

# A Comparative Study of Copyright Law between China and Mongolia

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**Abstract**— This article delves into the copyright legal systems of China and Mongolia from the perspective of comparative law, aiming to analyze and understand the similarities and differences in the legislative background, principles, rights content, and infringement liability of copyright law between the two countries. It also explores how to reform and innovate within the existing legal framework to meet the needs of the knowledge economy era. The article first introduces the importance of copyright law in stimulating knowledge creation and dissemination, ensuring knowledge and information sharing, and points out that China, as a model for intellectual property rights, has important reference significance for Mongolia's copyright legal system. In terms of the copyright subject system, China's Copyright Law clearly distinguishes between copyright owners and authors, leaning towards author centrism, summarizing copyright owners as citizens, legal persons, and other organizations outside of the author. Mongolia has different views on the issue of copyright subjects, mainly involving the country, inheritors, and source groups. The article further analyzes the content of copyright rights, explores the definition of property rights and personal rights, and the application of copyright law in practice, especially in the fields of literature and art, technological innovation, and online communication. In the section on the practical application of copyright law, the article discusses the specific applications of copyright law in the fields of literature and art, technological innovation, and online communication. It points out that the main drivers of international protection for literature and art are the active promotion of developing countries such as Africa, as well as the attention paid by developed countries to the protection of literature and art. In the field of technological innovation, the identification of artificial intelligence copyright holders has become a hot issue, and scholars at home and abroad have different views on this. In the field of online communication, copyright protection faces new challenges and requires the establishment of effective legal implementation mechanisms. Finally, the article compares and analyzes the similarities and differences in copyright laws between China and Mongolia, and proposes the development direction of future copyright laws, including addressing the challenges of digital technology, strengthening international cooperation, and paying attention to the issue of artificial intelligence copyright. Through in-depth research and comparative analysis, this article aims to provide reference for the exchange and cooperation of copyright laws between China and Mongolia, promote the protection of creator rights, promote the prosperous development of cultural and creative industries, and address future challenges.

**Keywords**— China and Mongolia; Copyright Law; Comparative research; Collaborative challenges; intellectual property right.

## I. INTRODUCTION

Copyright law is a virtuous mechanism that incentivizes knowledge creation and dissemination, as well as a virtuous mechanism that ensures knowledge and information sharing. With the advent of the knowledge economy era, countries are strengthening the construction of copyright legal systems to enhance the creation, dissemination, and sharing of knowledge. As a country that adheres to the principle of "establishing a country with intellectual property rights", China's copyright legal system that is in sync with the times has an undeniable reference value for Mongolia. In order to learn from and innovate, this essay aims to comprehend and investigate the copyright legal systems of China and Mongolia from the standpoint of comparative law.

### Part 1. Research on the System of Copyright Subject

"Copyright owners include: (1) authors; (2) other citizens, legal persons, or other organizations that enjoy copyright in accordance with this Law," reads Article 9 of China's copyright law. Firstly, the distinction between copyright owners and authors is clearly made, and copyright owners are briefly summarized into two categories: citizens, legal persons, and other organizations outside of the authors and authors". The main body system of copyright in China has a clear tendency towards author centrism in legislation, recognizing the author

as the basic subject of copyright and the primary owner of copyright. The author is the citizen who creates works, and creation refers to the intellectual activity that directly produces literary, artistic, and scientific works.

Article 11, Paragraph 4 of the Copyright Law of China stipulates: "In the absence of proof to the contrary, the citizen, legal person, or other organization who signs on the work is the author." Although the term "presumption" is not directly used, the identity of the author is undoubtedly determined using the presumption method. Wang Yukai believes that there are two types of relationships between works and authors: factual level creation and value level personality reflection. Personality reflection is the theoretical basis of the personal rights section in copyright law, while factual level creation can be used to explain the establishment of the right of authorship. From the perspective of correspondence, it is a basic social consensus that there is a close correspondence between author identity and authorship. The presiding judge of the Huayue Chuan case believes that adding a name to a work is aimed at reflecting the "blood relationship" between the author and the work, and the carrier of the right of attribution should also be able to indicate the author's identity and the connection between the work.

### Part 2. Overview of copyright content

The content of copyright rights refers to the rights enjoyed by authors as stipulated in the Copyright Law, and there are

relatively more aspects of copyright rights by domestic and foreign scholars. Scholar Qin Jian pointed out in his research that property rights mainly include reproduction rights, distribution rights, rental rights, exhibition rights, performance rights, screening rights, broadcasting rights, and information network dissemination rights. In terms of personal rights, relevant scholars have also conducted research. Xiong Qi pointed out in his research that copyright, in a narrow sense, only refers to intellectual property rights, in a broad sense, includes intellectual property rights and personality rights, and the most broad concept includes all rights such as intellectual property rights, personal rights, neighboring rights, and publishing rights. This paper divides copyright into property rights and personal rights, and explores the differences in copyright laws between the two countries.

Xue Yuanfei pointed out that the right of authorship refers to the author's right to sign their work, which means that the work should be signed by the author, and the author has the right to decide not to sign or use an alias. Foreign scholar X Wang also pointed out that the right of modification refers to the author's right to modify their work, that is, the author can modify or cancel the publication of their own work. Y Zhu pointed out that different personal rights reflect different countries' different concerns about author rights in copyright law. Xiong Qi provided detailed regulations on the scope of copyright protection in his research, including works in fields such as literature, art, natural sciences, engineering technology, and social sciences. Foreign scholars have also conducted some research in related areas. W Pan and J Luo pointed out that copyright law applies to all works, and they can enjoy copyright protection regardless of their form, content, and purpose. This means that Mongolia's copyright law has a relatively broad scope of protection for works.

### *Part 3. The Application of Copyright Law in Practice*

#### *1. The Application of Copyright Law in the Field of Literature and Art*

The international promoters of literary and artistic protection are mainly developing countries such as Africa, which have a long history and rich literary and artistic resources. With the promotion of some developing countries and international organizations, countries have further deepened their understanding of the commercial value of literature and art, and developed countries have also begun to attach importance to their own research on the protection of literature and art. Under the active promotion of developing countries, the revised Berne Convention has added provisions to protect literary and artistic copyrights, but specific operations such as the subject, object, rights and obligations of copyright have not been mentioned. In order to provide a model for copyright legislation in various countries, the World Intellectual Property Organization and the United Nations Educational, Scientific and Cultural Organization jointly formulated the Tunisian Copyright Model Law for Developing Countries in 1976. Due to cultural traditions, history, and geography, different countries have different opinions on which subject is the subject of literary and artistic copyright, considering different interests. Countries with small areas and

a single ethnic composition generally advocate that the subject of literary and artistic copyright is the state. The ethnic composition is complex, and countries with large populations need to distinguish various situations, considering that the subject of literary and artistic copyright is from various source groups, individuals, or countries.

There are roughly three views among Chinese scholars regarding the subject of literary and artistic copyright. The first viewpoint holds that the copyright subject of literature and art is the state. The uncertainty of the author of an artwork determines that the state can only naturally act as the owner and executor of the overall copyright. Some scholars divide the subjects of literary and artistic copyright into factual subjects and legal subjects, believing that the ethnic groups and groups that produce these works are only factual subjects, and factual rights subjects cannot claim rights as legal rights subjects. Instead, the state should be the legal subject of the original literary and artistic works. The second viewpoint holds that the copyright subject of literature and art is the inheritor. Copyright law should abandon the concept of collective authorship and give inheritors the identity of authors, treating literary and artistic works as ordinary works and protecting them as ordinary individual works, in order to ultimately solve the copyright problem of folk literature. Scholars who hold the third viewpoint, from the perspective of creators enjoying rights, believe that the copyright subject of literature and art is the source group of literature and art.

#### *2. The Application of Copyright Law in the Field of Scientific and Technological Innovation*

Internationally, there has been some progress in academic research and practice related to the identification of artificial intelligence copyright holders, but there are still significant controversies. In the academic community, researchers who deny the subject status of artificial intelligence, such as Professor Samuelson, believe that the copyright system in history only granted to natural persons, and granting robots cannot stimulate their innovation and has no protective significance. Therefore, the subject status of artificial intelligence is not certain; Perry and Marconi even believe that granting artificial intelligence copyright holders is completely unnecessary, and instead would lead to anti commons tragedies and negative externalities; However, researchers who affirm the status of artificial intelligence as a subject, such as Professor Abbott, argue from the perspective of incentive theory that granting legal personality to artificial intelligence can motivate humans to use artificial intelligence for innovation, thus supporting the granting of legal status to artificial intelligence. Professor Davis believes that if a legal entity can be granted legal personality, it can draw inspiration from granting artificial intelligence legal subject status to legal entities.

On the Chinese side, research on the identification of copyright holders in artificial intelligence is still in its early stages, and there are differing opinions in existing literature. Regarding whether artificial intelligence can become a copyright subject, as Yuan Zeng believed, with the development of society, artificial intelligence is an inevitable product, with high intelligence and relatively independent decision-making ability. It has different properties from

traditional tools or agents. In the current situation, artificial intelligence is defined as a special entity with intelligent tool properties and the ability to make independent representations of meaning. Zhao Lei believes that artificial intelligence technology under connectionism highly simulates the operation of the human brain, and to a certain extent possesses human subjective initiative and ability to express meaning, thus being able to grant special legal subject status within its intellectual scope; Jiang Xiaojian and Li Shilin believe that granting civil subject status to artificial intelligence is reasonable and have proposed standards for constructing artificial intelligence subjects; Li Weimin proposed that the public needs to change their naive concepts and emotions, and treat artificial intelligence as a new civil subject.

### *3. Application of Copyright Law in the Field of Online Communication*

Some international scholars have paid early attention to the issue of copyright recognition in cyberspace, and the protection of online copyright is relatively strict. Overall, foreign research can be mainly divided into three aspects: first, in terms of legal norms, foreign scholars attach great importance to the study of legal provisions related to online copyright. A comprehensive law is an important prerequisite for encouraging creativity and achieving knowledge sharing. Developed countries have a high frequency of revising laws and regulations related to online copyright protection, constantly emphasizing the protection of rights and interests. Secondly, in terms of judicial mechanisms, the focus of extraterritorial research is on how to establish effective legal implementation mechanisms. Regarding the issue of judicial jurisdiction, some scholars have proposed the theory of jurisdictional relativity, attempting to solve the dilemma of judicial jurisdiction through technical means, but enforcement is difficult. In transnational crimes, co defendants participate in cases of infringement of online copyright through "assistance, instigation, and collusion". The extradition time for convicted offenders is too long, and it is necessary to strengthen international judicial assistance and timely and effective punishment of offenders. Thirdly, other comprehensive governance aspects. Firstly, as an important supplement to the copyright protection system, copyright collective management organizations and industry associations are the focus of academic research and discussion. The most representative Copyright Clearance Center in the United States has developed into a global copyright agency and brokerage company, with clients covering government agencies, academic institutions, enterprises, etc. It can provide services such as cross-border copyright licensing and academic license applications. Secondly, scholars from other regions have affirmed the role of technological means in preventing and controlling crimes related to online copyright infringement. Rights holders can protect and control digital works through "technical protection measures" and "rights management information". They can ensure the security of third-party purchase transactions and the timeliness value of works through technologies such as date restrictions and public key cryptography, and control access through content encryption.

Chinese scholars also attach great importance to the revision and improvement of copyright related laws and

regulations, and their research content is significantly influenced by existing legislation and judicial interpretations. In 2020, China made the third amendment to the Copyright Law, issued judicial interpretations, and amended the provisions on the crime of copyright infringement in the form of amendments to the Criminal Law, strengthening the protection of copyright in the era of the Internet. There are abundant research results related to this. At present, the research achievements on crimes of infringing on online copyright in China are mainly divided into two aspects: firstly, in terms of theory, the research mainly focuses on criminal legal protection, analyzing the elements of crime composition, conviction standards, and criminal law protection models. There are five views in the academic community on the issue of preservation or abolition with the aim of profit: reservation theory, abolishment theory (cancellation theory), compromise theory, emphasis on (addition) heavy criminal circumstances theory, and "separation of subjective elements". Secondly, in terms of practice, judicial practice should be the main focus, summarizing the characteristics of crimes from case trials, discussing the difficulties in crime governance, and corresponding solutions. In response to the limited scope of criminal law protection, prominent differential penalties, and obvious "mobile" judicial traces in the current trial of online copyright infringement crimes in China, some scholars have proposed to broaden the scope of criminal law regulation, unify punishment standards, establish a long-term judicial operation mechanism, and reasonably adjust the penalty structure.

### *4. Research on Comparative Analysis of Copyright between China and Foreign Countries*

The author searched on CNKI using the keyword "Comparative Study of Copyright Law" and found a total of 191 judicial documents, indicating that there is a considerable amount of research in related areas. Copyright law is a virtuous mechanism that incentivizes knowledge creation and dissemination, as well as a virtuous mechanism that ensures knowledge and information sharing. With the advent of the knowledge economy era, countries are strengthening the construction of copyright legal systems to enhance the creation, dissemination, and sharing of knowledge. This has certain significance for the continuous improvement of copyright.

On the basis of a comprehensive exposition of the historical development and basic legal concepts of copyright in the two countries, Fang Gangde's comparison of the copyright law system in China and South Korea is conducted from five perspectives: conceptual norms, copyright restriction systems, copyright adjacency rights, protection of foreign works, and civil law, criminal law, and administrative law remedies for copyright infringement. The similarities and differences between the two countries are analyzed, In order to fully understand the relevant laws of both countries and strive to seek common ground in legislation and protection of copyright systems.

Liu Yi conducted a comparative analysis of copyright between China and Mongolia, and found that France, as a civil law country with extremely rich cultural activities, has similarities in legal traditions with China. In addition, the development of its copyright legal system is relatively



complete. Learning and researching its copyright legal system can provide good experience for the improvement of China's copyright legal system.

In his comparative analysis of copyright between China and Japan, Tao Yunfeng pointed out that the existing Copyright Law in China does not provide comprehensive and detailed regulations on various systems of copyright. Although China has to some extent supplemented the shortcomings and deficiencies of the Copyright Law by formulating other legal documents such as administrative regulations and judicial interpretations, the current domestic copyright law system in China still has shortcomings such as an excessive number of legal documents involved, different levels of effectiveness between legal documents, and insufficient overall, unified, and systematic aspects.

After a thorough understanding of the relevant systems in Germany, it is worth learning from China's legislation on subjective fault as a prerequisite for compensation liability in the German Copyright and Adjacency Rights Law. It also proposes that the fault of the infringer should be considered as a constituent element of compensation liability, and that the court and rights holders should have limited access to the infringer's books and information. This article provides a discussion on the upper limit and scope of application of punitive damages, as well as the proposed amendment to the law, which explicitly stipulates the method of "requesting court discretion" in the form of compensation. In order to provide a valuable reference for China's practice and legislation, Drawing on the relevant experience of German law in theory and judicial practice, it systematically elaborates on the actual and necessary aspects of calculating damages when copyright is infringed upon in China.

## II. CONCLUSION

This article compares the copyright laws of China and Mongolia, analyzes the similarities and differences in the legislative background, legislative principles, rights content, and infringement liability of copyright laws between the two countries, and proposes corresponding countermeasures for the challenges faced by the two countries in copyright law cooperation. Research has found that there are certain differences in the legislative background and content of copyright laws between China and Mongolia, but there are similarities in legislative principles and tort liability. Through in-depth research on the characteristics and differences of copyright laws between the two countries, it is helpful to promote exchanges and cooperation in the field of copyright law between China and Mongolia, provide better legal protection for creators, and promote the prosperous development of cultural and creative industries.

In the future, copyright law needs to be continuously developed and improved to address new challenges, protect the rights and interests of creators, and promote the development of the cultural industry. Faced with the challenges brought by digital technology, the Copyright Law should strengthen the application of digital technology, improve its enforcement efficiency and fairness. At the same time, copyright law should also strengthen international cooperation and promote the unity

and development of global copyright protection. In addition, the Copyright Law also needs to pay attention to the issue of artificial intelligence copyright, define the copyright of artificial intelligence, and protect works created by artificial intelligence.

In short, the cooperation between China and Mongolia in the field of copyright law has broad prospects. By strengthening exchanges and cooperation, the two countries can jointly address the challenges faced by copyright law and promote the improvement and development of copyright law. This will help provide better legal protection for creators, promote the prosperous development of cultural and creative industries, and make greater contributions to the progress of human society.

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