-aged women in the process. The study adopts a diachronic institutional analysis perspective, and through combing policy texts, reading key literature, and conducting in-depth interviews, reveals how middle-aged women have successfully transferred their family caregiving experience to community service scenarios, realizing the role transition from "private caregiver" to "public coordinator". The study reveals how middle-aged women successfully transfer their family caregiving experiences to community service scenarios, realizing the transition from "private caregiver" to "public coordinator". The study found that middle-aged women, with their unique ability to transform resources, made significant contributions to intergenerational interactions, resource integration and emotional support, and contributed to the improvement of the quality and efficiency of community services. Despite the geographical limitations of the study, the results provide innovative solutions to the challenges of population aging and childlessness, and highlight the need to further optimize the model of co-parenting between the elderly and the young through policy support and institutional innovation. Future research should expand the scope and delve deeper into the psychological state and career development needs of middle-aged women in order to refine the understanding of the model and promote its wider application.

Keywords: One old and one young; Middle-aged women; Co-parenting; Intergenerational co-parenting

1 INTRODUCTION

1.1 Background and Significance of the Study

Under the dual role of demographic transition and policy drive, China's community services are experiencing a paradigm shift from single supply to intergenerational integration. city B, as a testing ground for mega-city governance innovation, has an elderly population of 60 and above accounting for 30% of the population, with a shortfall of more than 70,000-80,000 nurseries for infants and young children between the ages of 0-3 years old, giving rise to the dual pressures of "care for the silver-haired" and "care for the young". In this context, the company was founded in 20 years ago. Against this backdrop, a public-private partnership community service center (government site support + private organization operation), established in 2021, took the lead in responding to the national "one old, one young" overall solution at the end of 2023, completing the transformation from a single elderly care institution to an intergenerational co-care platform, providing a vivid sample for cracking the resource mismatch[1-3].

This study focuses on a group of middle-aged women (45-59 years old) who show unique pivotal value in institutional transitions. By reconstructing their family caregiving experiences, these women, who are in the triple transition phase of "empty nest, career transition, and menopause", have developed a new type of practical wisdom in intergenerational activity planning and inter-age communication mediation. This role transition from "private caregiver" to "public coordinator" not only confirms the localized practice path of Intergenerational Solidarity Theory, but also provides a theoretical growth point for the transformation of the value of gendered labor in community governance[4-11].

1.2 Research Questions

Based on the above realities and theoretical contexts, this study is organized around three core dimensions:

First, in the process of institutional transformation from "age-friendly" to "intergenerational" services, how can middle-aged women build a service hub connecting the needs of the elderly and childcare through experience transfer and skill reorganization? How does this process reflect the tension between private family labor and public participation?

Secondly, are the intrinsic motivations that drive this group to continue to invest in intergenerational services, in addition to policy guidance, deeply echoed in the emotional needs and demands for social capital reconstruction specific to their stage of life?

Thirdly, under the public-private partnership model, what structural obstacles exist in the design of the established system in terms of empowerment of the main parties and risk sharing? How can the governance potential of

middle-aged women be unleashed through institutional innovation?

2 LITERATURE REVIEW

2.1 Background and Status of Research

With profound changes in the global demographic structure, population ageing and paedophilia have become common challenges for many countries. According to United Nations projections, by 2050, the global elderly population aged 60 and above will account for 30% of the total population, while the proportion of children aged 0-14 will drop to 17%. This trend poses a serious challenge to the traditional model of elderly care and childcare, prompting all sectors of society to seek innovative solutions. As an emerging service delivery model, the elderly-child co-education model is gradually gaining attention. By organically combining elderly care and childcare services, this model not only realizes efficient utilization of resources, but also promotes communication and integration between different generations, providing new ideas to alleviate the pressure of elderly care and childcare[6]. Domestically, with the rapid economic and social development, the problems of population aging and paediatrics are also becoming more and more prominent. Data from the National Bureau of Statistics shows that as of 2023, China's elderly population aged 60 and above has exceeded 290 million, accounting for 20.9% of the total population, while the population of young children aged 0-14 is about 230 million, accounting for 16.2% of the total population[7]. Against this background, the exploration and practice of the old-child co-education model has gradually emerged in China[8]. As a functional core area in China, the demographic characteristics and service needs of X district of B city provide a typical case for the practice of the old-child co-education model.

2.2 Research Gaps

Despite the fact that studies have extensively explored the model of co-education between the elderly and the young, there are still some research gaps. First, most of the existing studies have focused on the overall effects and advantages of the model, but have not explored in depth the unique role and value of middle-aged women, and lacked systematic research on their participation mechanisms and influencing factors. Second, there are fewer studies on the applicability and promotion strategies of the model in different regions and types of communities, and there is a lack of targeted guidance recommendations. Finally, there is a relative lack of research on the long-term effects and sustainable development of the model, and there is a need to further explore its potential and prospects in addressing the challenges of demographic change.

3 RESEARCH METHODOLOGY

This study focuses on a public-private partnership community service center in City B. Established in 2021, the center initially focused on embedded elderly care services, and at the end of 2023, it took the lead in transforming its service model in response to the national policy of coordinated development of the "one old, one young", and became the first demonstration unit in the city to integrate the functions of elderly care and childcare. The center's operation model is typical of government-enterprise cooperation: the government provides standardized space and bears the basic operation and maintenance costs, while the private organization is responsible for service innovation and personnel training, forming a dual-wheel drive pattern of policy guidance and market mechanism. In terms of data collection, the research data mainly comes from three parts: first, systematically combing the policy texts formed before and after the transformation of the organization from 2021 to 2023, focusing on comparing the iterative logic of the core provisions such as service objectives, staffing standards, and evaluation system; second, deeply interpreting 81 key literatures in the field of intergenerational research on the elderly and the young both at home and abroad from 2019-2025, and constructing a "policy-driven - intergenerational" model. Secondly, the study has deeply interpreted 81 key literatures in the field of intergenerational research from 2019 to 2025 at home and abroad, and constructed an analytical framework of "policy-driven - service transformation - main body reshaping". Thirdly, the study has conducted in-depth interviews with the executive managers of the organizations, focusing on the reconstruction of the competence of the existing nursing caregivers, the dilemmas in the establishment of intergenerational safety standards, and the boundary of power and responsibility between the governmental regulation and the organizations. The study adopts the perspective of historical institutional analysis and focuses on revealing three transformation mechanisms: first, through the analysis of the evolution of key words in the policy text, we trace the transformation of the institutions from "ageing-friendly renovation" to "intergenerational space creation"; second, we find that the goal of the institutions for middle-aged women is to create an intergenerational space for the elderly. First, through the analysis of the evolution of key words in the policy text, we find that the roles and contributions of middle-aged women in co-care for the elderly and the young are still being explored and researched in both academic and practical circles, and that their importance is gradually being paid attention to and emphasized. Second, based on the qualitative analysis of service cases, it reveals how middle-aged women transform traditional caregiving experience into intergenerational communication skills, for example, when organizing grandparent-grandchild co-education activities, their ability to mediate conflicts in the family scenario is transformed into conflict resolution strategies in community services. Third, through the analysis of the operation logic of the public-private partnership model, it is clarified how the government's infrastructure supply and the private service innovation capacity jointly shape the participation ecology of middle-aged women.

4 FINDINGS

4.1 Practice Trajectory of Service Model Transformation

The creation of this service center is a vivid illustration of the precise match between policy guidance and community needs. Officially opened in late 2023, the center's core "1+3+X" service model builds a new intergenerational service ecology - 1 core, 3 supports, and X innovations: with the community meal service as the base, it covers the three basic functions of basic old-age protection, quality enhancement of the energetic elders, and management of chronic illnesses, and extends intergenerational integration, cultural inheritance and other characteristic scenarios. This structured design breaks through the limitations of traditional service organizations, which emphasize basic protection but not intergenerational interaction. In the Dual-age Integration PEN Activity held in the first half of 2024, senior calligraphy enthusiasts and custodial children worked together to complete the creation of themed scrolls. This activity vividly demonstrated the positive contribution of spatial integration to intergenerational interaction. Through joint artistic creation, the interaction between seniors and children became more frequent and in-depth, with seniors rekindling their passion for creativity in the process of instructing the children in calligraphic skills, while the children's childlike questions inspired the seniors' novel interpretations of the aesthetics of traditional calligraphy. The video footage of the event clearly captures the positive interactions between the participants and demonstrates the rich results of intergenerational cooperation, strongly proving that spatial integration can effectively catalyze intergenerational communication and integration.

4.2 Realization of the Pivotal Role of Middle-Aged Women

In the daily operation of the service centers, middle-aged women's groups have demonstrated their unique ability to transform resources. Taking the management team of the central cafeteria as an example, the five female staff members aged 45-55 have extended the meal delivery service into an emotional bond through the innovation of the "intergenerational meal delivery" mechanism: when delivering nutritious meals to the elderly who live alone, they synchronize the collection of their unused books and transfer them to the community bookstore; when delivering children's meals to the families of dual-income earners, they attach the paintings of the students of their custodial classes as emotional tokens. The essence of this kind of service innovation is the value spillover of their family caregiving experience - the so-called "value spillover" refers to the fact that middle-aged women have transformed their multitasking skills cultivated in the family, such as caring for the sick elderly and their school-age grandchildren at the same time, and their emotional coordination skills, such as resolving intergenerational communication conflicts, into strategies for resource integration and intergenerational interaction design for the purpose of realizing personalized care and service. Intergenerational interaction design in community services, thus realizing the creative transformation of private experience into public value.

4.3 Generative Logic of Stress Relief

The center's practical innovations show unique effectiveness in the organic coupling of intergenerational needs. 24-hour bookstores create a gravitational field for intergenerational transfer of knowledge through the reconstruction of spatial narratives: in the "silver-age story corner", the comprehensive service center employs a retired teacher to narrate the cultural history of canals for after-school children every week, and the children spontaneously make models of the story scenes in clay to return the gift; the "children's voices reading area" has become an incubator for language vitality, and the young learners' tender poetry recitation often triggers the elderly audience to sing and sing along with them. The "children's reading area" became an incubator of language vitality, and the young students' tender poetry recitation often triggered the elderly audience to sing along with the collective beat of the rhythms. This two-way flow of knowledge transfer and emotional feedback has transformed the bookstore beyond its traditional reading function into a third space for intergenerational spiritual interaction.

More revealing is the creative articulation of the service chain. During the consultation process in the Health Consultation Room, the doctor found that Mr. Zhang, an elderly person living alone, was afraid of the smart blood pressure monitor, so he linked up with the nursery class to carry out the activity of "Little Technology Tutor". The study found that when the children demonstrated the operation of the devices in a playful manner, the elderly not only mastered the skills quickly, but also regained their confidence in learning under the children's patient guidance. This kind of intergenerational interaction, which is naturally derived from the service touchpoints, exposes the demand-response relationship that has been obscured under the traditional age-specific service model. It is these seemingly minor scene innovations that ultimately pushed the street governance system to include intergenerational integration ability in the evaluation of the core qualities of community service providers[9].

5 DISCUSSION

5.1 Practical Tensions in the Intergenerational Inclusion Model

The service center's characteristic "1+3+X" model shows the localized practical picture of the theory of intergenerational integration. The innovation of activities represented by the Two-Elderly Integration Pen Meeting

reveals the unique mutual feeding effect between the cultural precipitation of the elderly group and the curious nature of children - the elderly calligraphy enthusiasts rekindle their passion for creation when guiding the children to hold the brush and move their strokes, while the children's childish questions often inspire the elderly to interpret the aesthetics of traditional calligraphy in a brand new way. This two-way activation mechanism breaks through the limitations of the "single-age closed loop" of traditional services, but in practice it also exposes the reality of tension: the "tidal" use of intergenerational shared space - participants are crowded during peak hours, while it appears to be cold during peak hours - reflects the challenge of fine-tuning the management of matching intergenerational demand[10-12]. A deeper contradiction lies in the disconnection between policy advocacy and operational norms. In the grandchildren and grandchildren co-learning scenario, the compliance controversy between the spontaneous teaching behaviors of the elderly group and the existing regulatory requirements for childcare is in urgent need of an innovative response at the institutional level, for example, when the elderly spontaneously teach small children something in community activities, there may be a conflict between such behaviors and the existing regulations on childcare services, and the elderly don't have a teaching certificate there, and so on. objective normative conditions, or their teaching content does not meet the requirements of the education sector, as well as the safety of the activities is not guaranteed. This requires the government and relevant authorities to introduce new policies or regulations to clarify the legality of such activities and to ensure that they are safe and in line with educational standards.

5.2 Mechanisms for Transforming the Experience of Middle-Aged Women

Middle-aged women have demonstrated a unique wisdom in translating their experience into intergenerational services. The meal delivery service of the Central Cafeteria is a case in point: they combine meal delivery route planning with insights into the intergenerational needs of the community, collect unused books to enrich the community bookstore when delivering nutritious meals to the elderly, and give handwritten blessing cards to the elderly when delivering meals to childcare classes. This kind of seemingly everyday service innovation is actually a creative transfer of family caregiving experience - the meticulous observation skills cultivated in caring for the disabled elderly are transformed into the ability to design touchpoints for intergenerational resource docking; and the experience of coordinating and balancing the needs of multiple children is sublimated into the art of rhythmic control for inter-age group services. This kind of transformation process confirms the mechanism of "tacit knowledge manifestation" in the theory of practical knowledge, but the current system has not yet established an effective channel for recognizing the value of experience, which makes this kind of innovation more dependent on individual consciousness rather than systemic support[13-14].

6 CONCLUSION

Research Summary This study focuses on a public-private partnership community service center in City B. It provides an in-depth analysis of the center's practical trajectory of transitioning from a single elderly care institution to an intergenerational co-parenting platform. The study found that middle-aged women played an irreplaceable pivotal role in this process. With their unique ability to transform resources, they have successfully transferred their family caregiving experience to community service scenarios. For example, the management team of the central canteen has realized the double value of emotional connection and resource integration through the innovative mechanism of "intergenerational meal delivery". This kind of role transition from "private caregiver" to "public coordinator" not only reflects the localized practice path of intergenerational solidarity theory, but also provides a theoretical growth point for the transformation of the value of gendered labor in community governance. Meanwhile, the center's "1+3+X" service model significantly improves the effectiveness and quality of community services through the organic coupling of intergenerational needs, and provides an innovative solution to alleviate the pressure on elderly care and childcare.

Although this study revealed the key role of middle-aged women in the old-child co-parenting model through case studies, the scope of the study was mainly limited to a single community service center in City B, which may have some limitations. Future research can further validate the effectiveness and universality of the old-child co-parenting model by expanding the sample size to cover more districts and different types of community service centers. In addition, an in-depth discussion of the psychological state and career development needs of middle-aged women in the context of child and elderly co-education, as well as how they balance the relationship between family and work, will provide more comprehensive support and protection for them and help to further optimize the model of child and elderly co-education services[15-16].

In conclusion, this study takes a public-private partnership community service center in City B as an example to explore in depth how the old-child co-parenting model can alleviate the pressure of aging and childcare through the participation of middle-aged women, and analyzes the key nodes and practical effects in the process of institutional transformation. The study reveals the unique contribution of middle-aged women in intergenerational services and the significant advantages of the model in promoting intergenerational integration and improving service quality and efficiency. These findings provide valuable practical experience and theoretical support for addressing the challenges of population ageing and child reduction.

COMPETING INTERESTS

The authors have no relevant financial or non-financial interests to disclose.

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LEGAL FRAMEWORKS FOR EQUITABLE CLINICAL SKILL TRANSFER IN PERINATAL CARE: A CROSS-REGIONAL COLLABORATION MODEL

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Abstract: This study explores the legal and institutional architectures governing skill transfer mechanisms in maternal-child healthcare capacity building under China's interprovincial collaboration framework. Through a systematic analysis of policy documents (2020–2023), including interregional agreements, standardized training protocols, and cross-jurisdictional partnership accords, four critical legal dimensions emerge: (1) development of competency metrics anchored in evidence-based clinical criteria; (2) liability demarcation protocols for telemedicine education addressing cross-border malpractice jurisdiction; 3) intellectual property regimes governing co-developed pedagogical resources with adaptive revenue-sharing mechanisms; and (4) equity-driven implementation frameworks for disseminating standardized neonatal resuscitation algorithms. Adopting a mixed-methodology design, the research integrates qualitative analysis of five provincial collaborative networks (e.g., Guangdong-Hunan Health Corridor and Yangtze Delta Consortium) with quantitative assessments of 320 healthcare professionals across tertiary hospitals. Empirical results demonstrate that structured interprovincial agreements enhance skill parity by 34% ($p < 0.01$) in resource-limited regions relative to informal collaborations, particularly in perinatal ultrasound competency development. Persistent challenges include jurisdictional conflicts in telemedicine licensure reciprocity and sustainability of resource-sharing mechanisms post-initial funding cycles. The findings inform proposed amendments to national health collaboration guidelines, advocating for: (1) performance-contingent funding models with quarterly competency verification; (2) blockchain-enabled credential authentication systems for interregional knowledge transfer; (3) rotating expert committees for protocol standardization; and 4) AI-driven gap analysis tools for provincial maternal care networks.

Keywords: Maternal and child health; Cross-regional collaboration; Healthcare equity; Legal frameworks; Telemedicine

1 INTRODUCTION

Geographically remote regions in lower-resource settings face persistent maternal-child health disparities, with western provinces demonstrating 112% higher neonatal mortality rates relative to coastal provinces [1]. Epidemiologic surveillance data indicate strong correlations between these disparities and geographic isolation indices ($r = 0.83$, $p < 0.01$), compounded by significant interregional variations in per capita health expenditure [2]. While the 2019 Regional Health Equity Initiative legislated interprovincial resource-sharing mechanisms, implementation analysis reveals persistent systemic deficiencies—particularly in high-altitude territories ($> 3,000\text{m ASL}$) where 38% of primary care facilities lack WHO-standard neonatal resuscitation equipment [3], exacerbated by seasonal transportation impediments affecting 67% of these institutions during winter months [4]. This investigation systematically examines the legal frameworks governing healthcare capacity transfer through a tripartite analysis of provincial health codes ($n = 12$) and cross-jurisdictional agreements ($n = 47$), with particular emphasis on three structural interventions: (1) standardized altitude-physiological adaptation protocols requiring biannual high-fidelity simulation training using WHO-certified neonatal manikins, (2) equity-weighted fiscal allocation matrices integrating terrain ruggedness indices (TRI) and population dispersion coefficients, and (3) cross-boundary licensure reciprocity systems enabling emergency medical teams to operate transprovincially during public health emergencies.

2 METHODOLOGICAL FRAMEWORK FOR INVESTIGATING PERINATAL AND PEDIATRIC HEALTH DISPARITIES IN TRANSNATIONAL BORDER REGIONS

To systematically investigate maternal-child health disparities in China's border regions, this study implemented a mixed-methods research framework integrating quantitative and qualitative methodologies.

The study protocol was approved by an institutional review board (IRB-2023-HS-045), ensuring adherence to the Declaration of Helsinki principles for human subject research. All participants provided informed consent prior to data collection, with explicit anonymization protocols applied to administrative health records and interview transcripts.

2.1 Data Collection

2.1.1 Administrative health records

Neonatal mortality statistics, healthcare infrastructure metrics, and maternal health indicators were extracted from the National Healthcare Authority's (NHC) standardized databases [1,5–7]. These comprehensive repositories aggregate

provincial-level health surveillance data, encompassing all designated border regions. Notably, NHC’s provincial healthcare compliance audits provided critical documentation of neonatal resuscitation equipment deficits in high-altitude medical facilities [3].

2.1.2 Regional epidemiological surveys

Supplementary data included region-specific health assessments conducted by local health authorities. In high-altitude border zones (e.g., High-altitude Plateau Zone), structured surveys evaluated altitude-induced pregnancy complications and assessed healthcare personnel’s altitude adaptation training efficacy[8].

2.1.3 Policy framework analysis

We conducted systematic reviews of health equity policies, including the 2019 Regional Health Equity Initiative and subsequent provincial implementation blueprints. This analysis focused on identifying systemic policy limitations and operational challenges contributing to persistent health disparities. Policy document analysis excluded identifiable personal data, adhering to institutional ethical guidelines for secondary data use.

2.2 Quantitative Analysis

2.2.1 Descriptive epidemiology

Epidemiological data were systematically summarized using descriptive statistics. Comparative analyses calculated mean neonatal mortality rates with standard deviations across border regions, establishing statistically significant disparities compared to coastal reference values.

2.2.2 Multivariate regression modeling

We developed hierarchical regression models to identify determinants of maternal-child health outcomes. Key predictor variables included healthcare resource allocation indices, altitude adaptation training implementation rates, and interprovincial resource-sharing coefficients. Model outputs revealed significant predictors of health outcome variation ($\beta=0.72$, $p<0.01$) [9].

2.2.3 Qualitative analysis

Stakeholder Case Studies: Semi-structured interviews were conducted after obtaining written informed consent, with participants assured of confidentiality through de-identification codes. Semi-structured interviews were conducted with 42 border-region health system stakeholders, including clinicians, health administrators, and policy implementers. The Yunnan "Provincial Management of County-Level Personnel" reform was examined through grounded theory analysis, capturing implementation barriers and maternal health outcome impacts from practitioner perspectives [10].

2.3 Health Policy Discourse Analysis

Critical discourse analysis was applied to policy documents, examining implicit assumptions and implementation gaps. Particular focus was directed toward medical collaboration frameworks in the Kashgar-Horgos Economic Zone development policy, analyzing discrepancies between policy rhetoric and practical implementation [11].

3 LEGAL FRAMEWORK FOR COMPETENCY TRANSFER MECHANISMS

3.1 Regulatory Foundations

The Health Workforce Development Act (2023 Amendment) introduces three pivotal structural innovations in medical personnel training systems:

(1) Altitude-adaptive Medical Protocols: Implementation of standardized hypobaric hypoxia adaptation modules for high-altitude border healthcare facilities (State Council Directive No. 2023-17) [2], requiring completion of 120-hour hypobaric chamber simulations for medical personnel deployed above 4,500 meters. The curriculum incorporates advanced cardiovascular stabilization algorithms and evidence-based cold-weather trauma management protocols specifically calibrated for Qinghai-Tibet Plateau biogeographical conditions.

(2) Blockchain-Enabled Credentialing System: Deployment of decentralized ledger certification architecture fully compliant with MIIT Standard GB/T 4321-2023 [4], incorporating SHA-3 encrypted cross-provincial verification nodes. This distributed system interfaces with the National Continuing Medical Education Platform through Ethereum-based smart contracts, enabling instantaneous synchronization of specialist certifications across 28 recognized medical disciplines.

(3) Equity-Oriented Funding Allocation: Implementation of dual-component financing formula consisting of demographic-weighted base allocations (60% weight) and performance-contingent supplemental allocations (40% HEIA index). The framework applies 1.25x poverty weighting multipliers for regions with $\geq 15\%$ poverty incidence. The Health Equity Index Assessment (HEIA) mechanism quantitatively evaluates regional healthcare outcomes through 18 validated clinical metrics, including annualized maternal mortality reduction targets ($\geq 12\%$ y/y) and multidrug-resistant tuberculosis containment efficacy rates.

Table 1 Regional Compliance with Legal Reforms (2023)

Region	Training Hours (2023)	Altitude Compliance (%)	Blockchain Adoption
Yunnan	785	92.3	84.7

Western region	732	88.7	79.1
National Avg	654	73.5	62.4

Data: National Healthcare Authority 2024 Audit [5]

3.2 Liability Governance Frameworks

The Tripartite Accountability Framework achieved a 41% reduction in transnational medical liability disputes through coordinated implementation of three synergistic mechanisms across 23 participating healthcare networks spanning 7 transnational jurisdictions:

1. Operational role delineation matrices establishing jurisdictional responsibilities between remote and on-site healthcare providers through evidence-based diagnostic authority protocols, algorithm-driven treatment decision hierarchies, and standardized postoperative care continuity requirements;
2. Legislated malpractice insurance coverage mandates (\$1.2M minimum per practitioner) as prescribed in NHC Circular No. 2022-45 [12], subject to biannual compliance audits through transnational actuarial frameworks and multilateral insurance portability agreements since Q3 2022 implementation;
3. Synchronized documentation protocols for telemedicine encounters compliant with Joint Commission International Standards (Section 7.3.4, 2023 Telehealth Accreditation Guidelines), incorporating blockchain-encrypted encounter logs using multi-node distributed ledger technology and ISO 8601-compliant automated timestamp verification protocols.

The Provincial Accountability Framework demonstrated a 41.2% reduction in cross-jurisdictional medical liability disputes ($p<0.01$) through three coordinated mechanisms across 23 provincial partnerships under China's interprovincial collaborative mechanism (2019–2023 National Healthcare Authority datasets):

Responsibility Allocation Matrices defining jurisdictional boundaries between tertiary hospital specialists and rural practitioners through:

- Evidence-based authorization protocols for emergency obstetric interventions
- Algorithm-guided decision hierarchies adapted to resource-constrained settings (Xinjiang-Gansu partnership model)
- Standardized post-training supervision frameworks requiring monthly competency audits

Mandatory Malpractice Insurance requirements (¥8M minimum coverage per institution) per NHC Directive 2021-39 [12], enforced through:

- Blockchain-enabled policy verification integrated with provincial health credit systems
- Shared liability pools covering 68 frontier counties in Yunnan-Tibet partnerships

Unified Documentation Standards compliant with National Health Data Security Specifications (GB/T 22239-2019):

- Blockchain-anchored training records with dual authentication (instructor × trainee)
- Chronological audit trails meeting ISO 9001:2015 clinical training requirements

Empirical data from 1,447 resolved cases (NHC Arbitration Repository 2020–2023) shows:

- 84.3% reduction in average dispute resolution time (14.7 to 2.3 months, $p<0.001$)
- 97.1% compliance with post-dispute protocol adjustments in border prefectures
- 125.6% improvement in cross-provincial insurance claim processing efficiency

The framework particularly enhanced accountability in high-altitude regions ($>3,000\text{m}$), where standardized protocols reduced equipment-related liability claims by 57.4% (95% CI: 53.2–61.1%) through mandatory altitude-adaptation training modules. These outcomes validate the model's efficacy in balancing legal accountability with equitable competency transfer under China's decentralized health governance system.

Table 2 Comparative Analysis of Dispute Resolution Efficiency within Provincial Accountability Frameworks

Metric	Pre-Implementation (2018–2020)	Post-Implementation (2021–2023)	Improvement (%)	Statistical Significance (p-value)
Average Resolution Time	14.7 months (± 3.1)	2.3 months (± 0.7)	-84.4%	<0.001
Cases Resolved ≤ 6 Months	18.2% (± 5.1)	97.1% (± 1.8)	+433.5%	0.002
Cost per Case (RMB)	165,000 ($\pm 28,500$)	57,800 ($\pm 9,200$)	-65.1%	<0.001
Backlog Clearance Rate	38.4% (± 6.7)	86.7% (± 4.2)	+125.6%	<0.001
Stakeholder Satisfaction	52.7% (± 8.3)	89.4% (± 3.6)	+69.6%	0.001
Altitude-Related Claims*	23.5 cases/year (± 4.2)	10.0 cases/year (± 2.1)	-57.4%	<0.001

Data Source: National Healthcare Authority Arbitration Repository (2023), $n=1,447$ resolved cases across 23 provincial partnerships. Metrics reflect mean (\pm SD) values. Altitude-related claims defined as disputes involving medical equipment performance above 3,000m [6].

The Provincial Accountability Model achieved statistically significant improvements across all dispute resolution metrics, reducing average resolution time by 84.4% (14.7 to 2.3 months, $p<0.001$) and per-case costs by 65.1% (RMB 165,000 to 57,800, $p<0.001$). Implementation increased six-month resolution rates by 433.5% (18.2% to 97.1%, $p=0.002$) and cleared 86.7% of backlogged cases, surpassing pre-intervention performance by 125.6% ($p<0.001$). Notably, high-altitude equipment-related liability claims decreased by 57.4% ($p<0.001$), demonstrating the model's efficacy in addressing region-specific challenges. Stakeholder satisfaction improved by 69.6% (52.7% to 89.4%, $p=0.001$), validating the framework's operational viability for interprovincial healthcare collaborations under decentralized governance systems.

4 CASE STUDY ANALYSIS

4.1 Operationalization of Maternal-Infant Health Care Competency Training for Medical Professionals in Yunnan's Remote Alpine Border Regions

4.1.1 Contextual framework and jurisprudential underpinnings

Yunnan Province, characterized by extensive alpine topography (38% of land area $>3,000\text{m}$ elevation) and 4,060km of international boundaries, continues to experience persistent disparities in maternal-child health indicators. The Interprovincial Border Health Collaboration Act promulgated in 2020 institutionalized a tripartite governance framework comprising:

- Mandatory competency-transfer agreements between tertiary hospitals in developed eastern provinces (e.g., Shanghai, Guangdong) and 28 border county-level medical facilities in Yunnan.
- Standardized high-altitude training protocols integrating WHO Emergency Obstetric Care (EmOC) guidelines adapted for hypobaric hypoxia pathophysiology.
- Blockchain-encrypted credentialing mechanisms to ensure compliance accountability under the National Telemedicine Regulatory Code.

4.1.2 Methodology

The study employed a mixed-methods design from 2020 to 2023, combining quantitative surveys with 850 participants and qualitative focus groups with 45 stakeholders. Quantitative data underwent regression analysis while qualitative data was thematically analyzed. A joint display matrix integrated findings for methodological triangulation. Ethical oversight included quarterly audits by the review board to validate data anonymization and participant withdrawal rights. (1) Quantitative component Longitudinal analysis of 28 alpine counties (total population 3.2 million) utilizing:

- Pre- and post-intervention maternal mortality ratios (MMR)
- Operational utilization rates from IoT-enabled medical equipment
- Training adherence metrics derived from blockchain audit logs

(2) Qualitative component

- In-depth semi-structured interviews with 47 healthcare administrators
- Structured focus group discussions involving 123 clinical trainees

Statistical adjustments: Controlled for baseline economic indicators (GDP per capita: $\beta=-0.32$, $p=0.021$), transportation infrastructure (road density: $\beta=0.41$, $p=0.003$), and demographic composition (ethnic minority populations).

4.1.3 Implementation outcomes

Table 3 Comparative Analysis of Performance Metrics in Statutorily Mandated Training Frameworks for Alpine Ecosystem Management

Metric	Pre-Implementation (2018–2019)	Post-Implementation (2020–2023)	Variability rate $\Delta(\%)$	95% CI	p-value
Maternal mortality ratio (per 100,000)	72.3 (± 14.2)	31.6 (± 7.8)	-56.3%	[-64.2, -48.1]	<0.001
Neonatal resuscitation success rate	43.7% (± 8.5)	84.9% (± 5.1)	+94.3%	[81.6, 106.5]	<0.001
Cross-border malpractice disputes	24.6 cases/year (± 5.3)	8.4 cases/year (± 2.1)	-65.9%	[-73.2, -58.1]	0.002
Training protocol compliance	38.2% (± 9.7)	91.5% (± 3.3)	+139.5%	[126.8, 152.7]	<0.001
Equipment utilization (portable ultrasound)	41.8% (± 10.4)	82.3% (± 6.7)	+96.9%	[83.4, 109.1]	<0.001

Data Provenance: Yunnan Provincial Health Commission (2023), National Alpine Health Repository (2023).

4.1.4 Success mechanisms

Regulatory harmonization: 89% reduction in cross-provincial jurisdictional conflicts achieved through:

- Standardized liability frameworks delineating trainer-trainee obligations (Table 4)
- Smart contract-driven compliance monitoring (98.7% operational accuracy)

Table 4 Responsibility Matrix for Cross-Provincial Training Agreements

Actor	Pre-Implementation Disputes (%)	Post-Implementation Disputes (%)	Resolution Efficiency Gain (%)
Provincial trainers	38.7	12.4	+67.9
County practitioners	29.5	8.9	+69.8
Technology providers	31.8	5.7	+82.1

Data Derivation: Interprovincial Health Mediation Archives (2023).

Technology integration: Blockchain implementation reduced credential authentication duration from 18.7 (± 4.2) days to 2.3 (± 0.5) hours ($p < 0.001$).

Altitude-specific clinical protocols: Modified neonatal care guidelines reduced hypothermia incidence from 22.1 to 7.3 cases per 1,000 live births ($p = 0.003$) at elevations exceeding 3,500 meters.

4.1.5 Persistent challenges

- Infrastructure constraints: 27% of municipalities above 3,500 meters lacked reliable power supply for telemedicine infrastructure.
- Regulatory discontinuities: 19% of liability disputes required exceeding 6 months for cross-provincial adjudication.
- Human resource sustainability: Specialist attrition rates persisted at 14.3% annually despite monetary retention incentives.

4.1.6 Policy recommendations

Legislative revisions:

- Integration of altitude-adapted medical equipment specifications into Medical Device Regulations
- Statutory allocation of minimum 30% interprovincial health funds for frontier region infrastructure development

Technological advancements:

- Implementation of AI-driven competency gap analysis systems (e.g., real-time performance dashboards)
- Universal deployment of satellite-based telemedicine to all settlements above 3,000 meters by 2025

Governance restructuring:

- Establishment of permanent Cross-Provincial Health Arbitration Panels with 60-day resolution requirements
- Adoption of performance-based financing mechanisms correlated with MMR reduction benchmarks ($\beta = 0.78$, $p = 0.011$)

4.1.7 Conclusion

This case study demonstrates that statutory regulation of competency transfer systems can effectively mitigate geographical and administrative barriers in alpine border areas. The documented 56.3% MMR reduction achieved through legally enforceable training protocols establishes a replicable framework for attaining Sustainable Development Goal 3.1 in decentralized healthcare systems. Subsequent investigations should evaluate the model's transferability to other high-altitude regions in Central Asia and the Andes, with particular emphasis on cross-jurisdictional adaptation of legal architectures.

4.2 Interprovincial Collaborative Medical Services in Yunnan: A Framework Analysis

4.2.1 Contextual and normative legal framework

Yunnan Province, a strategic frontier zone bordering Myanmar, Laos, and Vietnam, functions as a pivotal demonstration area for China's interprovincial medical cooperation mechanisms. The Border Health Equity Decree (2021) instituted a tripartite governance framework comprising:

- (1) Multidisciplinary healthcare collaboration framework across Yunnan's border townships (2019–2023)
- (2) Blockchain-authenticated audit records encompassing 4,320 cross-institutional training sessions
- (3) Operational metrics from IoT-enabled medical equipment (mean utilization rate: $78.4 \pm 12.1\%$)

4.2.2 Analytical framework and methodology

A mixed-methods research design was systematically implemented to evaluate the implementation efficacy of legal frameworks through a tripartite dimensional analytical approach.

(1) Quantitative Data Sources

- Clinical outcome metrics spanning 68 township-level medical institutions (2019–2023 cohort)
- Blockchain-verified audit records encompassing 4,320 professional training sessions
- Real-time equipment utilization data captured through IoT-enabled medical devices

(2) Qualitative Data Collection

- In-depth semi-structured interviews conducted with 39 policy architects and legal consultants
- Structured focus group discussions involving 157 healthcare practitioners from ethnic minority autonomous regions

(3) Analytical Methodology

- Difference-in-Differences (DID) econometric models comparing pre- and post-2021 policy implementation phases
- Systematic content analysis of 23 interprovincial collaborative agreements
- Geospatial autocorrelation analysis mapping specialist distribution patterns (Moran's $I = 0.71$, $p < 0.01$)

4.2.3 Legal framework efficacy: quantitative outcomes**Table 5** Multivariate Analysis of Legal Intervention Impacts on Healthcare Equity (2019 vs. 2023)

Indicator	Pre-Implementation (2019)	Post-Implementation (2023)	Variability rate Δ (%)	95% CI	p-value
Maternal mortality ratio (per 100,000)	68.4 (± 12.5)	29.7 (± 6.8)	-56.6%	[-63.2, -49.8]	<0.001
Neonatal hypothermia incidence	18.3 cases/1,000 (± 3.2)	5.1 cases/1,000 (± 1.5)	-72.1%	[-79.4, -64.3]	<0.001
Cross-border training compliance	34.7% (± 8.9)	88.6% (± 4.2)	+155.3%	[142.1, 168.9]	<0.001
Telemedicine utilization rate	28.9% (± 7.1)	76.4% (± 5.6)	+164.4%	[149.8, 179.5]	<0.001
Interprovincial dispute resolution time	14.2 months (± 3.8)	3.6 months (± 1.2)	-74.6%	[-81.3, -67.2]	0.003

Data Sources: Yunnan Provincial Health Commission (2023), National Health Resource Coordination Database (2023).

Table 5 empirically illustrates how legislative reforms significantly improved healthcare equity metrics between 2019 and 2023, evidenced by marked reductions in mortality rates and concurrent operational efficiency improvements.

4.2.4 Legal mechanisms driving success**Table 6** Statistically Significant Clauses in Interprovincial Healthcare Collaboration Agreements

Legal Provision	Frequency (%)	Implementation Rate (%)	Equity Impact (β coefficient)
Mandatory specialist rotation	100	92.3	0.82
Standardized altitude protocols	87	78.9	0.67
Blockchain credential verification	95	85.4	0.73
Malpractice liability matrices	78	68.7	0.58
Multilingual Strategies for Ethnic Minority Communities	65	53.2	0.41

Statistical Significance Levels: $p < 0.001$, $p < 0.01$, $p < 0.05$; Source: Content analysis of 23 provincial legal documents (2023).

The provincial legal agreements analysis (2023) reveals critical operational provisions regulating healthcare competency transfer mechanisms, systematically evaluated through dual metrics of implementation efficiency and equity enhancement (Table 6). The mandatory specialist rotation system achieves complete implementation (100% frequency) while generating superior equity returns ($\beta=0.82$, $p<0.05$), establishing itself as the most impactful intervention. Blockchain-based professional credential verification demonstrates near-universal adoption (95% frequency) with substantial equity benefits ($\beta=0.73$, $p<0.001$), closely followed by standardized high-altitude medical protocols showing moderate effectiveness (87% frequency, $\beta=0.67$, $p<0.01$). Medical liability frameworks exhibit reduced but statistically significant impacts ($\beta=0.58$, $p<0.05$), whereas ethnic minority medical language training programs, despite 65% implementation prevalence, fail to demonstrate statistically meaningful equity improvements ($\beta=0.41$, $p>0.1$). This empirical evidence highlights the necessity of robust legislative workforce management systems and verifiable technological solutions for mitigating regional healthcare disparities, while suggesting specific policy interventions to strengthen altitude-specific medical adaptations and enhance liability management frameworks.

4.2.5 Persistent structural and systemic barriers

- Interjurisdictional regulatory discrepancies: Analysis revealed 22% of medicolegal disputes originated from provincial interpretation variances in telemedicine protocol adherence (Cohen's $\kappa = 0.61$, $p < 0.05$).
- Technological capacity deficits: Infrastructure audits demonstrated 31% of rural primary care facilities lacked requisite 5G bandwidth for synchronous intraoperative consultations ($\beta = -0.79$, $SE = 0.18$, $p < 0.001$).
- Specialized workforce attrition: Frontier healthcare postings exhibited 17.4% annualized personnel turnover despite enhanced compensation packages (adjusted OR = 2.34, 95% CI 1.87–2.93).

4.2.6 Evidence-based policy recommendations

1. Legislative System Restructuring(1) Amend the Health Collaboration Act to mandate biannual health equity audits utilizing WHO-validated evaluation frameworks (SDG-HES v3.2).(2) Formulate standardized cross-jurisdictional medical dispute resolution mechanisms with binding 90-day adjudication mandates, reducing the current median case resolution time from 143 days to 90 days.
2. Health Technology Innovation(1) Develop multilingual AI diagnostic platforms (supports ≥ 7 minority languages) with multimodal data integration capabilities, ensuring linguistic accessibility for 92% of target populations.(2) Deploy satellite-reliant telemedicine infrastructure across peripheral municipalities (Phase I: 47 high-priority townships; full implementation targeted by 2026 Q4).
3. Governance Mechanism Optimization(1) Establish constitutionally mandated Interprovincial Health Governance Councils with binding regulatory authority and multidisciplinary expert representation.(2) Implement outcomes-based financing models contingent on maternal mortality rate (MMR) reductions, with 30% of total health allocations reserved for jurisdictions achieving $\geq 15\%$ MMR decrease over triennial assessment periods.

4.2.7 Concluding analysis

This multilevel analysis demonstrates that statutory governance of interprovincial collaboration reduced maternal-neonatal health disparities in Yunnan's border regions by 56.6% (95% CI: 52.1–61.3%), substantiating the hypothesis that legal interoperability enhances healthcare competency transfer efficiency. The 155.3% improvement in cross-border training compliance ($p < 0.001$) validates blockchain-enhanced accountability mechanisms in decentralized governance systems. While persistent infrastructural and workforce challenges remain, the implemented framework provides an exportable model for achieving SDG 3.1 targets in geographically complex regions globally.

5 DISCUSSION

The Shanghai-Yunnan collaborative framework provides empirical validation of legal mechanisms facilitating equitable healthcare competency transfer in cross-border regions. This case study yields three principal findings:

- (1) Legally Structured Workforce AllocationMandatory rotation protocols for maternal health specialists under the Interprovincial Health Workforce Agreements demonstrated significant efficacy, elevating skilled birth attendance rates in Yunnan's border townships from 58.7% to 82.3% ($\Delta=40.2\%$, $p<0.001$). While aligning with WHO rural workforce redistribution benchmarks, implementation revealed persistent systemic challenges: a 14.3% annual attrition rate persisted despite contractual obligations, indicating the necessity for enhanced retention incentives.
- (2) Protocol Standardization and AdaptationThe implementation of altitude-adjusted neonatal care training modules resulted in a 62.5% reduction in neonatal hypothermia incidence (18.4 to 6.9 cases per 1,000 live births, $p<0.001$) in regions exceeding 3,000m elevation. However, 23% of high-altitude clinical facilities exhibited equipment incompatibility with standardized protocols, revealing implementation gaps between regulatory mandates (NHC Directive 2021-39) and operational realities (Table 5).

Table 7 Key Outcomes of Shanghai-Yunnan Healthcare Collaboration (2020–2023)

Metric	Pre-Collaboration	Post-Collaboration	Δ (%)	95% CI	p-value
Training coverage (villages)	41.2% (± 7.8)	87.5% (± 4.3)	+112.4%	[103.1, 121.9]	<0.001
Neonatal resuscitation competency	36.8% (± 9.1)	79.3% (± 5.7)	+115.5%	[106.2, 124.3]	<0.001
Maternal mortality ratio	72.1/100,000 (± 15)	31.6/100,000 (± 8)	-56.2%	[-63.8, -48.9]	<0.001
Cross-provincial dispute cases	24.3/year (± 5.1)	8.7/year (± 2.3)	-64.2%	[-71.6, -56.4]	0.002
Equipment utilization rate	39.4% (± 11.2)	76.8% (± 7.5)	+94.9%	[83.7, 105.3]	<0.001

Data Sources: Yunnan Health Commission Audits (2023), National Rural Health Database (2023).

- (3) Techno-Legal SynergyBlockchain-authenticated training records demonstrated 93.5% regulatory compliance in collaborative jurisdictions, significantly surpassing the 57.8% rate observed in non-participatory counties ($\chi^2=36.82$, $p<0.001$). This 35.7-percentage-point improvement corresponds with a 67% reduction in credential verification disputes, substantiating the operational efficacy of National Telemedicine Regulation in enforcing accountability. However, implementation challenges persisted, with 31% of surveyed villages lacking requisite 5G infrastructure for real-time authentication protocols.

This analysis identifies systemic barriers and policy imperatives in cross-regional healthcare competency transfer, revealing that 22% of malpractice cases (95% CI: 18.7–25.5) originated from conflicting provincial interpretations of telemedicine standards. Cultural competency gaps persisted, with only 43.7% of target populations receiving linguistically adapted training ($n=2,347$), correlating with 18% reduced skill retention ($r=-0.18$, $p=0.04$). Proposed legislative amendments mandate 36-month post-certification service commitments in border regions, while technological interventions advocate ISO/IEC 30141:2022-compliant blockchain validation for low-connectivity zones.

Financial reallocations prioritize altitude-optimized equipment procurement (25% funding allocation, $\Delta=+13\%$ vs. current). Comparative outcomes demonstrate a 56.2% maternal mortality reduction (95% CI: 53.1–59.3%), surpassing Central Asian initiatives by 17.8 percentage points ($\Delta=38.4\%$) but trailing EU programs by 6.9 points ($\Delta=63.1\%$), suggesting protocol harmonization potential via WHO-certified benchmarks (ICC=0.87, $p<0.01$). Limitations include restricted generalizability beyond China's decentralized governance and 18-month neonatal outcome assessment lags. These findings underscore the necessity of integrating statutory precision with geocultural adaptability in border health equity frameworks.

These findings substantiate the primary hypothesis that statutory governance of competency transfer mechanisms effectively reduces maternal-child health disparities in resource-constrained border regions ($\beta=0.72$, SE=0.15). The cross-regional collaboration model demonstrates that structured legal agreements, when integrated with adaptive training architectures and cryptographic accountability systems, provide a replicable framework for achieving SDG 3.1 targets ($\kappa=0.79$).

6 CONCLUSION

This study establishes that statutory governance of interprovincial healthcare collaboration reduces maternal mortality by 56.2% (95% CI: 53.1–59.3%) and enhances neonatal resuscitation competency by 115.5% in border regions through three legal mechanisms: mandatory specialist rotations ($\beta=0.82$, $p<0.05$), blockchain-authenticated training protocols (93.5% compliance), and altitude-adapted guidelines (72.1% hypothermia reduction). While outperforming Central Asian initiatives by 17.8 percentage points, the model faces challenges including provincial regulatory misalignment (22% liability disputes) and linguistic barriers correlating with 18% skill attrition ($r=-0.18$, $p=0.04$). Proposed legislative amendments—36-month service mandates and 25% funding reallocation for high-altitude equipment—address infrastructure gaps in 23% of >3,000m facilities. Despite demonstrating global replicability potential (ICC=0.87, $p<0.01$), generalizability is limited by decentralized governance structures. Future research must extend beyond 18-month neonatal outcome assessments and test rural zone adaptations, confirming that legally binding agreements integrating geocultural and technological adaptations constitute an evidence-based framework for achieving SDG 3.1 in resource-constrained borderlands.

COMPETING INTERESTS

The authors have no relevant financial or non-financial interests to disclose.

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THE IDENTIFICATION AND REGULATION OF FALSE ADVERTISING BEHAVIORS UNDER THE ANTI-UNFAIR COMPETITION LAW -- THE CASE OF GUANGZHOU PHARMACEUTICAL GROUP V. JIADUOBABO FOR FALSE ADVERTISING

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Abstract: "False advertising" is one of the important illegal competitive acts regulated by China's Anti-Unfair Competition Law, and it is also a common malicious competitive act in practice and reality. Therefore, the criteria for determining "false advertising" have practical significance and research value. When determining whether a certain competitive act constitutes the improper competitive act of "false advertising", the commercial freedom of speech of the competing entities, the order of market competition and the demands of economic development should be comprehensively considered. Based on this, the Supreme People's Court of China has issued a guiding case: Guangzhou Wanglaoji Health Industry Co., Ltd. v. Jiaduobao (China) Beverage Co., Ltd. for false advertising dispute. This case not only provides a reference standard for judicial handling of similar false advertising disputes, but also can effectively guide market participants to conduct market competition activities in accordance with the principle of good faith. This article examines the case, explores the criteria for identifying and regulating false advertising behavior, and explores the balance and boundaries between restricting unfair competitive behavior and encouraging the free development of the market.

Keywords: False advertising; Unfair competition; Advertising; Market order

1 INTRODUCTION

In the context of the booming market economy, the advertising information of business operators has become a core element influencing consumers' purchasing decisions. Some market entities, in order to gain economic benefits, carry out misconduct that violates the principle of good faith in their commercial promotion activities. This is manifested in the following ways: by fabricating product performance and effects, fabricating false usage effects, exaggerating the scope of service guarantees, and selectively disclosing product information, etc., to create consumer cognitive biases and ultimately achieve the competitive goal of improperly occupying market share[1]. Nowadays, false advertising has gradually become a prominent problem that disrupts market competition order and infringes upon consumers' rights and interests.

In response to this, Article 8 of China's Anti-Unfair Competition Law stipulates that business operators shall not make false or misleading commercial publicity about the performance, function, quality, sales status, user reviews, honors received, etc. of their goods to deceive or mislead consumers. Business operators shall not assist other business operators in making false or misleading commercial publicity by means of organizing false transactions, etc.

However, although this regulation establishes the basic elements of false advertising, the legal theory community has not yet reached a consensus on the determination of false advertising[2]. For example, different types of advertisements have different audiences. If misleading is the purpose of a merchant's false promotion, there is no uniform standard for how to understand the "person" in misleading. In addition, when determining false advertising, it is not yet determined whether there is a competitive relationship between the subjects and how the concept of the competitive relationship should be given. As a result, courts at all levels and in all regions have struggled to establish uniform criteria for judgment in judicial practice. Therefore, how to accurately interpret the "false advertising" clause in Article 8 of the Anti-Unfair Competition Law has also become a key point of study.

Based on this, this paper chooses to analyze Article 8 of the Anti-Unfair Competition Law and the criteria and regulatory methods for identifying false advertising behavior in combination with "Guangzhou Pharmaceutical Group v. Jiaduobao False Advertising Case"[3], in an attempt to explore the criteria for identifying false advertising behavior that takes into account both market competition efficiency and consumer protection.

2 BASIC FACTS OF THE CASE

Guangzhou Pharmaceutical Group owns the trademark rights of "Wanglaoji" and authorizes Hongdao Group to use it. At the same time, it has signed an agreement with Jiaduobao China, a subsidiary of Hongdao Group, allowing it to exclusively use the "Wanglaoji" trademark to produce red canned herbal tea from 2000 to 2010. Through years of efforts, Jiaduobao China has developed the red can of "Wanglaoji" into a well-known brand. In 2012, Hongdao Group

was ordered to stop using the Wanglaoji trademark, and Guangzhou Pharmaceutical Group subsequently authorized the Big Health company to use the trademark. Since 2013, Jiaduobao China has been widely recognized by advertising slogans such as "The top-selling red can herbal tea in China has been renamed Jiaduobao" and "Jiaduobao is the former Wanglaoji" in Chongqing supermarkets and several media outlets. The big health company believed that the actions of Jiaduobao China constituted false advertising and misleading consumers, and thus filed a lawsuit demanding that it be confirmed as anti-unfair competition and false advertising and that the relevant advertisements be stopped.

Both the first and second instance courts held that Jiaduobao China's false promotion constituted unfair competition. However, the retrial court determined that Hongdao Group had legally held the trademark license of "Wanglaoji" for seventeen years, during which it promoted "Wanglaoji" red can herbal tea through Jiaduobao China and others, achieving high popularity and reputation, and leading sales for several years. After the license expired, Jiaduobao China switched to producing "Jiaduobao" herbal tea and objectively stated the fact of the name change. The promotion of "the top-selling red can herbal tea in the country" refers to the previously produced and sold "Wanglaoji" herbal tea, and the description is true and clear. As a result, the first and second instance court judgments were revoked and the lawsuit filed by the big health company was dismissed.

In order to conduct an in-depth analysis of this case and gain a deeper understanding of Article 8 of the Anti-Unfair Competition Law, I searched and read in detail the second instance and retrial judgments of this case. According to the relevant content of the judgment, the main points of contention in this case include: First, whether the description and promotion of the advertising slogan involved in the case are true and in line with objective facts. Second, whether there is a possibility that the advertising slogan may lead the relevant public to misunderstand. Third, whether the advertising slogan has improperly infringed upon the popularity of Wanglaoji's red can herbal tea and disrupted the market order.

3 ANALYSIS AND REVIEW OF THE CASE

3.1 Judgment of the Authenticity of Advertising

There are various forms of advertising, and false advertising is particularly alarming. Its main forms include deceptive, misleading and exaggerated advertising. Business operators sometimes use "authoritative marks" such as the name of a well-known enterprise or a well-known trademark to attract consumers' attention, with the intention of making consumers mistakenly believe that the advertised goods or services are "authoritative" goods or services or that their quality level is similar, which should be judged as misleading false advertising. For exaggerated promotion, operators may use absolute terms such as "national", "the highest level", "the best" to describe the product. Such practices are likely to cause consumers to have a wrong perception and are strictly prohibited by China's Advertising Law.

In this case, the advertising slogan "The leading red can herbal tea in national sales has been renamed Jiaduobao" can be divided into two parts, and their authenticity can be judged respectively. First, the first half of the slogan, "The leading red can herbal tea in sales across the country", according to market research data, since Hongdao Group obtained the right to use the "Wanglaoji" trademark in 1995, the red can "Wanglaoji" herbal tea has led the market in sales and achieved remarkable results, and has won many honors from industry associations such as "sales champion", etc. Therefore, the slogan is clear in its direction. Based on conclusive statistics, it truly reflects its share in the herbal tea market. The second half "renamed Jiaduobao", although the trademark was changed from "Wanglaoji" to "Jiaduobao", the product formula, packaging and form remained unchanged. This fact can be expressed objectively and explained in a way that is easy for the public to understand, and does not violate the objective facts.

3.2 Analysis of the Possibility of False Promotion Causing the Relevant Public to Misunderstand and Purchase

False advertising against unfair competition actors is a business strategy aimed at seizing competitive advantages in the market, which means deliberately misleading consumers to make purchase decisions unfavorable to other competitors, thereby illegally occupying market share and depriving other legitimate business operators of their due commercial rights. For the general consumer group, they are often vulnerable due to a lack of in-depth understanding of commercial advertisements and promotional materials. Therefore, when assessing the misleading nature of promotional content, it is necessary to consider from the perspective of a diverse audience[4]. For example, infant formula advertisements are mainly targeted at pregnant and lactating women, and when assessing their misleading nature, particular attention should be paid to the cognitive level and consumption psychology of this specific group. However, when dealing with the advertising slogan of Jiaduobao as shown in this case, the attention level of the general consumer, that is, the average rational person, should be used as the criterion for judgment.

From the perspective of the Jiaduobao case as a whole, the information that Jiaduobao China conveys to consumers through its advertisements is essentially fulfilling the obligation of notification, that is, informing the public of the change of trademark rights, and the information is consistent with the actual perception of consumers and does not pose a risk of causing misunderstanding or misleading purchase[5]. In addition, based on the information already available to consumers, it is reasonable to infer that during the period of trademark licensing, Jiaduobao China has made "Wanglaoji Red Can Herbal Tea" a well-known brand through long-term marketing. Therefore, the "Wanglaoji Red Can Herbal Tea" in the common perception of consumers actually refers to the products of Jiaduobao China, rather than the products that the big health company was subsequently licensed to operate. In other words, consumers' purchasing decisions should be based on their understanding of the brand's history, that is, after the termination of the partnership

between Jiaduobao and Guangzhou Pharmaceutical Group, the "top-selling red can herbal tea" that consumers expected and recognized was still the "Wanglaoji Red Can herbal tea" operated by the original Jiaduobao China Company. According to this, consumers' understanding of the core facts is accurate and thus less likely to be misled by the advertising slogan.

3.3 The Determination of Whether False Advertising Disrupts Market Order and Infringes upon the Interests of the Counterparty

First, objectively speaking, the Anti-Unfair Competition Law is most directly protected by good-faith market competitors. Therefore, the most direct way to determine whether an operator's publicity behavior is at fault is whether it maliciously infringes upon the interests of good-faith market operators. For example, by fabricating facts, defaming and other means to attack the products produced and marketed by other honest market operators, to belittle their reputation and credibility, to affect the regular business activities of these honest operators, and ultimately to cause them to lose their original market competitiveness and be eliminated[6]. In addition, the protection of the legitimate rights and interests of consumers and the order of market competition should also be given priority. Therefore, behaviors that damage the rights and interests of innocent consumers through false propaganda, distort the price mechanism of the market and affect fair competition in the market should also be regulated as a priority. Secondly, on the subjective level, if the operator's subjective intention is to cause consumers to misidentify and mispurchase through malicious market competition, thereby infringing upon the legitimate commercial interests of other good-faith competitors in the market, it should be determined that there is fault such as infringing upon the interests of the counterparty and disrupting market order.

In this case, objectively speaking, during the period when Hongdao Group held the right to use the "Wanglaoji" trademark, together with its subsidiary, Jiaduobao China, through long-term strict product quality control and extensive publicity investment, they jointly built the current reputation, popularity and consumer preference of the "Wanglaoji" series of trademarks. It is true that the advertising slogan in this case has to some extent exploited the positive image of the Wanglaoji trademark, but without the years of operation and cultivation by Jiaduobao China and Hongdao Group, the Wanglaoji trademark would not have reached its current level of popularity and wide influence. Therefore, the law does not force people to do so, and there is some legal leniency for such exploitation by Jiaduobao China. On a subjective level, Jiaduobao China does not violate the principle of good faith. As has been stated above, the purpose of Jiaduobao's use of the advertising slogan is to inform consumers of the basic information that the quality of the product remains unchanged despite the change of trademark. Although such promotional tactics may be somewhat brief and vague in description, they do not mislead consumers in general and should be regarded as a reasonable move to maintain a competitive advantage in the market competition.

4 CONCLUSION AND REFLECTIONS ON THE LAW AND THE CASE

The Anti-Unfair Competition Law, as the core regulation in China's economic field, aims to promote the healthy development of the market economy and the intellectual property economy, regulate business practices in market economic activities, prohibit business operators from using unfair competitive means, and thereby promote the steady progress of the market economy. False advertising, as a violation of the principles of good faith and business ethics, should be effectively regulated by law.

In fact, apart from Article 8 of the Anti-Unfair Competition Law which regulates false advertising, other laws and regulations in China also focus on false advertising. For example, Article 28 of the Advertising Law stipulates that the following circumstances should be regarded as false advertising: the goods or services advertised in the advertisement do not exist; The information about the performance, function, origin, purpose, quality, specification, composition, price, producer, validity period, sales status, honors received, etc. of the goods, or the information about the content, provider, form, quality, price, sales status, honors received, etc. of the services, as well as the promises related to the goods or services, do not conform to the actual situation. Where there is a material impact on the act of purchase; Fabricating the effects of using the goods or receiving the services, etc. Article 20, Paragraph 1 of the Consumer Rights Protection Law stipulates that business operators shall provide consumers with true and comprehensive information about the quality, performance, purpose, expiration date, etc. of goods or services, and shall not make false or misleading publicity.

In determining whether advertising slogans constitute false advertising, based on common sense in daily life and using the cognitive ability of the general public as the measurement standard, the comprehensiveness and clarity of advertising slogans and the potential risk of public misunderstanding they may cause have been explored, and the benchmark and starting point for determining false advertising behavior have been established[7]. At the same time, taking into account the specific circumstances of the case and the actual situation of the advertised goods and trademarks, it was evaluated whether the advertising slogan had improperly damaged the business reputation of others. Based on this, suggestions that are in line with market reality were given regarding the reasonable boundaries and usage period of the advertising slogans, which not only protected the legitimate rights and interests of competitors but also promoted the continuous optimization and purification of the market competition environment.

At the same time, it is important to note that when judging whether a promotional act is at fault in disrupting the order of market competition, it is not advisable to directly and easily bring all competitive acts within the scope of legal regulation, because competition itself can cause "damage" within the normal range[8]. The key lies in clearly defining

the boundaries between qualified competitive behaviors that promote the development of a good competitive order in the market and malicious market competition, while precisely controlling the reasonable boundaries of promotional content, ensuring the proper transmission of advertising effects, maintaining the order of the market economy, and going further in judicial practice.

COMPETING INTERESTS

The authors have no relevant financial or non-financial interests to disclose.

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SELF-PREFERENTIAL TREATMENT OF DIGITAL PLATFORMS AND ITS ANTI-MONOPOLY REGULATION

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Abstract: The rapid development of the digital economy has given rise to the issue of self-preferential treatment by digital platforms. This paper argues that self-preferential treatment stems from the dual role of platform operators and the "anchoring effect" in the operation of digital platforms. Self-preferential treatment conducted by digital platforms is a manifestation of the leverage effect in the digital economy, thus requiring corresponding anti-monopoly regulation. However, platform self-preferential treatment is significantly different from the restricted transactions, tying, and differential treatment stipulated in the current Anti-Monopoly Law. It should be regarded as an independent abuse of dominant market position and the concept of digital essential facilities should be introduced to regulate such behavior.

Keywords: Digital platforms; Self-preferential treatment; Anti-monopoly

1 INTRODUCTION

A digital platform can be defined as a trading place where users (such as buyers and sellers) exchange goods, services, and information[1]. With the rapid expansion of the digital economy, digital platforms have also made significant progress globally. According to the "Observation on Platform Economy Development (2023)" released by the China Academy of Information and Communications Technology under the Ministry of Industry and Information Technology, as of the end of 2022, there were 70 Internet platforms worldwide with a value of over 10 billion US dollars, with a total value of approximately 9.2 trillion US dollars. Moreover, during the period from 2020 to 2022, the top ten global platforms had an average annual compound growth rate of 18.4% in revenue and 19.3% in gross profit. The platform economy achieved growth against the trend.

However, as the digital platform economy develops in depth, large digital platforms vertically integrate downstream industries and radiate their platform advantages to adjacent industries, thereby forming platform self-operated businesses within the platform. From the perspective of the platform itself, this vertical monopoly can undoubtedly enhance the overall operational efficiency of the platform and expand the profit opportunities of platform operators. However, from the perspective of operators within the platform, the self-operated business of digital platforms clearly has competitive advantages different from those of other operators. The network externality of the digital economy and the "dual role" characteristic of the platform enable the platform to provide some kind of "special treatment" to its self-operated business, thus giving rise to the problem of self-preferential treatment by digital platforms, which harms the competitive interests of other competitors within the platform.

In recent years, cases of self-preferential treatment by platforms, such as the "Google Shopping case", have been frequent, attracting high attention from antitrust enforcement agencies in various countries. In China, although the State Council issued the "Anti-Monopoly Guidelines for the Platform Economy Field" (hereinafter referred to as the "Anti-Monopoly Guidelines") in 2021, classifying self-preferential treatments such as search demotion and abuse of non-public data under restrictions on transactions or tying, there are problems of incomplete concepts, unclear definitions, and difficulties in determining violations[2]. What are the differences between self-preferential treatment and traditional abuse of market dominance in terms of concept and scope? How can the current Anti-Monopoly Law be improved based on these differences to meet the needs of regulating self-preferential treatment? This paper will start from the characteristics of self-preferential treatment, analyze the differences between self-preferential treatment and general abuse of market dominance, and ultimately clarify the corresponding regulatory strategies based on these differences.

2 ORIGINS OF SELF-PREFERENTIAL TREATMENT BY DIGITAL PLATFORMS

2.1 The Dual Roles of Platform Operators

Some viewpoints suggest that digital platforms exhibit a dual "enterprise-market" nature in the marketplace[3]. On one hand, as enterprises, digital platform companies share the profit-seeking nature of other businesses and are also confronted with intense competition. For the platform itself, competition emanates from other platform enterprises. Regarding the platform's self-operated business, it must also compete with third-party operators within the platform. On the other hand, leveraging their advantages in data, algorithms, etc., platforms offer intermediary services to operators and consumers within the platform, facilitating transactions among various parties and thereby transforming the platform into a market. To ensure the orderly operation of this market, platform operators inevitably formulate corresponding rules. These include both rigid user and operator regulations and "soft" rules established through

programming and algorithms. For example, recommendation algorithms tailored to user preferences can be regarded as a type of internal platform rule.

This "enterprise-market" duality of platforms endows platform operators with a dual identity of "competition participant" and "rule enforcer". On one hand, the self-operated business of platform operators engages in competition with numerous operators within the platform. Driven by the pursuit of excess profits, platform operators inherently tend to eliminate internal-platform competition and secure a monopolistic position for their self-operated business. On the other hand, platform operators can regulate operators and consumers within the platform by virtue of the rules formulated within the platform, thereby acquiring "quasi-legislative power" and "quasi-judicial power"[4]. Such rules render it possible for platform operators to impose competitive restrictions on other internal-platform operators. The combination of these two aspects means that platforms are both motivated and capable of providing self-preferential treatment to their self-operated business, thereby disrupting the competitive equilibrium within the platform.

2.2 The "Anchoring Effect" of Digital Platforms

The dual-role nature of platform operators may create a predisposition and room for self-preferential treatment. However, this factor alone is insufficient to prompt actual self-preferential treatment. For instance, if platform operators bestow self-preferential treatment upon their self-operated services with inferior quality, the likely consequences are damage to the platform's reputation and erosion of user trust among platform operators, consumers, etc. Eventually, users may abandon the platform, jeopardizing the platform's long-term viability. In such a scenario, the platform may gain short-term benefits but incur substantial medium-to-long-term losses[5].

Evidently, for platforms to engage in self-preferential treatment, there must be a mechanism that "anchors" users to the platform. Firstly, platforms can capitalize on their data and algorithmic advantages to accurately match the supply and demand of operators and consumers within the platform. This reduces the search and negotiation costs for both parties. As users interact within the platform, the platform can gather information and refine its strategies, further enhancing the user experience. Consequently, both operator and consumer users develop a reliance on the platform's services due to the cost-saving incentives, and this reliance intensifies as the platform's operational strategies evolve. Secondly, digital platforms possess network externalities. An increase in the number of operators and consumers within the platform attracts more users to participate in transactions. The presence of a larger user base makes it challenging for both sides to forgo the transaction opportunities offered by the platform, thus fostering dependence. Stemming from the need to reduce transaction costs and access diverse transaction opportunities, digital platforms exert an "anchoring effect" on their internal users. This anchoring effect enables platforms to mitigate inter-platform competition and attain a dominant market position, thereby making self-preferential treatment a realistic possibility.

3 MONOPOLISTIC EFFECTS OF SELF-PREFERENTIAL TREATMENT BY DIGITAL PLATFORMS

3.1 Positive Effects

From the perspective of vertical mergers between industries, the self-preferential treatment of digital platforms is also a manifestation of vertical integration by manufacturers. This vertical integration can bring about efficiency improvements for both the digital platform itself and its self-operated services. Specifically, according to the "rational person" assumption in economics, a company will only add an internal business if the marginal cost of doing so is lower than the marginal cost of separating that business. Vertical integration can internalize the transaction costs that originally existed between the platform operator and third-party entities, turning them into administrative management costs within the enterprise. By leveraging its administrative management capabilities and advantages in logistics and distribution, the platform operator can replace platform-based operators with self-operated businesses, thereby strengthening quality supervision, simplifying transaction processes, and enhancing delivery efficiency, achieving "cost reduction and efficiency improvement". For instance, JD.com combines its self-operated business with its own logistics business, using its efficient logistics network across the country to deliver goods from its self-operated stores quickly, reducing logistics costs and enhancing the experience of platform users.

From the perspective of competition between platforms, the self-preferential treatment of digital platforms can reduce the operating costs of the platform, thereby giving the platform a competitive edge over other competing platforms. Additionally, some argue that self-preferential treatment by platforms can cause a certain degree of crowding out for platform-based operators, leading these operators to enter other platforms that do not engage in self-preferential treatment, thereby enhancing the competitiveness of these platforms and improving the competitive situation between platforms[6].

Furthermore, for downstream markets, self-preferential treatment also has the potential to promote competition among secondary markets. From the perspective of a platform's self-operated business, it is entirely possible that when the business is initially insignificant in the downstream market, the platform can rapidly expand its market share through self-preferential treatment, such as by enhancing the business's visibility, thereby challenging established players in the downstream market and generating competitive constraints within that market. In this case, self-preferential treatment is beneficial to competition[7].

3.2 Negative Effects

From the perspective of corporate profitability, self-preferential treatment by platforms does have its positive effects. However, some enterprises may engage in self-preferential treatment with the motive of eliminating monopolies and excluding competitors, and the negative effects on competition in downstream markets are even more severe.

Firstly, for third-party operators in the downstream market, self-preferential treatment by platforms has an exclusionary effect on competition. Platforms can leverage their role as "rule enforcers" to manipulate platform rules to create obstacles for the commercial activities of third-party operators within the platform, thereby providing an unreasonable competitive advantage to their self-operated businesses. These "obstacles" can be direct price hikes or restrictive entry measures. For example, Apple charges a 30% fee on Spotify's subscription services in the App Store, while its own Apple Music subscription service is exempt from this fee[8]. This increases the cost for Spotify to enter Apple's platform, eventually leading to Spotify's withdrawal from the App Store. Moreover, these "obstacles" can also be "soft" measures that restrict competition, such as search ranking demotion. For instance, Google uses its advantage in search algorithms to display third-party comparison shopping services lower in search results while promoting its own comparison shopping services higher. This reduces consumer attention to third-party comparison shopping services, forcing them to spend additional advertising costs and weakening their competitive ability.

Secondly, for consumers within the platform, self-preferential treatment by the platform infringes upon their right to choose. The self-preferential treatment of the platform may exclude some third-party operators from the platform or reduce the contact between third-party operators and consumers, preventing consumers from making the best choices based on their own interests and hindering the maximization of their utility. Moreover, during the process of self-preferential treatment, the platform may also improperly utilize the consumer data it has collected, infringing upon consumers' personal information rights[9].

Furthermore, the self-preferential treatment of the platform may also dampen the innovation enthusiasm of third-party operators within the platform. On the one hand, third-party operators can only rely on their limited information and capabilities to grasp market trends and identify innovation opportunities, which means they have to bear higher costs for innovation activities. In contrast, platform operators can collect and analyze data of all operators within the platform, especially non-public data, to promptly detect the innovation activities of third-party operators. As a result, the platform can catch up at a lower cost and quickly launch similar products, thereby squeezing the innovation returns of third-party operators. On the other hand, the "search ranking reduction" and other behaviors of the platform are covert. By differentially pushing the platform's own business and third-party operators, the platform's own business may be mistakenly perceived by other third-party operators as highly profitable, leading them to imitate it. This reduces the innovation enthusiasm of third-party operators and results in the homogenization of goods and services within the platform[10].

4 THE DILEMMAS IN REGULATING SELF-PREFERENTIAL TREATMENT UNDER THE ANTI-MONOPOLY LAW

4.1 The Necessity of Anti-monopoly Regulation for Self-preferential Treatment

The necessity for anti-monopoly regulation of self-preferential treatment by online platform enterprises is derived from the leverage effect of self-preferential treatment. The leverage effect refers to a situation where an enterprise enjoying a dominant position in a certain market transfers its advantages in that market to an adjacent market, thereby attaining a dominant position in the latter. The leverage effect was initially applied in the regulation of complementary product tying and has since been further extended to the discrimination of corporate horizontal mergers and acquisitions[11].

In China, as early as 2009, in the case of Coca-Cola's acquisition of Huiyuan Juice, the Ministry of Commerce held that through the acquisition of Huiyuan Juice, Coca-Cola would transfer its dominant position in the carbonated beverage market to the juice market, thereby increasing the entry costs in the juice market. This case set a precedent for China in using the leverage effect to address the abuse of market dominance by enterprises.

Different from the industrial economy, in the digital economy era, the leverage effect of platforms brings about more prominent monopolistic consequences. During the operation of digital platforms, data plays an irreplaceable role. The characteristic of increasing returns to scale of data enables super platforms to achieve accelerated accumulation-based expansion by relying on the traffic and data at their disposal[12]. As a result, super platforms can obtain a low entry threshold in adjacent markets through self-preferential treatment, which, in effect, squeezes out other start-up enterprises.

In addition, for large-scale digital platforms, the means of transferring market dominance through self-preferential treatment come at a relatively low cost. For instance, digital platforms only need to rely on algorithms to give priority display to their own services. In contrast, other operators have to incur substantial costs to attract consumers' attention. Over time, digital platform enterprises can easily expand their market dominance, and the implications thereof cannot be underestimated.

In conclusion, for the purpose of preventing the transfer of market dominance brought about by the leverage effect, the self-preferential treatment of digital platforms should be regulated.

4.2 The Connections and Distinctions between Self-preferential treatment and Other Abusive Behaviors of Market Dominance

As previously discussed, there is a necessity for anti-monopoly regulation of self-preferential treatment. However, on the other hand, the current Anti-Monopoly Law of China does not recognize self-preferential treatment as an independent abusive behavior of market dominance. Although the Anti-Monopoly Guidelines issued in 2021 classify self-preferential treatment as restrictive trading practices such as "blocking stores, search ranking demotion, and traffic restrictions", the relevant abusive market-dominance behaviors stipulated in the current Anti-Monopoly Law, such as exclusive dealing, tying arrangements, or discriminatory treatment, may not comprehensively capture the characteristics of self-preferential treatment by digital platforms.

4.2.1 Exclusive dealing: failure to exclude similar competitors

Firstly, self-preferential treatment shares certain similarities with exclusive dealing. Both serve to exclude a particular party from participating in transactions or create obstacles for a party to engage in transactions. Nevertheless, there are also notable differences between the two. Exclusive dealing is founded on the premise of impeding competitors' access to the market[13]. Its objective is to eliminate competition from similar rivals in the market. Specifically within the context of digital platforms, exclusive dealing is manifested as the platform preventing merchants or consumers on its platform from operating on other platforms. For instance, Alibaba implemented the "choose-one-out-of-two" policy on its e-commerce platform, preventing key merchants from conducting business on other platforms. The State Administration for Market Regulation determined that this practice excluded and restricted fair competition among relevant market operators.

In contrast, self-preferential treatment mainly involves the platform using algorithms and other means to prioritize the promotion of its own business, which restricts competition between other platform operators and the platform's self-operated business. Essentially, it is the platform seeking an edge in the competition between itself and the operators within the platform. These are not competitors of the same type. As previously mentioned, self-preferential treatment may actually foster competition among platforms for other platform operators.

In conclusion, self-preferential treatment of platforms does not meet the criterion of excluding competition from similar competitors in exclusive dealing. Therefore, applying exclusive dealing to regulate platform self-preferential treatment has certain limitations at present.

4.2.2 Tying arrangements: different mechanisms for transmitting market dominance

Secondly, self-preferential treatment differs from tying arrangements. Tying refers to a situation where a firm with market dominance abuses its position by compelling the sale of product B when selling product A. Some scholars suggest that self-preferential treatment can be regulated by drawing parallels with tying arrangements. This is because self-preferential treatment by platforms can be seen as the platform bundling its market transaction-opportunity service (service A) with its self-operated business (service B), thereby restricting and excluding competition from other platform operators[14].

In theory, both tying and self-preferential treatment involve monopolistic firms leveraging a "mechanism" to transfer market dominance from one area to another. However, the "mechanisms" for transmitting market dominance in these two cases vary. Tying requires a complementary relationship between the two products or services involved. For example, there is a complementary relationship between a computer's operating system and its browser, or between gas supply services and gas meters. Firms engaging in tying take advantage of this complementary relationship to monopolize one transaction and subsequently the other.

In contrast, platform self-preferential treatment does not necessarily rely on transactions to transfer market dominance. Instead, it relies more on the platform's control over its services (such as establishing platform rules and algorithmic discrimination) to differentiate between its self-operated business and other platform operators. Although the development of the digital economy has made tying more feasible, it should be noted that tying transfers market dominance through monopolizing transactions of complementary products, while platform self-preferential treatment achieves market-dominance transfer through the platform's control over its services. Consequently, using tying arrangements to define platform self-preferential treatment has certain inadequacies.

4.2.3 Discriminatory treatment: incompatibility with constitutive elements

Finally, some scholars argue that self-preferential treatment constitutes discriminatory treatment[15]. The rationale is that during the implementation of self-preferential treatment, the platform adopts discriminatory treatment methods for its self-operated business and other platform operators. For example, in the aforementioned Apple case, Apple applied different platform-rental strategies for its own applications and those of other developers in the App Store. This form of "discriminatory treatment" within the platform indeed bears some resemblance to discriminatory treatment under the Anti-Monopoly Law.

However, a closer examination of the constitutive elements of discriminatory treatment reveals certain disparities. Generally, the constitutive elements of discriminatory treatment include the following aspects: First, the objects of discriminatory treatment are transaction counterparts, which are multiple independent entities engaging in transactions with the operator. Second, the transaction counterparts are in the same conditions, meaning there are no substantial differences affecting the transaction during the process. Third, the party applying discriminatory treatment uses different transaction terms for different transaction counterparts, creating difficulties for the disadvantaged party and potentially driving them out of the market[16]. Self-preferential treatment conducted by platforms and discriminatory treatment differ primarily in terms of the objects. Discriminatory treatment requires that the transaction counterparts be independent. That is, at least two parties receiving different treatment should be independent operators. In the case of platform self-preferential treatment, although the platform differentiates between its self-operated business and

third-party operators within the platform, the platform's self-operated business can hardly be regarded as an independent operating entity. Instead, they are part of a vertically integrated structure. The platform's self-operated business is subject to the influence and constraints of the platform's business strategies, and the platform can also intervene through internal management mechanisms. As such, it is difficult to consider the platform's self-operated business as an independent operator. In this context, applying discriminatory treatment to self-preferential treatment would lead to an overlap in the identities of the subjects, failing to meet the object requirement of discriminatory treatment[17]. Therefore, there is currently insufficient reasonable basis to support the use of discriminatory treatment to define self-preferential treatment.

In conclusion, whether it is exclusive dealing, tying arrangements, or discriminatory treatment, each has its limitations in regulating platform self-preferential treatment. Given that self-preferential treatment by platforms cannot be effectively regulated by the existing abusive market-dominance behaviors stipulated in the current Chinese Anti-Monopoly Law, it is necessary to explore new regulatory strategies and approaches.

5 REGULATORY COUNTERMEASURES FOR THE SELF-PREFERENTIAL TREATMENT OF DIGITAL PLATFORMS

5.1 Regarding Self-preferential Treatment as an Independent Act of Abusing Market Dominance

As discussed above, the existing regulations on the abuse of market dominance in the Anti-Monopoly Law have limitations in regulating self-preferential treatment. Therefore, self-preferential treatment can be regarded as an independent act of abusing market dominance. Specifically, the constitutive framework of self-preferential treatment can be divided into the following aspects:

Firstly, there must be an associated relationship between the platform and its in-platform self-operated business. When a platform engages in self-preferential treatment to seek benefits for itself, there must be a target for such preferential treatment. Thus, the connection between the platform and its self-operated business is a prerequisite for the platform to carry out self-preferential treatment.

Secondly, platform operators leverage their own operational advantages during business operations. By "leveraging their own operational advantages," it means that platforms utilize their control over platform rules (such as creating or amending in-platform rules) or their control over platform resources (such as allocating more traffic resources to self-operated businesses or using relevant technologies to collect data) to provide more favorable conditions for self-operated businesses compared to third-party operators.

Thirdly, the platform operator's utilization of these advantages results in the exclusion of competition within the platform. Objectively speaking, it is reasonable for an operator to use its resources to drive its own development. For example, in the preliminary response of the US District Court for the District of Columbia in June 2021 to the antitrust civil lawsuit jointly filed by the US Federal Trade Commission and 46 states against Facebook, the judge opined that even if Facebook indeed held a dominant market position, it was not obliged to use its resources to benefit its competitors. Excessive intervention by antitrust enforcement may also have an adverse impact on market efficiency. Based on the principle of "protecting competition rather than protecting competitors," the regulation of platform self-preferential treatment should be grounded in the fact that it leads to anti-competitive consequences, rather than using the act itself as the trigger for regulation.

5.2 Innovating the Criteria for Judging Market Dominance and Introducing the Concept of Data Essential Facilities

For platform enterprises, data serves as a springboard for self-preferential treatment and the transmission of market dominance. In the information society, some super platforms, by virtue of the vast amount of data resources at their disposal and their large and stable user bases, have evolved from being mere providers of products (or services) to entities with dual natures of products and markets during their development[18]. This has given rise to a strong user-locking effect, making it difficult for merchants and users within the platform to disengage and compelling them to passively accept the platform's abuse of market dominance. Considering the crucial role these platforms play in the digital economy, it is necessary to introduce the theory of essential facilities to impose more obligations on them. Specifically, the number of users and transaction frequency can be used as criteria for determining whether a platform constitutes an essential facility.

6 CONCLUSION

digital economy of China is currently experiencing a phase of remarkable growth. Large-scale digital platform enterprises, by virtue of their dual roles as both "participants in competition" and "rule-makers," along with the anchoring effect stemming from platform data and traffic, are extending their monopolistic influence within the platform, thereby giving rise to the issue of self-preferential treatment.

Self-preferential treatment of platforms differs from the circumstances of abusing market dominance such as exclusive dealing, tying arrangements, or discriminatory treatment as stipulated in the current Anti-Monopoly Law. It is thus imperative to regulate self-preferential treatment as an independent form of abusing market dominance. Concurrently,

the introduction of the concept of data essential facilities is necessary to effectively govern this phenomenon.

COMPETING INTERESTS

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ELIZABETH BENNET'S JOURNEY TOWARD LOVE: FROM MISJUDGMENT TO MUTUAL UNDERSTANDING

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Abstract: This essay examines Elizabeth Bennet's emotional and moral development in Jane Austen's *Pride and Prejudice*, arguing that her journey toward love is not a product of romantic impulse, but of introspective growth and ethical clarity. Through her shifting perception of Mr. Darcy—from initial prejudice to mature admiration—Elizabeth embodies Austen's broader vision of love as a product of mutual transformation, not social convenience or superficial charm. Her strength lies not in moral perfection, but in her rare willingness to confront her own failings, distinguish character from class, and choose love as an act of humility and understanding. Through contrast with other female characters such as Charlotte Lucas, Lady Catherine, and Mrs. Bennet, the essay further explores how Austen critiques the rigid gender and class structures of her time. Ultimately, Elizabeth's journey reveals that true love requires not only affection but self-knowledge, courage, and the ability to grow beyond inherited expectations.

Keywords: Elizabeth Bennet; Moral growth; Pride and Prejudice; Romantic transformation; Gender and class expectations

1 INTRODUCTION

Jane Austen's *Pride and Prejudice* remains one of the most enduring novels in the English literary canon not merely because of its witty social commentary or its elegant style, but because it probes the moral and emotional processes by which individuals come to understand themselves and others. At its core, the novel suggests that love is not a matter of instantaneous passion or superficial attraction, but the hard-won product of honest introspection and mutual growth. What, then, happens when strong-willed individuals, firmly convinced of their moral clarity, encounter emotions that destabilize their convictions and force them to reckon with uncomfortable truths[1]? Austen dramatizes this question most powerfully through the evolving relationship between Elizabeth Bennet and Fitzwilliam Darcy.

Elizabeth, with her intelligence, wit, and principled independence, seems at first an ideal heroine, someone whose sharp observations and social insight shield her from folly. Yet Austen insists that no amount of natural brilliance or moral confidence can protect an individual from error when pride and prejudice cloud judgment. Indeed, Elizabeth's very strengths—her quickness of mind and confidence in her discernment—nearly cost her the deepest happiness of her life. Through painful self-reflection and the courage to revise her own understanding, Elizabeth transforms both her vision of Darcy and her conception of herself. In doing so, Austen advances a vision of love not as submission or conquest, but as a process of humility, equality, and mutual transformation, achieved only through the recognition of one's own fallibility.

2 ELIZABETH'S INITIAL MISJUDGMENT

Elizabeth's journey toward emotional and moral maturity begins with her recognition that her judgments—though made with apparent clarity—are deeply flawed. Her first impression of Darcy is shaped by pride as much as by observation. At the Meryton ball, his aloof refusal to dance with her, coupled with the infamous remark that she is only “tolerable,” wounds her dignity and confirms her suspicion that he is proud, cold, and disdainful of those beneath his social station. From that moment, Elizabeth places Darcy within a framework of arrogance and class prejudice, and everything he says or does is interpreted through that lens.

In striking contrast, Elizabeth is captivated by the charm of George Wickham, whose handsome appearance, easy manner, and carefully constructed narrative flatter her need to see Darcy as unjust. Wickham's tale—that Darcy dishonored his late father's wishes by withholding a promised clerical position—appears both specific and emotionally persuasive. Wickham represents himself as a wronged man, denied not only material security but also the love and protection owed to him by the elder Darcy. For Elizabeth, this story not only reinforces her prior impression of Darcy's coldness but also appeals to her sense of justice and compassion. Her admiration for Wickham and her dislike of Darcy thus form a mutually reinforcing cycle, one that blinds her to inconsistencies and prevents her from questioning Wickham's credibility[2].

The truth, revealed only later through Darcy's explanatory letter, shatters Elizabeth's self-image. Wickham, far from being the innocent victim, is exposed as an opportunistic manipulator who sought to elope with Darcy's fifteen-year-old sister for financial gain. Even Darcy's interference in Jane's romance with Bingley—once perceived as arrogant meddling—proves to have stemmed from genuine concern that Jane's feelings were not equally strong. Faced with these revelations, Elizabeth recognizes that she has been not merely mistaken but willfully partial, allowing her pride and

resentment to distort her judgment. Her acknowledgment- “blind, partial, prejudiced, absurd” -marks a pivotal moment in her development.

What makes Elizabeth's growth significant is not only her intellectual correction but her emotional courage. She does not retreat into denial or defensiveness; rather, she confronts the painful realization that her wit and moral assurance have failed her. The irony is profound: the heroine most admired for her independence of mind discovers that her own pride made her vulnerable to deception. Yet her strength lies in her ability to change. She bravely reconsiders Darcy, recognizes her own complicity in error, and begins to rebuild her understanding of love and character on more honest grounds[3]. Nevertheless, Austen underscores the precariousness of the situation: Elizabeth's misjudgment nearly costs her the possibility of a relationship with Darcy, whose wounded pride might have led him to withdraw forever. That their love survives is due not only to Elizabeth's honesty but also to Darcy's capacity for forgiveness-an early sign that mutual humility, not infallibility, is the true basis for enduring love..

3 ELIZABETH'S SHIFTING PERCEPTION OF CHARACTER

Elizabeth's growing admiration for Darcy is deepened not by grand gestures, but by quiet, observable truths. Her visit to Pemberley is pivotal because it offers more than a glimpse of wealth; it reveals a world shaped by taste, order, and restraint. The estate is elegant without extravagance, its grounds beautifully integrated with the natural landscape, suggesting a sense of harmony and depth rather than vanity. This vision of balance is crucial: Pemberley does not overwhelm with luxury, but rather reflects moderation, responsibility, and a harmony between human design and nature itself. Elizabeth is struck by how everything she sees mirrors not just refinement, but a form of moral stewardship-a man who governs his household with justice, rather than indulgence[4].

The housekeeper's warm and unprompted praise of Darcy further transforms Elizabeth's perception. Mrs. Reynolds describes her master with admiration that feels authentic and uncoached, emphasizing his fairness, generosity, and unwavering care for his sister Georgiana. This testimony holds special weight because it comes from someone who has observed Darcy daily in private life, in contexts that do not invite performance. For Elizabeth, it completely overturns her earlier assumptions, which had been formed largely through Wickham's slander and Darcy's own initial arrogance. Suddenly, Darcy emerges not as the cold, prideful aristocrat she once despised, but as a man consistently kind in the spaces where reputation and public recognition hold little sway.

Even more revealing is Darcy's own behavior when he unexpectedly appears. Instead of showing embarrassment or awkwardness at encountering Elizabeth, he greets her with calm politeness, displaying a quiet mastery of composure that signals both self-respect and respect for others. What truly impresses Elizabeth, however, is not his civility toward her alone, but his treatment of her uncle and aunt. Rather than regarding them as social inferiors, Darcy includes them in his hospitality without the slightest hint of condescension. He walks with them, converses easily, and later extends an invitation to Mr. Gardiner to fish on his property-gestures that reveal humility and genuine respect for people of all backgrounds, even those below his station[5].

Most strikingly, Darcy does not attempt to win Elizabeth back through calculated performance. He does not flatter, boast, or highlight any changes he has made since her rejection. Instead, his kindness is consistent and unforced, the behavior of a man who acts not to impress but because such behavior is in his nature. For Elizabeth, this quiet dignity stands in stark contrast to the arrogance she once imagined. The realization that Darcy's true character is founded on integrity and generosity, not pride and superiority, reshapes the foundation of her judgment. Her shifting feelings are therefore not the product of sudden passion or charm but the slow, undeniable recognition of a man whose virtues are genuine, steady, and deeply admirable.

4 A TRANSFORMED LOVE

By the time Darcy proposes again, both he and Elizabeth have undergone significant personal transformations, and the very meaning of love between them has changed. Their first encounter in this context had been poisoned by pride-Darcy, steeped in class-conscious superiority, presented his proposal as if bestowing a reluctant favor. Elizabeth, equally governed by pride and wounded dignity, rejected him with unyielding force, condemning not only his manner but his very character. Their clash was not only a battle of words but a collision of egos, rooted in blindness to each other's vulnerabilities.

The second proposal is markedly different. Darcy approaches Elizabeth without assumption, pride, or expectation. His words no longer carry the weight of condescension but reveal humility, openness, and vulnerability. He makes it clear that he loves her still, but he will accept silence as her answer-a profound shift from entitlement to respect[6]. Elizabeth, in turn, has shed much of her earlier defensiveness. Her growing admiration for Darcy's integrity, as well as her recognition of her own misjudgments, has prepared her for a response that is more measured, sincere, and self-reflective. She does not attempt to disguise her mistakes; instead, she thanks him for his honesty and candidly acknowledges her own blindness.

This mutual humility defines the transformed nature of their love. Elizabeth's acceptance is not an act of surrender nor a triumph of passion; it is a conscious, deliberate choice made after deep self-examination. Their love is no longer built upon pride or resentment, but upon equality, trust, and mutual growth[7]. In this way, Elizabeth embodies a strength that transcends romantic convention. Her emotional resilience lies not in perfection but in her willingness to face painful truths-about herself and others-and to choose love despite them. What once divided them has become the

foundation for a partnership defined by honesty and humility, marking a rare vision of love as transformative rather than static.

5 ELIZABETH IN CONTRAST TO OTHERS

Elizabeth's strength of character becomes most striking when contrasted with the women around her, who embody different responses to the rigid social order she resists. Lady Catherine de Bourgh, a caricature of aristocratic entitlement, enforces hierarchy with imperious certainty. Her attempt to intimidate Elizabeth into rejecting Darcy underscores her belief in the immutability of social rank and her conviction that personal happiness must be subordinate to status. Elizabeth's calm and reasoned refusal marks one of her most courageous moments, as she asserts her moral independence against the very authority society commands her to revere.

Charlotte Lucas represents a subtler form of submission. Intelligent and perceptive, Charlotte nonetheless yields to economic pressures, marrying Mr. Collins not out of affection but necessity. Her decision reflects a pragmatic, almost cynical recognition of her limited options as a woman without fortune. While Charlotte's choice secures stability, it also reveals the cost of surrendering to social dictates: a life devoid of intimacy, vitality, and respect[8].

Mrs. Bennet, by contrast, is consumed by social ambition and blind convention. Her relentless pursuit of wealthy suitors for her daughters illustrates a worldview dominated by superficial gain. Lacking discernment, she confuses prosperity with happiness and reduces marriage to a financial transaction. In her zeal, she undermines her daughters' dignity and inadvertently exposes them to ridicule.

Placed against these figures, Elizabeth shines not because she flawlessly escapes societal pressures, but because she consciously wrestles with them. She makes errors-misjudging Darcy, trusting Wickham too readily-but her missteps stem from a genuine effort to understand rather than from blind conformity[9]. She refuses to marry without affection, even at the risk of remaining single, and her eventual choice is guided by respect and love rather than expedience.

Elizabeth thus emerges as a rare figure in Austen's social landscape: a woman who questions, resists, and ultimately redefines the norms around her. Her courage lies not in rejecting society altogether, but in daring to imagine a different possibility within it-one where love is grounded in equality and self-awareness rather than submission or vanity[10].

6 CONCLUSION: LOVE MADE, NOT FOUND

In conclusion, Austen presents Elizabeth Bennet's journey as evidence that love is not merely stumbled upon, like a stroke of fortune, but consciously made through honesty, humility, and the courage to change. From the very beginning, Elizabeth is admirable-witty, independent, and unwilling to accept the shallow conventions that govern her society. Yet Austen is careful to show that these virtues, while striking, are not sufficient in themselves. Elizabeth is not immune to prejudice; her sharpness of mind leads her to quick, sometimes unfair judgments, and her pride blinds her to Darcy's true nature. In this sense, she nearly loses her chance at happiness.

What saves her is not perfection, but her willingness to face her own failings. Elizabeth's growth lies in her ability to admit that she was wrong-about Darcy, about Wickham, and about the confidence she placed in her own judgment. Darcy, on the other hand, demonstrates equal courage by softening his pride, opening himself to vulnerability, and proving his love through constancy rather than display. Together, their transformations make possible a love that is neither naïve nor idealized, but grounded in mutual recognition and respect.

Austen's lesson is radical in its quietness: love is not a gift bestowed by fate, nor a prize to be won by charm, wealth, or social advantage. It is built deliberately, through two flawed people choosing not only each other, but also the work of self-awareness and forgiveness. In this way, Austen challenges both the romantic fantasy of instant perfection and the rigid social systems that reduce marriage to transaction. Elizabeth and Darcy's union suggests a higher vision-one where love is sustainable precisely because it is forged in the crucible of growth.

Thus, *Pride and Prejudice* ends not with the triumph of romance as spectacle, but with the triumph of love as a moral and human achievement. Elizabeth and Darcy choose one another with open eyes, no longer deceived by vanity or prejudice, and it is this conscious choice that gives their love its enduring strength.

COMPETING INTERESTS

The authors have no relevant financial or non-financial interests to disclose.

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