



CIPL AT 20 — SHAPING DATA POLICY FOR TOMORROW

HUNTON ANDREWS KURTH

# China's Data Privacy Landscape and Upcoming Legislation

23 February 2021

# Overview of China's Data Protection Landscape

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# China's Privacy and Data Security Laws

Cybersecurity Law, Data Security Law (draft) and Personal Information Protection Law (draft) constitute fundamental laws related to cyberspace administration and data protection in China.



- Cybersecurity Law applies to all enterprises that operate a computerised information network system.
- Cybersecurity Law focuses on

•Cybersecurity graded protection

• Regulations on the Graded Protection of Cyber Security (Draft) /网络安全等级保护条例（征求意见稿）

•Inspection and certification of network key device and special cybersecurity products

• Announcement on the Promulgation of the Catalog of Key Network Equipment and Specific Network Safety Products (Batch One) /关于发布《网络关键设备和网络安全专用产品目录（第一批）》的公告

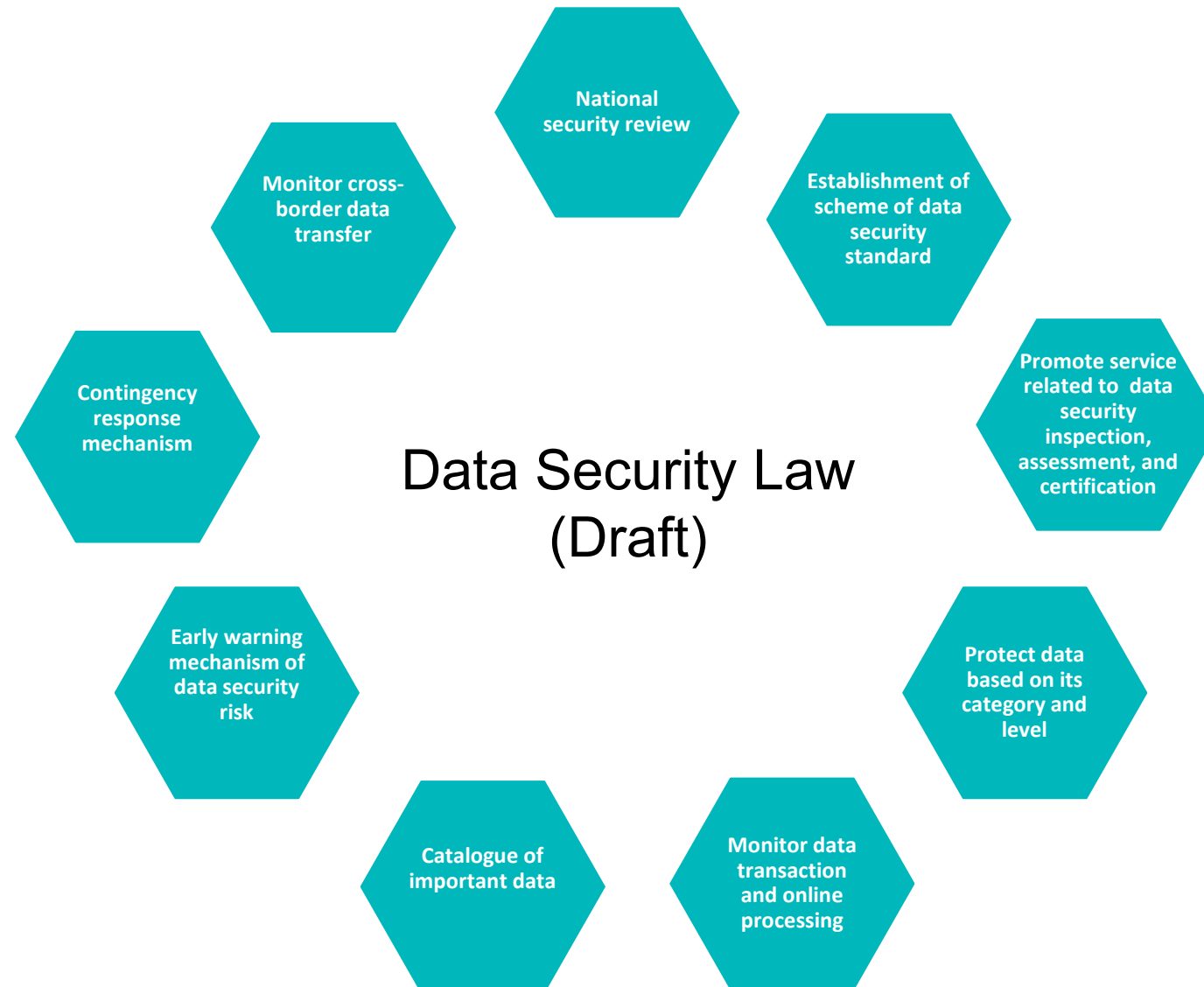
•Protection of CII

• Regulations on the Protection of the Security of Critical Information Infrastructure (Draft) /关键信息基础设施安全保护条例（征求意见稿）

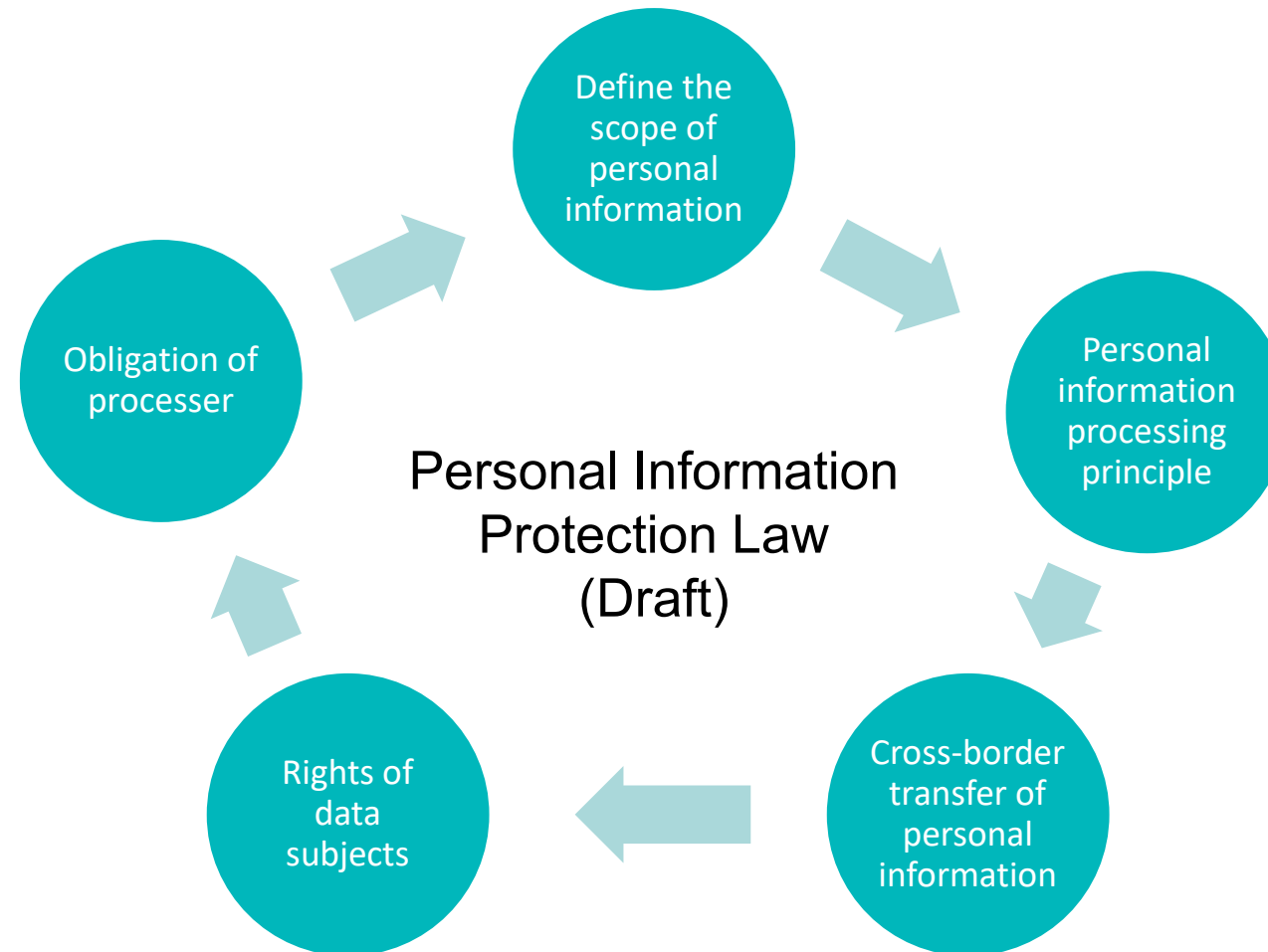
•Cybersecurity Review

• Measures for Cybersecurity Review /网络安全审查办法

•Cybersecurity monitoring and early warning and reporting system



# Personal Information Protection Law (Draft)



# Various laws and regulations containing privacy and data protection terms

## Personal information protection related clauses in the synthetical laws:

- The Civil Code/民法典
- Amendment (IX) to the Criminal Law of the People's Republic of China /刑法修正案（九）
- Anti-Terrorism Law/反恐怖主义法
- Law on the Protection of Rights and Interests of Consumers/消费者权益保护法

## Privacy and data protection provisions dispersed in various laws and regulations, including:

- Regulation on the Protection of the Security of Computer Information Systems/计算机信息系统安全保护条例
- Several Provisions on Regulating Market Order of Internet Information Services/规范互联网信息服务市场秩序若干规定
- Decisions of the Standing Committee of the People's Congress of China on Safeguarding the Security of the Internet /全国人民代表大会常务委员会关于维护互联网安全的决定
- Regulations on the Graded Protection of Cyber Security (Draft)/网络安全等级保护条例 (征求意见稿)
- Cryptography Law /密码法
- Methods for Identifying Unlawful Acts of Applications (Apps) to Collect and Use Personal Information /App违法违规收集使用个人信息行为认定方法
- Several Provisions on Regulating the Order of the Internet Information Service Market/规范互联网信息服务市场秩序若干规定
- Provisions on Protecting the Personal Information of Telecommunications and Internet Users/电信和互联网用户个人信息保护规定
- E-commerce Law/电子商务法
- Tourism Law/旅游法
- Regulations on Management of Internet User Account Name/互联网用户账号名称管理规定
- Measures for the Administration of Communication Cybersecurity Protection /通信网络安全防护管理办法
- Measures for the Administration of Internet Email Services /互联网电子邮件服务管理办法
- ...



# Specific regulatory areas

- Children's privacy
- Health and medical industry
- Financial industry
- Telecommunications
- Postal service
- Taxi
- Credit Investigation Industry
- others

The three fundamental laws will be accompanied by an extensive series of guidelines and standard documents which, typically, will not be binding, but should still be taken seriously because they establish best practices and regulatory expectations. This portfolio of guidance documents is still emerging. A certain number of these have been issued but only in draft form with substantial or even fundamental changes still possible, while others are still being drafted and have not been published yet. For example:

- Information Security Technology – Personal Information Security Specification/信息安全技术个人信息安全规范(GB/T 35273-2020)
- Information Security Technology – Guidelines for Personal Information Protection Within Information System for Public and Commercial Services/信息安全技术 公共及商用服务信息系统个人信息保护指南
- Personal financial information protection technical specification/个人金融信息保护技术规范
- Information Security Technology – Guidelines for Data Cross-Border Transfer Security Assessment (draft for comment)/信息安全技术 数据出境安全评估指南 (征求意见稿)
- Information Security Technology – Guide to De-Identifying Personal Information /信息安全技术 个人信息去标识化指南
- Information Security Technology – Security Impact Assessment Guide of Personal Information /信息安全技术 个人信息安全影响评估指南

# Main Regulators for Privacy and Data Protection in China

- Cybersecurity Administration of China ('CAC')
- Ministry of Public Security ('MPS')
- Ministry of Industry and Information Technology ('MIIT')
- China Banking and Insurance Regulatory Commission ('CBIRC')
- National Health and Family Planning Commission ('NHFPC')
- National Medical Products Administration ('NMPA')
- Ministry of Science and Technology ('MST')
- State Administration for Market Regulation ('SAMR')

- Personal Information Protection Law
- Data Security Law
- Implementing rules for the three fundamental laws
- Regulation on Cybersecurity Graded Protection
- Regulation on Security Protection of Critical Information Infrastructure
- Enforcement Actions

# China PIPL vs EU GDPR

**Sam Grogan**

Global Privacy Policy Analyst, CIPL

**PIPL contains 70 Articles over 8 Chapters** – PIPL provisions prevail where there is a conflict of law

**PIPL applies extraterritorially** – largely the same territorial scope as the GDPR with minor differences

**Some key concepts differ from the GDPR** – sensitive information, entrusted third parties, anonymization

**Penalties** – similar approach to sanctions but level of fines, revenue percentages and scope of application differ; introduces concept of “grave” unlawful acts and personal liability

**DPA** – unclear which authority will be responsible for monitoring compliance with and enforcing PIPL

## Data Processing Principles

- Largely identical to GDPR
- Lawfulness, explicit purpose, data minimization, transparency, accuracy, data security, storage limitation

## Legal Grounds for Processing

- Largely identical to GDPR with some differences in scope
- Separate consent required in certain cases
- No legitimate interest processing ground or concept of compatible use

## Children's Data

- Similar to GDPR - organizations must obtain the consent of a minor's parent/guardian
- Age threshold is any child under the age of 14

## Sensitive Data

- Different categories of sensitive data
- PIPL not clear as to whether bases other than consent can be used to process sensitive data
- Organizations must inform individuals of the necessity of processing sensitive information and impact on them

## Transparency

- Largely similar with GDPR
- Scope of exceptions to provision of notice differ
- In contrast to GDPR, PIPL specifies that individuals must be able to download and save privacy notices

## DPO

- Differs to GDPR with respect to designation of DPO – PIPL requires DPO to be appointed once a certain amount of personal information is processed
- PIPL does not provide any information about the position and tasks of the DPO

## Automated Decision Making

- Similar requirement to GDPR (i.e. right to object to impactful ADM and obtain an explanation for such decisions).
- Under PIPL, the data subject can object or require an explanation if the he/she considers that the automated decision has a material impact on his or her rights

## Security and Breach Notification

- Like the GDPR, PIPL does not provide an exhaustive list of security controls as it seeks to remain future-proof
- Breaches must be reported immediately following identification which differs to GDPR 72 hour threshold

## Transfers

- PIPL enables some transfers via certifications and data transfer agreements
- Generally quite different to the GDPR (contains a provision on localization, requires consent on top of an applicable transfer mechanism and includes different transfer mechanisms (e.g. CAC Security Assessment))

## Appears in GDPR and PIPL

Access

Rectification

Erase

Restriction

Not Subject to Solely  
Automated Decision  
Making

Collective Action

Complain to a  
Supervisory  
Authority

Objection  
(not explicit)

## Appears in GDPR but not in PIPL

Data Portability

Effective Judicial  
Remedy against a  
Controller/Processor

Effective Judicial  
Remedy against a  
DPA

Compensation Claim



**Accountability is included in the PIPL – controller must take necessary measures to ensure the processing complies with the provision of laws and administrative regulations**

**PIPL expressly requires organizations to develop an internal management system and operating procedures to ensure compliance**

**PIPL requires the data controller to carry out a risk assessment for certain forms of processing**

**PIPL requires the data controller to regularly conduct compliance audits**

# Unique Provisions

**Corresponding measures against countries adopting discriminatory prohibitions, restrictions or other measures**

**PIPL Infringement Impact on Credit Files**

**CAC to advance the building of a socialized service system for personal information protection**

**Security Assessment for Transfers**

# Preparing for PIPL and Other Laws

**Royce Wee**

Director, Head of Global Public Policy, Alibaba Group

- **Personal data protection is not new; moves towards PIPL started some time ago**
- **18<sup>th</sup> National Congress in 2012: some selected key developments include**
  - **September 1, 2012, Regulations of the Ministry of Industry and Information Technology on the Protection of Personal Information of Telecommunications and Internet Users**
  - **December 25, 2012, Decision of the Standing Committee of the National People's Congress on Strengthening the Protection of Internet Information**
  - **On June 1, 2017, The Cyber Security Law was put into effect, which specifically provides for the protection of personal information**
  - **October 1, 2017, The General Provisions of the Civil Code were put into effect, which for the first time made it clear that the personal information of natural persons is protected by law**
  - **May 1, 2018, Information Security Technology Personal Information Security Code was officially implemented**
  - **March 1, 2019, The Self-Assessment Guide for app illegal collection and use of personal information was published**
  - **October 1, 2019, The Regulations on the Protection of Children's Personal Information Network came into effect**
  - **December 30, 2019, Four departments jointly issued the "Measures for determining the illegal collection and use of personal information by app violations"**
  - **March 6, 2020, A new version of the Information Security Technology Personal Information Security Code was released**
  - **May 28, 2020, The Civil Code (The Right to Personality) was considered and adopted**
  - **October 13, 2020, The first draft of the PIPL was submitted to the National People's Congress**

- As an organisation with multiple business lines across different geographical boundaries, we are also impacted by international developments in data protection, including:
  - On May 25, 2018, the EU General Data Protection Regulation (GDPR) came into effect
  - August 14, 2018, Brazil's General Data Protection Act was formally passed, and came into effect in August 2020
  - June 28, 2018, The California Consumer Privacy Act (CCPA) was passed, and came into effect on January 1, 2020
  - December 11, 2019, India's draft Personal Data Protection Act 2019 was tabled in Parliament. Changes are expected after review by the joint parliamentary committee
  - June 5, 2020, Japan amends the Personal Information Protection Act, which will come into effect in June 2022
  - February 1, 2021, Singapore's revised Personal Data Protection Act came into effect
- Importance of understanding local laws, nuances and priorities, in order to have effective compliance

# Early preparation for compliance is key

- Early preparation for compliance is essential due to the need to understand details and the changes that are necessary to be rolled out
- Formation of a central team that is the overall lead
- Representatives from different teams with the right expertise and skill sets, including legal, compliance, public policy, international affairs, and government affairs
- Carry out an analysis of the provisions of the draft PIPL
- Work with business leaders on impact to their business processes and practices
- Find out the delta between the draft PIPL and other existing Chinese laws on data protection and international data protection laws

# Early preparation for compliance is key

- Provide feedback to the Chinese authorities for their consideration on clarity of language, and the balance and feasibility of the provisions (e.g. recognise the legitimate interest of the data processor, the limitations of consent and unsuitability of consent in specified circumstances, deconflict or reconcile related data protection laws, the importance of cross-border data flows for order fulfilments and to serve customer needs)
- Focus is to improve the organisation's data compliance governance (e.g. DPIA on selected higher risk areas of data processing, such as the processing of sensitive personal information, automated individual decision-making, sharing or otherwise providing personal information to a third party), and to ensure the realisation of user's rights (e.g. data access, correction, deletion, object to automated individual decision-making and to direct marketing, data breach notification)
- In the longer term, the aim is to systematise compliance, to make compliance as a service, and to embed compliance, security- and privacy- by design within organisational processes, our values and culture

# Trust and accountability is ultimate goal

- Our goal is to be a trusted, secure and accountable organisation
- In a digital economy, trust becomes not only essential, but a competitive advantage. With greater trust and confidence, consumers will be more willing to provide their data to organisations. In turn, organisations can use the data to provide better, more suitable and customised goods and services to consumers, forming a virtuous loop
- This is a long-term target which requires continual effort. We recognise that we are not perfect and this will always be a work-in-progress, but we have the intent and the commitment to do better and improve
- Hence compliance is treated very seriously as a strategic regulatory and business objective



# The Developing AI Regulatory Landscape

**Zhao Jingwu**

Associate Professor, Beihang University

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一、中国人工智能发展现状

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III. Focuses and Difficulties in Next step of AI  
Legislation

三、人工智能下一步立法的重点和难点

# I. AI development situation in China

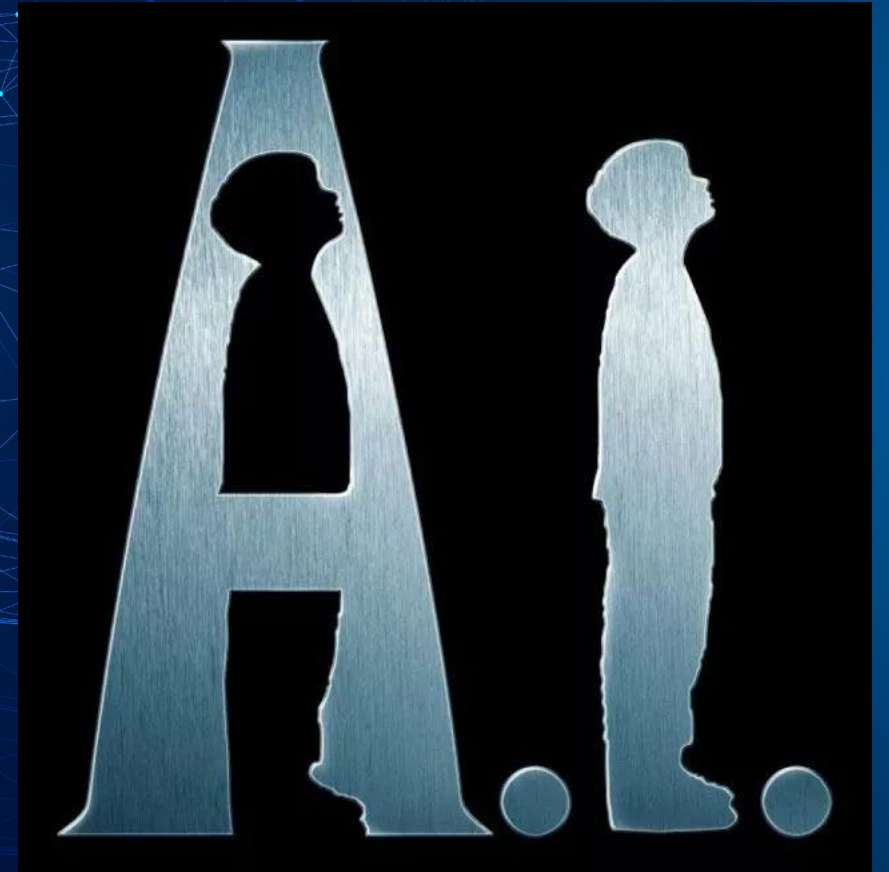
## 一、中国人工智能法律规制现状

### 1. AI development situation in China

（一）中国人工智能发展态势

2. The rapid development of AI is in urgent need of new laws

（二）人工智能快速发展急需新法





1. 国务院于2017年出台的《新一代人工智能发展规划》

The development strategy of AI in China was started by the State Council issuing the National Next Generation Artificial Intelligence Standards System Development Guidelines (hereinafter referred to as Development Guidelines) in 2017.


2. 工信部在2018年发布了《促进新一代人工智能发展三年行动计划（2018-2020年）》

In 2018, the Ministry of Industry and Information Technology released the Three-year action plan to promote the development of the next generation of AI(2018-2020)

3. 人工智能标准框架体系建设的思路已经由2020年7月27日出台的《国家新一代人工智能标准体系建设指南》初步落实。

The Construction Guide of AI Standard System of the National Next Generation , introduced on July 27, 2020, verifies the initial conduct of construction of AI standard system.





As a general outline guiding AI development at country level, the Development Guidelines has been implemented through the publish of some departmental regulation paper such as Standard System Construction Guide (2020) and Ethical Safety Guidelines (2020).

2017年出台的《新一代人工智能发展规划》已经被2020年发布的《标准体系建设指南》、《伦理安全指引》等部门规章逐步落实。



# 1. AI development situation in China

## (一) 中国人工智能发展态势

*Global AI Development Report (2019)* from Wuzhen Think Tank  
乌镇智库《全球人工智能发展报告（2019）》

**There are still significant differences in the level of AI development between countries. However, the United States and China are sitting the top rank. Overall, the technological transcendence of the US makes it temporarily unchallenged. Thanks to population superiority and its open to the world, China makes it convenient for various land applications to flow to the market rapidly.**

目前各国人工智能的发展水平还是存在较大差异，美国和中国属于第一梯队。整体来看，美国的技术超越性在短期内依旧不容挑战，中国则因为人口红利和场景的开放，为各类落地应用迅速走向市场提供便利。



**In 2019, the National Professional Committee on Governance of Next Generation AI released a paper called *Principles of Governance of New Generation AI--Developing Responsible AI***

2019年国家新一代人工智能治理专业委员会发布《新一代人工智能治理原则——发展负责任的人工智能》



# 1. AI development situation in China

## (一) 中国人工智能发展态势

*Global AI Development Report (2019)* from Wuzhen Think Tank  
乌镇智库《全球人工智能发展报告（2019）》

**Framework and action guidelines for AI governance**  
人工智能治理的框架和行动指南



**On October 29, 2020, the Central Committee of the CCP on Formulating the Fourteenth Five-Year Plan for Domestic Economy and Social Development and other Visionary Goals for 2030 was approved by Chinese government**  
2020年10月29日，中国审议通过的《中共中央关于制定国民经济和社会发展第十四个五年规划和二〇三五年远景目标的建议》



- **Promote deep intergration of industries**
- 同各产业深度融合
- **Establish fundamental regulations and rules**
- 建立基础制度和标准规范



## 2. The rapid development of AI is in urgent need of new laws

### （二）人工智能快速发展急需新法

AI is the key point for competition among the new scientific and technological productivity and among the new international science technology and industry.

人工智能是新兴科技生产力和国际新一轮科技与产业竞争重点。

AI also leads to special problems of regulation, safety and ethics in the market, society, the country and even in the international community.

人工智能也带来市场、社会、国家乃至国际的特殊规范、安全和伦理问题。





# 专门针对人工智能的立法

序号	标题	时效性	效力级别	发布部门	发文字号	发布日期
1	全国信息安全标准化技术委员会秘书处关于发布《网络安全标准实践指南—人工智能伦理安全风险防范指引》的通知	现行有效	部门规范性文件	全国信息安全标准化技术委员会	信安秘字[2021]2号	2021.01.05
2	科技部关于印发《国家新一代人工智能创新发展试验区建设工作指引(修订版)》的通知(2020)	现行有效	部门规范性文件	科学技术部	国科发规[2020]254号	2020.09.29
3	国家标准化管理委员会、中央网信办、国家发展改革委等关于印发《国家新一代人工智能标准体系建设指南》的通知	现行有效	部门规范性文件	国家标准化管理委员会;中央网络安全和信息化领导小组办公室(已变更);国家发展和改革委员会(含原国家计划委员会);科学技术部;工业和信息化部	国标委联[2020]35号	2020.07.27
4	教育部、国家发展改革委、财政部印发《关于“双一流”建设高校促进学科融合 加快人工智能领域研究生培养的若干意见》的通知	现行有效	部门规范性文件	教育部;国家发展和改革委员会(含原国家计划委员会);财政部	教研[2020]4号	2020.01.21
5	国家林业和草原局关于促进林业和草原人工智能发展的指导意见	现行有效	部门规范性文件	国家林业和草原局	林信发[2019]105号	2019.11.08
6	科技部关于印发《国家新一代人工智能开放创新平台建设工作指引》的通知	现行有效	部门规范性文件	科学技术部	国科发高[2019]265	2019.08.01



7	科技部关于印发《国家新一代人工智能创新发展试验区建设工作指引》的通知	失效	部门规范性文件	科学技术部	国科发规[2019]298号	2019.08.29
8	教育部关于印发《高等学校人工智能创新行动计划》的通知	现行有效	部门规范性文件	教育部	教技[2018]3号	2018.04.02
9	工业和信息化部关于印发《促进新一代人工智能产业发展三年行动计划(2018-2020年)》的通知	现行有效	部门规范性文件	工业和信息化部	工信部科[2017]315号	2017.12.13
10	卫生部办公厅关于印发《人工智能辅助诊疗技术管理规范(试行)》的通知	失效	部门规范性文件	卫生部(已撤销)	卫办医政发[2009]197号	2009.11.13
11	卫生部办公厅关于印发《人工智能辅助诊断技术管理规范(试行)》的通知	失效	部门规范性文件	卫生部(已撤销)	卫办医政发[2009]196号	2009.11.13
12	住房和城乡建设部办公厅关于同意北京市开展建设工程人工智能审图试点的函	现行有效	部门工作文件	住房和城乡建设部	建办质函[2020]467号	2020.09.10
13	科技部关于支持武汉市建设国家新一代人工智能创新发展试验区的函	现行有效	部门工作文件	科学技术部	国科函规[2020]172号	2020.09.03
14	科技部关于支持广州市建设国家新一代人工智能创新发展试验区的函	现行有效	部门工作文件	科学技术部	国科函规[2020]	2020.09.03

15	人力资源社会保障部、中国机械工业联合会关于举办2020年全国行业职业技能竞赛——全国人工智能应用技术技能大赛的通告	现行有效	部门工作文件	人力资源和社会保障部;中国机械工业联合会	人社部函〔2020〕84号	2020.08.12
16	住房和城乡建设部办公厅关于同意深圳市开展建筑工程人工智能审图试点的复函	现行有效	部门工作文件	住房和城乡建设部	建办质函〔2020〕329号	2020.06.24
17	工业和信息化部科技司关于组织申报科技创新2030—“新一代人工智能”重大项目和国家重点研发计划“制造基础技术与关键部件”等44个重点专项2020年度项目的通知	现行有效	部门工作文件	工业和信息化部		2020.04.17
18	科技部关于支持济南建设国家新一代人工智能创新发展试验区的函	现行有效	部门工作文件	科学技术部	国科函规〔2020〕15号	2020.01.23
19	科技部关于支持西安建设国家新一代人工智能创新发展试验区的函	现行有效	部门工作文件	科学技术部	国科函规〔2020〕14号	2020.01.23
20	科技部关于支持成都建设国家新一代人工智能创新发展试验区的函	现行有效	部门工作文件	科学技术部	国科函规〔2020〕13号	2020.01.23
21	科技部关于支持重庆建设国家新一代人工智能创新发展试验区的函	现行有效	部门工作文件	科学技术部	国科函规〔2020〕12号	2020.01.23
22	科技部关于支持德清县建设国家新一代人工智能创新发展试验区的函	现行有效	部门工作文件	科学技术部	国科函规〔2019〕194号	2019.11.02

23	科技部关于支持合肥建设国家新一代人工智能创新发展试验区的函	现行有效	部门工作文件	科学技术部	国科函规〔2019〕185号	2019.10.17
24	科技部关于支持杭州建设国家新一代人工智能创新发展试验区的函	现行有效	部门工作文件	科学技术部	国科函规〔2019〕184号	2019.10.17
25	科技部关于支持深圳建设国家新一代人工智能创新发展试验区的函	现行有效	部门工作文件	科学技术部	国科函规〔2019〕183号	2019.10.17
26	科技部关于支持天津建设国家新一代人工智能创新发展试验区的函	现行有效	部门工作文件	科学技术部	国科函规〔2019〕182号	2019.10.17
27	国家药监局关于成立人工智能等3个医疗器械标准化技术归口单位的公告	现行有效	部门工作文件	国家药品监督管理局(已变更)	国家药监局公告2019年第82号	2019.10.12
28	科技部关于支持上海建设国家新一代人工智能创新发展试验区的函	现行有效	部门工作文件	科学技术部	国科函规〔2019〕80号	2019.05.22
29	人力资源社会保障部办公厅、市场监管总局办公厅、统计局办公室关于发布人工智能工程技术人员等职业信息的通知	现行有效	部门工作文件	人力资源和社会保障部;国家市场监督管理总局;国家统计局	人社厅发〔2019〕48号	2019.04.01
30	科技部关于支持北京建设国家新一代人工智能创新发展试验区的函	现行有效	部门工作文件	科学技术部	国科函规〔2019〕27号	2019.02.20

31	工业和信息化部办公厅关于印发《新一代人工智能产业创新重点任务揭榜工作方案》的通知	现行有效	部门工作文件	工业和信息化部	工信厅科〔2018〕80号	2018.1 1.08	
32	科技部关于发布科技创新2030—“新一代人工智能”重大项目2018年度项目申报指南的通知	现行有效	部门工作文件	科学技术部	国科发资〔2018〕208号	2018.1 0.12	
33	工业和信息化部关于公布2018年人工智能与实体经济深度融合创新项目名单的通知	现行有效	部门工作文件	工业和信息化部	工信部科函〔2018〕327号	2018.0 9.14	
34	教育部办公厅关于开展人工智能助推教师队伍建设行动试点工作的通知	现行有效	部门工作文件	教育部	教师厅〔2018〕7号	2018.0 8.07	
35	教育部办公厅关于成立教育部人工智能科技创新专家组的函	现行有效	部门工作文件	教育部	教技厅函〔2018〕69号	2018.0 7.26	
36	工业和信息化部办公厅关于开展2018年人工智能与实体经济深度融合创新项目申报工作的通知	现行有效	部门工作文件	工业和信息化部	工信厅科函〔2018〕118号	2018.0 4.02	
37	国家发展改革委办公厅关于组织实施2018年“互联网+”、人工智能创新发展和数字经济试点重大工程的通知	现行有效	部门工作文件	国家发展和改革委员会(含原国家发展计划委员会、原国家计划委员会)	发改办高技术〔2017〕1668号	2017.1 0.11	
38	国家发展改革委、科技部、工业和信息化部、中央网信办关于印发《“互联网+”人工智能三年行动实施方案》的通知	现行有效	部门工作文件	国家发展和改革委员会(含原国家发展计划委员会、原国家计划委员会)科学技术部、工业和信息化部	发改高技术〔2016〕1078号	2016.0 5.18	



## II.AI Legal Policy Status in China

### 二、我国人工智能法律政策现状

China is developing the legal policy structure in "policy + hard law + soft law"

中国正在形成“政策+硬法+软法”的法律政策架构

Four-layer system

四重核心

1.national strategic management layout

1、国家战略管理布局

2.Policy support for industry and industrial regulation

2、产业政策和规范

3.Legal security and guarantee of ethical controllable bottom line

3、法律安全和伦理的可控底线保障

4.enterprise and industry self-regulation system as the core

4、企业和行业自律体系为核心



## 新一代人工智能发展规划

国发〔2017〕35号





# 1.National strategic management layout

## 1、国家战略管理布局

the *Development Plan for New Generation Artificial Intelligence* by State Council on September, July

### 国务院《新一代人工智能发展规划》（2017年7月）

"At present, the situation of China's **national security and international competition** is more complex, thus, it is necessary to act globally and observe the development of AI at **national strategic level**, then we should lay out systematical design schemes actively, **firmly grasp the chance to perform in the new stage of international competition in the development of AI, showing our initiative**. Consequently, we can create a new competitive advantage, exploit a new space for development, and effectively maintain **national security**."

“当前，我国国家安全和国际竞争形势更加复杂，必须放眼全球，把人工智能发展放在**国家战略层面系统布局、主动谋划，牢牢把握人工智能发展新阶段国际竞争的战略主动，打造竞争新优势、开拓发展新空间，有效保障国家安全。**”

——2017年国务院《新一代人工智能发展规划》

➤ Basic principles.

Science&technology's leads.  
Systematic layout.

Market-orientation.

Open source and openness.

➤ 基本原则：

科技引领；  
系统布局；  
市场主导；  
开源开放。

Three-step strategic goal.

The first step, by 2020, China's overall AI technology and applications will reach the world's advanced level. AI ethical norms and policies in several fields will be initially established.

The second step, by 2025, AI basic theory will achieve a significant breakthrough, and construction of intelligent society will make progress. We will have preliminary establishment of AI laws and regulations, ethical norms, policy systems, AI security assessment and control capabilities.

The third step, by 2030, the overall AI theory, AI technology and AI applications will be at the world's leading level. And intelligent economy, intelligent society will be efficient. There will be a number of world-leading AI science and technology innovation and talent training bases, and more complete AI laws, regulations, ethical norms and policy system.

三步走战略目标：  
第一步，到2020年人工智能总体技术和应用与世界先进水平同步。部分领域的人工智能伦理规范和政策法规初步建立。

第二步，到2025年人工智能基础理论实现重大突破，智能社会建设取得积极进展。初步建立人工智能法律法规、伦理规范和政策体系，形成人工智能安全评估和管控能力。

第三步，到2030年人工智能理论、技术与应用总体达到世界领先水平，智能经济、智能社会取得明显成效。形成一批全球领先的人工智能科技创新和人才培养基地，建成更加完善的人工智能法律法规、伦理规范和政策体系。



## 2. Policy support for industry and industrial regulation

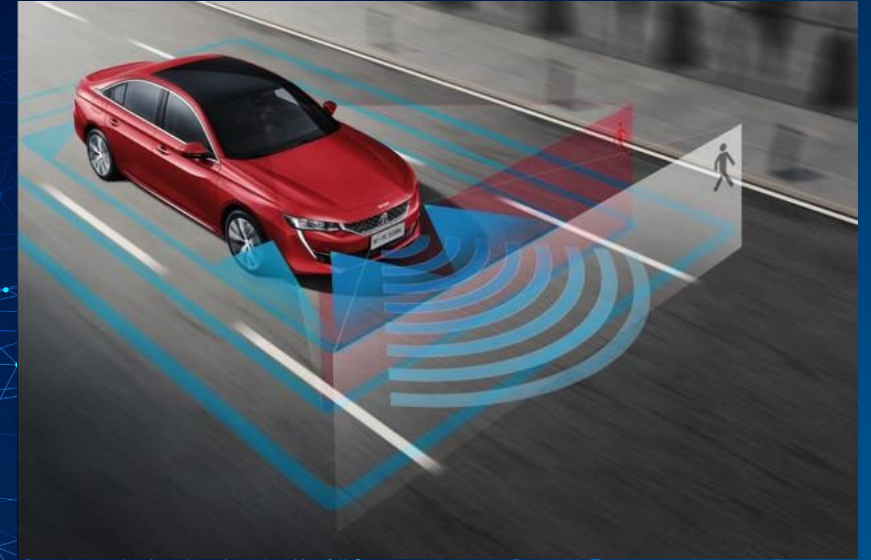
### 2、产业政策支持 and 规范

Expression: Departmental regulations embodied in AI specific application scenarios

体现为AI具体应用场景的部门规章

For example, in the field of autonomous driving ( intelligent connected vehicles)

例如，自动驾驶（车联网）领域



- *Road Test Management Specification for Intelligent Connected Vehicle (for Trial) (May 2018)* by the Ministry of Industry and Information Technology, Ministry of Public Security, Ministry of Transport
- 如：工信部、公安部、交通运输部《智能网联汽车道路测试管理规范（试行）》（2018年5月实施）
- Article 8: Relevant authorities of provincial and municipal government sections select a number of typical parts of roads under their jurisdictions to do road testing for intelligent networked vehicles and announce the results to the social.
- 第八条 省、市级政府相关主管部门在辖区内道路选择若干典型路段用于智能网联汽车道路测试并向社会公布。



### 3. Legal security and guarantee of ethical controllable bottom line-phases of legislation: 2020,2025,2030.

### 3、法律安全和伦理的可控底线保障—立法的阶段性：2020, 2025, 2030.

➤ (1) Network and intelligence security legislation.

➤ (1) 网络 and 智能安全立法:

➤ (2) Personal information and enterprise data protection laws (having no systematic and targeted legislation yet).

➤ (2) 个人信息和企业数据保护法律（尚未系统化、针对性立法）:

➤ (3) Algorithm specification: special specification for AI supporting operation

➤ (3) 算法规范：人工智能支持运行的特殊规范

➤ *E-Commerce Law*

➤ 《电子商务法》

➤ *Cybersecurity Law(2017)*

➤ 《网络安全法》（2017）

➤ Rules in Chapter IV of the *Cybersecurity Law* on protection of personal information

➤ 《网络安全法》第四章关于个人信息保护的规定

➤ Rules in the *E-Commerce Law* on protection of personal information

➤ 《电子商务法》（2019）关于个人信息保护的规定

➤ A series of regulations or standards including *Guidelines, Personal Information Security Regulation, Personal Information and Important Data Outbound Security Assessment Measures (Draft for Comments), Provisions on Protection of Personal Information of Telecommunications and Internet Users*, etc.

➤ 一系列的规章或标准包括《指南》《个人信息安全规范》《个人信息和重要数据出境安全评估办法(征求意见稿)》《电信和互联网用户个人信息保护规定》等

➤ *Information Security Technology: Regulation of Personal Information Security* (GB/T 35273-2017)

➤ 《信息安全技术：个人信息安全规范》(GB/T 35273-2017, 简称《安全规范》)

➤ *Cybersecurity Standard Practice Guideline--AI Ethical Security Risk Prevention Guidelines* issued by the Secretariat of National Information Security Standardization Technical Committee

➤ 全国信息安全标准化技术委员会秘书处发布的《网络安全标准实践指南—人工智能安全风险防范指引》



## 4. Enterprise and industry self-regulation system

### 4、企业和行业自律体系

➤ *Industry Self-Regulation Convention of Zhongguancun Big Data Industry Alliance*

➤ 《中关村大数据产业联盟行业自律公约》





# III.Focuses and Difficulties in Next step of AI Legislation

## 三、人工智能下一步立法的重点和难点

- 1 Strengthening the basic legislation of AI
  - （一）加强人工智能的基础立法
- 2 Promoting the institutional legislation of AI
  - （二）推进人工智能的制度立法
- 3 Refining the field legislation of AI
  - （三）细化人工智能的领域立法



# 1 Strengthening the basic legislation of AI

## (一) 加强人工智能的基础立法

- (1) Strengthening the basic legislation of personal information protection of artificial intelligence
- 加强人工智能的个人信息保护基础立法
- (2) Strengthening the basic data legislation for artificial intelligence.
- 加强人工智能的数据基础立法
- (3) Strengthening the basic legislation on the algorithm of AI.
- 加强人工智能的算法基础立法
- (4) Strengthening the basic legislation on the safety and ethics of artificial intelligence
- 加强人工智能安全和伦理基础立法

Establishing a general law of personal information protection.+ refine the legislation on personal information protection in special fields

确立个人信息保护的一般制度+细化特殊领域个人信息保护立法

Making up data sources, ownership, utilization and protection of artificial intelligence+ Making up the specialization needs and protection legislation for data of artificial intelligence.

完善人工智能的数据来源、权属、利用和保护问题+针对人工智能的数据的特殊化需求和保护立法

Algorithmic equality+Algorithmic transparency+Algorithmic ethic+Algorithmic supervision

算法公平+算法透明+算法伦理+算法监督

Cybersecurity legislation+Special security legislation based on the development and application of AI systems, management, products or services.

网络安全立法+基于人工智能系统、管理、产品或服务的开发和应用特殊安全立法



## 2 Promoting the institutional legislation of AI

### （二）推进人工智能的制度立法

- civil and commercial law of Artificial intelligence
- 人工智能民商法
- Artificial intelligence intellectual property rights
- 人工智能知识产权
- Criminal law of artificial intelligence
- 人工智能刑法
- Artificial intelligence economic law, etc.
- 人工智能经济法等

## 3 Refining the field legislation of AI

### （三）细化人工智能的领域立法

1. Intelligent commerce (e-commerce platform)
1. 智能商业（电商平台）
2. Intelligent media (social networking platform)
2. 智能媒体（社交平台）
3. Intelligent transportation (drones, autonomous driving)
3. 智能交通（无人机、自动驾驶）
4. Intelligent medical care.
4. 智能医疗。
5. Intelligent law (judicial information services)
5. 智能法律（司法信息化服务）
6. Intelligent robot.
6. 智能机器人。





**Questions?**

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[www.informationpolicycentre.com](http://www.informationpolicycentre.com)

Hunton's Information Security Law Blog  
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