

*

摘要:

关键词:

“ ” 1

“ ” “ + ”

“ ” “ ” “ ” “ ”

*

19ZDA165

“

”

2021THZWYY13

1

—— “ ”
2014 2 46 1

2017 3 81

2“

”

“

“ ” “ ” 3

1.

“

” 4

“

” 5

“

” “

”

“

”

“

”

6

“

” “

”

“

”

“ “ ”

” 7

8

“

” “

” 9

2

2017 10 56

3

2020 2 6

4

——

2012 9

25

5

2018 5 72—73

6

2022 11 24—25

7

2018 5 29

8

“ + ”

2017 9 28

9

2013 5 24

“ ” 10

“ ” “ ” “ ”

2

“ ” 11

“ ” 12

13

responsiveness personalization offer round- the- clock service 14

1 2 3 “

“ ” 4 “

” 5 15

“ ” “

” 16

“ ” 17

18

1 “ ”

/ 158 “

10 2013 5 60

11 “ ” 2019 2

12 59

13 2020 2 7

13 Rebecca Williams, Rethinking Administrative Law for Algorithmic Decision Making, 2 *Oxford Journal of Legal Studies* 468, 493- 494 (2022)

14 Teresa Scassa, Administrative Law and the Governance of Automated Decision Making: A Critical Look at Canada's Directive on Automated Decision Making, 54 *UBC Law Review* 251, 252- 253 (2021)

15 2018 3 23—26

16 2019 11 107

17 “ ” “ ” 2022 11 16

18 2019 11 108

” “ ” 19 “ ‘ ’ ” artificial intelligence expert systems’ “ ” rules-based systems “ — ” ‘ if-then’ rules 20 2

machine learning algorithm

21

22

“ ” 23

24

25

26

1 PIN

“ ” 27 2

19 http://www.gd.gov.cn/gdywdt/zwzt/szhzy/jyfg/content/post_2906394.html 2023 2 10

20 Rebecca Williams, Rethinking Administrative Law for Algorithmic Decision Making, 2 *Oxford Journal of Legal Studies* 468, 470 (2022)

21 Jennifer Cobbe, Administrative Law and the Machines of Government: Judicial Review of Automated Public-Sector Decision-Making, 39 *Legal Studies*, 647 (2019)

22 Lucie Cluzel- Métaayer, The Judicial Review of the Automated Administrative Act, 1 *European Review of Digital Administration & Law* 101, 102 (2020)

23 2014 2 49—50 59

24 — “ ” 2019 2

59

25 “ ” “ + ” —

2018 5 34

26 2019 11 109

27 2018 7 157

²⁸ 3

²⁹ 4“

6 + ”
³⁰ 5

³¹

³²

“ ”

2021 1 1 2020 12 7 1820
2017 12

“ ” ³³

“ 2 ” ³⁴

“ ” “ ”

28 ——— “ + ” 2019
10 38
29 2019 11 110
30 2017 20 260
31 2022 6 93
2022 11 42—43
32 2021 6 84
33 “ ” 2019
0808 1720
34 2020 71 43

1

“

”

35

“

” “

”

2

“

”

36

2003

34

3

“

”

37

4

“

”

38

5

“

” 39

“

”

6

“

”

40

“

”

7 “

”

“

”

”

41

“

“

”

42

“

” “

”

“

”

1.

35

2015

00256

36

2017 71 1001

37

2019 03 1011

38

2019 02 40

39

2020 03 298

40

2020 08 365

41

2018 0691 99

42

2019 1971 151

1 “ ” 43 “ ”

2 “ ” 44

3 “ ” 45

4 “ ” 46 “ ” “ ”

2 “ ”

1 “ ” 47

2 2003 32 “

43 “ ” “ ” “ ” “ ”

44 2017 1704 44 2020 0521 240

45 “ ” 2004 10 1 “ ” “ ” “ ” 2017 3 28

46 “ ” 2018 0109 228 2020 1324 16

47 “ ” “ ” 2016 “ ” “ ” 2017

” 164

2017 1887

” “
” 48

“ ”

3

“

” 49

“

”

4

“

” 50

2012 49 2011 13
2012 49

“

“

”

”

3

1

“

” 51

2010 26

48 2019 1302 71
49 “

1998 23 “

3 31

5 31

”

2010

3 1

5 31

2018 4 19

“

”

2017

“

2018 4 5

,

”

2018 0106 148

50 2019 0303 69
51 2019 995

” “ ” “ ”

2 “ ” 52

“ ”

“ ”

“ ”

3 “ ”

“ ” 53

“ ”

“ ”

“ ”

” “ ”

” “ ”

“ ”

” “ ”

4 “ ”

54

“ ”

” 55 “ ”

“ ”

”

5 “ ”

56 “ ”

C1 “ ” B2

52 2017 7101 2706

53 2021 03 26

54 “ ”

“ ”

”

2019 02 40

55 “ ”

2012—2030

“ ”

” “ ”

2020 16

24

56 2017 7101 208

. 95

“

”

57

“

”

6

“

”

58

“

”

“

”

59

“

“ ” 63

64

” 65
66 “ ” 67

“ ” 68

” 69 “ ”

63 2022 11 46
64 2022 11 44
65 “ ” 2022 8 138
66 2022 1 105
67 2020 0521 240
68 2017 1704 44
69

“ ” 2015
00256

1

“ ” 70

“ ” “

”

“ ” 71

“

”

2

“ ” 72 “ ‘ ’

” 73

algorithms code

“ ”

“

” 74

3

75 “

” 76 “

70 2018 15 165

71 2015 155

72 2018 0109 228

73 2022 6 94–95

74 David Freeman Engstrom & Daniel E. Ho, Algorithmic Accountability in the Administrative State, 37 *Yale Journal on Regulation* 800, 827 (2020)

75 Anna Huggins, Addressing Disconnection: Automated Decision-Making, Administrative Law and Regulatory Reform, 44 *University of New South Wales Law Journal* 1048, 1052 (2021)

76 2020 2 7

” 77

“ ” 78

“ ” 79

“ ” 80

81

“ ” 82

” 83

84

85

86

systemic bias

87

“ ” 88

“ ” 3

“ ”

77 2019 0303 69

78 2021 0102 1910

79 2017 71 1001

80 2022 6 87

81 2022 1 101

82 2020 1 28

83 2021 10 12

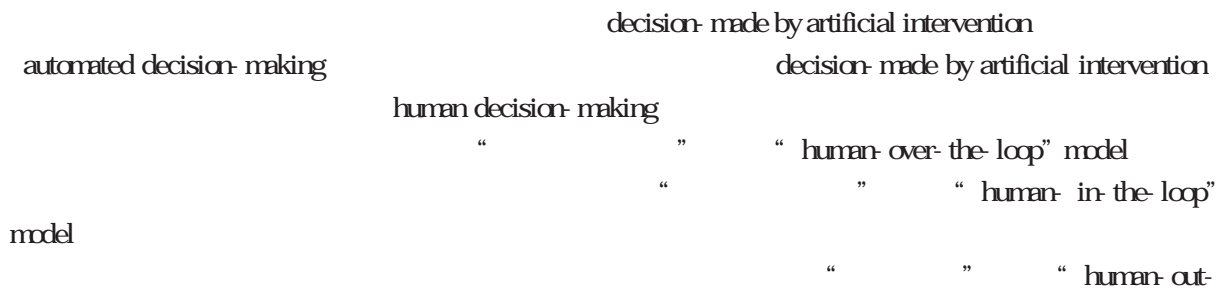
84 2020 2 7

85 Ryan Calo & Danielle Keats Citron, The Automated Administrative State: A Crisis of Legitimacy, 70 *Emory Law Journal* 797, 800 (2021)

86 Jennifer Cobbe, Administrative Law and the Machines of Government: Judicial Review of Automated Public-Sector Decision-Making, 39 *Legal Studies* 636, 653 (2019)

87 Jennifer Cobbe, Administrative Law and the Machines of Government: Judicial Review of Automated Public-Sector Decision-Making, 39 *Legal Studies* 636, 641 (2019); Teresa Scassa, Administrative Law and the Governance of Automated Decision Making: A Critical Look at Canada’s Directive on Automated Decision Making, 54 *U B C Law Review* 251, 281 (2021)

88 2018 7101 502



89 “ 2021 11 ”

90 2022 53 359
2012 4 “ 3 ”

91 Anna Huggins, Addressing Disconnection: Automated Decision-Making, *Administrative Law and Regulatory Reform*, 44 *University of New South Wales Law Journal* 1048, 1048 (2021)

92 Teresa Scassa, Administrative Law and the Governance of Automated Decision Making: A Critical Look at Canada's Directive on Automated Decision Making, 54 *U B C Law Review* 251, 283 (2021)

93 Makoto Cheng Hong & Choon Kuen Hui, Towards a Digital Government: Reflections on Automated Decision-Making and the Principles of Administrative Justice, 31 *Singapore Academy of Law Journal* 875, 887, 896 (2019)

94 Jennifer Cobbe, Administrative Law and the Machines of Government: Judicial Review of Automated Public-Sector Decision-Making, 39 *Legal Studies* 636, 652 (2019)

95 Teresa Scassa, Administrative Law and the Governance of Automated Decision Making: A Critical Look at Canada's Directive on Automated Decision Making, 54 *U B C Law Review* 251, 297 (2021)

of the loop” model

96

1 “ ”

2 “ ”

2019

2017

2003

33

devolution

improper delegation or

gesture”

“ a token

” “

” 98

” 100 “

”

“

”

“

” 101

102

2017

69

78

algorithmic bias

103

34

13

“

” “

”

24 3 25

“

”

“

”

100 2019 995
101 2017 7101 2706

102 Jennifer Cobbe, Administrative Law and the Machines of Government: Judicial Review of Automated Public-Sector Decision-Making, 39 *Legal Studies* 636, 639-640 (2019)

103 Makoto Cheng Hong & Choon Kuen Hui, Towards a Digital Government: Reflections on Automated Decision-Making and the Principles of Administrative Justice, 31 *Singapore Academy of Law Journal* 879, 886 (2019)

“ ”

“ ” “ ”

2003 33

“ ”

“ ” “ ” 104

“ ”

the anonymized training data¹⁰⁵
rules- based system

source code¹⁰⁶

104

2022 3 95 100

105 Teresa Scassa, Administrative Law and the Governance of Automated Decision Making: A Critical Look at Canada's Directive on Automated Decision Making, 54 UBC Law Review 251, 286-287 (2021)

106 Rebecca Williams, Rethinking Administrative Law for Algorithmic Decision Making, 2 Oxford Journal of Legal Studies 468, 483 (2022)

“

”

113