

Study on the Relationship between Public Opinion and Judicial Decision-making

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Abstract: In recent years, with the heated discussions over cases such as Ziyao Wang and Koukou Zhang, the relationship between judicial decisions and public opinion has become a focus of academic attention. Public opinion and judicial decisions should be mutually independent, but the intervention of public opinion does not necessarily affect judicial independence. Instead, public opinion plays a role in supervising the fairness of judicial decisions. Coordinating the relationship between public opinion and judicial decisions is a long-term task that needs to be continuously improved in the process of promoting the comprehensive rule of law.

1. Introduction

In modern society, judicial decision-making is not only a legal issue, but also a social issue. It concerns the realization of justice, the maintenance of morality, and the stability of social order. The fairness and authority of judicial decisions often directly reflect the level of a country's rule of law. However, judicial decision-making is not isolated from society, but closely linked to social development. Especially in a democratic society, public opinion, as a collective expression of the public's pursuit of justice, has a profound impact on the formation and implementation of judicial decisions. Studying the relationship between judicial decision-making and public opinion is of great significance to the development of China's rule of law. ^[1]

2. The relationship between public opinion and judicial decision-making

There are two opposing views on whether public opinion should be incorporated into judicial decisions. The first view, the affirmative one, holds that public opinion, reflecting the values, moral judgments, and rights aspirations of the public, should be considered in judicial decisions because the law, as a representation of public will, serves as a political contract between the government and the people. This view argues that the rule of law, as a form of governance, gains legitimacy through democracy, and public opinion can serve as a test for the legitimacy and rationality of judicial decisions.^[1] The second view, the negative one, maintains that judicial trials should remain uninfluenced by public opinion. This view argues that public opinion related to a case should not be a basis for judgment due to three reasons: the nature and characteristics of such opinion, its

violation of the principles of the rule of law, and its conflict with existing laws. ^[2]

In my opinion, judicial trials should pursue the unity of legal effect and social effect, and the fairness and justice represented by the judiciary does not mean that the judiciary and public opinion are incompatible. On the one hand, the people's courts must adjudicate in accordance with the law, and judicial decisions should pursue legitimacy; on the other hand, judicial trials must also be subject to the test of public opinion and possess social acceptability. ^[3]

2.1. The independence of the judiciary from public opinion

China has clear provisions on the independent exercise of power by judicial organs in accordance with the law. According to Article 5 of the Criminal Procedure Law of China, the people's courts exercise judicial power independently in accordance with the law, and the people's procuratorates exercise procuratorial power independently in accordance with the law, without interference from administrative organs, social organizations, or individuals. This provision establishes the principle of independent exercise of power by the people's courts and people's procuratorates in accordance with the law.

2.2. Absorbing public opinion does not necessarily interfere with judicial independence

2.2.1. The judiciary has its own limitations

Law can only guarantee the moral bottom line of a society, and it cannot adjust many areas such as emotional issues. This is the limitation of law in its applicable field. ^[4] Since law needs to ensure its stability, it will always lag behind the development of reality, and cannot adjust to many emerging new issues and situations in time. For some existing behaviors, the relevant provisions of the law may also appear outdated due to the long time. There is not much flexibility in the application of law, so it can only maintain a relative sense of fairness, rather than achieving comprehensive and absolute fairness.

2.2.2. Absorbing public opinion does not interfere with judicial independence.

The fundamental reason for the violation of the principle of judicial independence does not lie in absorbing public opinion, but in the fragility of the judicial essence caused by China's social transformation. In reality, China in the transitional period itself is suffering from the objective phenomenon of judicial injustice. The existing system lacks an accurate positioning of the judicial organs, and the fact that judicial organs make judgments that obviously do not conform to the law objectively exists. As Cicero, the great politician of ancient Rome, said, "The welfare of the people is the highest law." ^[5] They believe that both legislative and judicial activities should be carried out on the basis of widespread recognition and universal compliance by the general public. Any legal act that is contrary to the choices, psychological requirements, and expectations of the people is invalid and ultimately should be discarded. ^[6] In reality, absorbing public opinion does not interfere with judicial independence. On the contrary, it may contribute to the guarantee of judicial independence and the cultivation of judicial authority, at least in China at present. If the judiciary is only independent of public opinion and not independent of political departments, it will be even more difficult to establish judicial credibility, and it is also not the role expected by China's constitution.

2.3. The safeguarding role of public opinion in the judiciary

2.3.1. Public opinion can effectively supervise the judiciary.

The intervention of public opinion helps judges listen to the voice of the people during the process of judging cases, improves the quality of case trials, and achieves the goal of justice for the people. With the intervention and supervision of public opinion, judicial workers can handle affairs according to the law more effectively and make the fairest judgments. The intervention of public opinion in the judiciary can, on the one hand, enhance citizens' awareness of safeguarding their rights and their enthusiasm for participating in judicial activities, and on the other hand, it can also help establish the credibility of the judiciary. Trials are not just judicial activities; they have important social significance. When justice is consistent with public opinion, incorporating public opinion into judgments is more conducive to providing reasonable explanations to the broad masses of the people, closing the gap between the law and the people, and thus enabling the public to better understand and believe in the law.

2.3.2. Public opinion supervision helps maintain fairness in individual cases.

Judicial trials should not violate common sense and should comprehensively consider individual cases within the context of natural laws, national laws, and human sentiments. In the Yu Huan case, the first-instance court sentenced Yu Huan to life imprisonment, which caused strong dissatisfaction among the public. Therefore, under the supervision of public opinion, the second-instance court made a fair judgment, commuting the sentence to five years of fixed-term imprisonment. This judgment achieved judicial fairness and satisfied the public.

2.4. Fairness is the common pursuit of public opinion and justice.

Public opinion embodies the common sense of justice among the people, while justice also strives for fairness and justice as its legitimate basis. Therefore, they are aligned in terms of value pursuit. Justice serves as the ultimate safeguard for fairness and justice, which are the shared aspirations of human society and the fundamental values of socialist rule of law. Judicial fairness maintains social fairness and justice through various means such as correction, restoration, and compensation.^[7] The people's courts uphold these values by exercising judicial power to protect the legitimate rights and interests of the people in various aspects of life. Justice is a crucial legal system that upholds social fairness, justice, and harmony. Judicial fairness is the fundamental requirement of social justice for judicial work and an essential means to achieve it. Judicial injustice undermines the realization of social justice. Notably, public attention to citizens' rights protection in cases reflects not only the supervision of public opinion on justice but also the pursuit of fairness and justice in the judicial process, aimed at preventing judicial corruption and injustice. Hence, public opinion serves as an important source of fairness and justice, which in turn reflects public sentiment.

3. The approach of the judiciary towards public opinion

The judicial power in China derives from the people, thus judicial actions must respond to public opinion. In addition to listening and responding, judicial organs need to consider how to respond correctly, which requires reasoning skills and judicial wisdom. Effective responses based on institutions and procedures under the current legal framework align with the fundamental requirements of modern rule of law.^[8]

3.1. Responding to public opinion through procedures and institutions

In responding to public opinion, the judiciary should first refer to the applicable laws. Procedurally speaking, the first public opinion to enter the judicial purview is the law. As the national judicial organ, the people's court follows the basic principle of adjudicating according to the law.^[9] Fact-based and law-oriented, the judicial organ must strictly adhere to legal provisions in adjudicating, treating the law as the sole criterion and standard for handling cases. The law serves as the highest standard in case adjudication. Through meticulous procedures and institutional design, we can ensure the fairness and authority of judicial decisions and effectively contain any undue interference from public opinion. Specifically, a procedurally technical approach requires us to fully respect procedural rules, strictly follow legal procedures, and ensure the legality and reasonableness of judicial outcomes. Additionally, modern technological means should be leveraged to enhance the transparency and openness of judicial decisions, fostering greater public trust and recognition. Therefore, a procedurally technical approach is not only a positive response to public opinion but also a crucial pathway for promoting the construction of a society based on the rule of law.

3.2. Responding to public opinion through social policy orientation

Currently, China is in a transition period with an immature market economy system and a lack of market management experience. When responding to the expanding market and various crises that suddenly arise, the absence and lag of laws are inevitable. The combination of laws and policies provides a regulatory mechanism that combines flexibility and certainty within a certain scope. Routes, guidelines, policies, and laws are homogenous. However, it is crucial to grasp that routes, guidelines, and policies can be transformed into national laws through legislative procedures when appropriate, but those that have not been transformed into laws through legislative procedures cannot be equated with or superior to laws. In judicial activities, social customs and habits should be reasonably incorporated. In the usual sense, social customs and habits are behavioral norms naturally formed by people during long-term social interactions. To a certain extent, they reflect legitimate and reasonable practical needs and are also a form of public opinion that can effectively resolve social conflicts and disputes.

4. Conclusions

Judicial trials must not only achieve justice in individual cases, but also promote social development and the progress of the rule of law. In reality, the relationship between the judiciary and public opinion is intricate and complex. In addressing conflicts between the judiciary and public opinion, the judiciary should value the positive role of public opinion and absorb it reasonably while adhering to judicial independence. In judicial activities, judicial organs should not passively meet the public's demands for justice, but should appropriately respond to public opinion while respecting the facts of the case and adhering to the law. In practice, we should face public opinion with a calm and mature attitude under the premise of judicial independence, absorb and respond to public opinion related to cases through procedures and systems, rather than ignoring established legal norms and accommodating unreasonable demands of public opinion in individual cases. Judges should adopt reasonable public opinion through professional analysis before absorbing it. For public opinion that violates judicial independence and betrays legal provisions, restrictions should be imposed, and judicial organs should improve relevant judicial systems. Only by correctly handling the relationship between the judiciary and public opinion can we achieve a positive interaction between the two and promote social progress and the development of the rule of law.

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