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# On the Impact of Public Opinion Monitoring on Judicial Justice

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**Abstract:** In the forty years of reform and opening up, China's economy has developed rapidly, people's living standards have been rising, and people have begun to pursue spiritual needs and pay attention to current affairs. Since China put forward the rule of law, people began to gradually pay attention to judicial activities. Judicial justice is the last line of defence to safeguard social justice. Over the years, as people's awareness of the law and the concept of the rule of law have increased, the supervision of judicial activities by public opinion has become more and more important. Public opinion supervision is a kind of legal supervision and belongs to social supervision, which plays an important role in judicial justice. However, this kind of public opinion supervision has both its positive and negative effects on judicial justice. The first chapter introduces the definition of public opinion monitoring and judicial justice, the second chapter discusses the positive and negative effects of public opinion monitoring on judicial justice, the third chapter introduces the relevant legal provisions in foreign countries, and the fourth chapter presents the author's suggestions on the negative effects of public opinion monitoring, drawing on foreign experiences. The author hopes that the research in this paper will enable public opinion monitoring in China to better promote judicial justice.

**Keywords:** Public Opinion Monitoring; Judicial Impartiality; Judicial Independence.

## 1. Introduction

The rule of law is a sign of the development of human political civilisation to a certain historical stage, and is an important symbol of the degree of civilisation of society. The rule of law encompasses social values such as justice, freedom, equality and human rights. Among these legal values, justice is the lifeline of the rule of law and the last barrier to maintain social justice, and judicial impartiality is particularly important; if justice is not done, the entire rule of law system will be worthless.

Legal supervision plays an important role in the application of law, and the supervision of public opinion is the cornerstone of legal supervision. Today, with the continuous development of science and technology, there are more and more channels for people to make their voices heard, and people's concept of the rule of law and legal awareness have been considerably improved with the continuous development of legal literacy and publicity activities, and people are paying more and more attention to judicial cases and are willing to express their views on some cases. The public opinion formed by the people has, to a considerable extent, influenced the judicial outcome of certain cases, and this influence has both positive and negative effects.

This article uses the comparative method to study the specific impact of public opinion monitoring on judicial justice, and draws on relevant overseas legal provisions to put forward relevant suggestions for public opinion monitoring to better promote judicial justice.

## 2. Defining Public Scrutiny and Judicial Impartiality

### 2.1. Definition of Public Opinion Monitoring

Public opinion refers to the sum of people's attitudes and expressions of emotions towards the real society and various phenomena and issues in the society. It is essentially a manifestation of people's public opinion, and it expresses to a certain extent the desired outcome of the people on a certain matter.

Public opinion supervision is a kind of legal supervision in China, which belongs to social supervision and is a manifestation of the supervision rights that the people have. Public opinion supervision is essentially the people's expression of their opinions on national legislation, judicial and administrative public affairs through the Internet and the media. In particular, the rapid development of Internet technology and the arrival of the era of self-media have gradually enhanced the function of public opinion supervision. The main body of public opinion supervision is the general public, which exists among all social classes, and the object of public opinion supervision includes all public affairs.

### 2.2. Justice Defined

Justice is the activity of the public power of the state in applying the law to resolve social disputes. In a society governed by the rule of law, justice is generally considered to be the most thorough way of dealing with social conflicts. When people are unable to resolve disputes between them in any other way, they can ask the judiciary to decide on disputes between people.

Judicial justice refers to the ideal state achieved by various factors in the operation of judicial power, and is an important symbol of political democracy and progress in modern society, as well as an important guarantee of economic development and social stability in modern countries. Judicial justice is divided into substantive justice and procedural justice. Substantive justice mainly means that the outcome of justice should be fair, with the judgement conforming to the provisions of the law and not violating public order and morality, while procedural justice is that the process of judicial activities is fair and non-discriminatory for those involved.

# 3. The Impact of Public Scrutiny on Judicial Impartiality

## 3.1. The Positive Impact of Public Scrutiny on Judicial Impartiality

The positive impact of public opinion monitoring on judicial justice is mainly in three areas: enhancing judicial credibility, maintaining judicial independence and preventing judicial corruption.

A fair judiciary must have judicial credibility as a guarantee. Judicial credibility is a comprehensive reflection of the people's recognition, recognition and trust in the judiciary. And to achieve a fair justice must have judicial credibility as a guarantee. The people are the subject of judicial credibility evaluation, and the people are also the subject of public opinion dissemination and the recipient of it. Public opinion not only has the value of disseminating information, but also has the function of educating the public. On the one hand, the credibility of the judiciary comes from the public's general knowledge of the correct judgement, and on the other hand, many people do not know much about the law. On the other hand, through public opinion monitoring, the people are made aware of the relevant legal knowledge, understand the difference between law and morality, and enhance their recognition of the basic values and moral values such as fairness, justice, freedom and democracy enshrined in the judicial activities of the judiciary.

Judicial impartiality requires trial independence, which is a concrete manifestation of procedural legality, and the press is an active force in safeguarding trial independence and judicial authority. In China, situations affecting the independence of trials and undermining judicial impartiality have occurred from time to time. For cases that have been decided by the court, it has even happened in judicial practice that the local government has vetoed and resisted the outcome of the court's decision. Therefore, at this time, it is difficult for judges to ensure that they can make fair judgments if they do not have support, and the news media expose these so that more people can understand these matters, so that the public can monitor the cases through public opinion, and play a role in maintaining the independence of trials and judicial justice.

"Sunlight is the best antiseptic", and only through open and transparent operation can power be prevented from being abused [1]. Public opinion supervision plays a very important role in the open operation of judicial power. Public opinion supervision is an all-round supervision of judicial activities, not only for the judiciary, but also for judicial personnel. Through this all-round supervision, the judicial process is made more transparent, so that judicial personnel dare not act recklessly when carrying out judicial activities, and judicial corruption is reduced.

## 3.2. The Negative Impact of Public Opinion Monitoring on Judicial Impartiality

The negative impact of public opinion monitoring on judicial impartiality is mainly in three areas: interfering with investigative activities, affecting judicial independence and undermining the spirit of the rule of law.

In our country, investigation refers to the special investigative work and related coercive measures taken by a specific judicial authority to collect, identify and confirm crimes and seize perpetrators, in accordance with the law. The purpose of investigation dictates that investigators are mindful of the confidentiality of relevant case information. However, some unscrupulous media often abuse their power of public opinion monitoring to follow the investigative activities of cases for their own benefit. This not only leads to a multiplication of pressure on the judicial authorities in handling cases, but also makes their work more difficult, and the leakage of important information may even lead to criminals escaping sanctions and affect the safety of the parties involved.

Public opinion monitoring is a double-edged sword, excessive can have a great impact on society, this impact can affect the social stability of the order, this situation, public opinion can lead to other departments to interfere with the judicial activities of the judiciary, affect the independence of the judiciary, and thus affect judicial justice. Although our courts are accountable to the National People's Congress, in practical judicial practice, as the courts are located within the administrative areas of local governments and are influenced from all sides, when faced with some cases of high social impact, judges may be subject to pressure from all sides and thus lose their power to conduct independent trials. Public opinion then indirectly infringes on and influences the judicial activities of the judiciary through the use of other sectors, making the judicial credibility suffer.

Law involves a lot of professional knowledge, and it is not a simple matter to participate in legal activities, especially judicial activities, which are highly professional, and judicial judgments or rulings need to rely on the support of specialized legal knowledge. The general public's judgment of the rights and wrongs of a case mainly relies on their own simple sense of justice and morality, and this judgment is not the same as legal judgment, which leads to the fact that the people's There can be subjective biases in the perception of the facts of a case. Some unscrupulous media, in order to satisfy their own economic interests, start to conduct public opinion trials before the court's verdict and spread this public opinion in a big way, causing a certain influence on the general public and forming a strong public opinion pressure on the judge who decides the case. This situation can lead some judges to take into account the social impact of their decisions, and the conclusions of such accommodating media trials greatly undermine the impartiality of justice.

# 4. Lessons from Extraterritorial Experience

## 4.1. British Experience

Courts in the UK can require the media to delay reporting information about a case by way of an administrative order, which is a way of working backwards or guiding the court's actions with the likely impact of the consequences to achieve a better outcome [2]. However, this is also a restriction on the freedom of the media. The relevant legal provisions are mainly found in the various provisions of the Contempt of Court Act 1981. The court may ask the media to delay coverage of ongoing proceedings if it considers that the proceedings may be prejudiced by media coverage, and only if it is necessary. Furthermore, the media may be ordered not to publish private information relating to the case. In the case of criminal proceedings, the media may not report on the specifics of the case until after the trial has been completed, in order to avoid public opinion being deliberately steered.

### 4.2. US Experience

In order to prevent miscarriages of justice caused by the trial of public opinion, the United States has adopted a system to prevent the trial of public opinion, which is not a direct restriction on the media. The right of defendants in criminal cases to a public hearing by an unbiased jury, avoiding the influence of public opinion on the administration of justice through judicial self-restraint.

### 4.3. German Experience

German law does not adopt direct restrictions on the media, nor does it establish a special system to prevent the monitoring of public opinion, it is directed at the judges who try cases, German law takes a separate legislative approach to the freedom of public opinion and the administration of justice, it considers that public opinion cannot determine the outcome of a case and that the impartiality of justice depends primarily on the impartiality of the judge, so that the media are free except for statements made on behalf of the state power. The media are therefore free, except for statements made by persons acting on behalf of the state, except where they would cause acceleration, difficulty, delay or harm to existing undetermined procedures, or where they conflict with confidentiality, infringe on important public or private interests worthy of protection, or have reached an excessive level. German scholars believe that the so-called right of judges to an independent trial should have two aspects: firstly, independence of affairs, i.e., judges are free from interference from factors other than the law when hearing cases, with the exception of the press; and secondly, independence of status, which is a complementary system to ensure that the right of judges to an independent trial can be enforced.

## 5. Recommendations to Reduce the Negative Impact of Public Opinion Monitoring on Judicial Impartiality

### 5.1. Improving the Legal Definition of Public Opinion Monitoring

At present there are no laws or relevant legal provisions that can directly regulate media coverage of cases, except for a few that are relevant to the protection of personal information of juvenile offenders, which means that if media coverage does obstruct justice, the courts have no legal means to regulate it and cannot bring the law into effect. This is why there is a need to set up a corresponding law to legally define the supervision of public opinion. The law should stipulate the scope, content and requirements of media coverage, as well as the legal liability for violating the relevant legal provisions and reporting violations, depending on the specific and different stages in which the case is situated. As far as possible, interference by public opinion in judicial activities should be avoided [4].

### 5.2. Improving the System for Judges to Exercise Judicial Power Independently and Impartially in Accordance with the Law

In the judicial process, trial independence is a most basic principle of trial and is a prerequisite for judicial justice. In China's judicial practice, in order to ensure the independence of trials and prevent the emergence of trials by public opinion, it is most important to regulate the powers and duties of the executive authorities [5]. The judiciary should guarantee its own full autonomy and be free from interference from factors outside the law when hearing cases, with the exception of the press, followed by the independence of judges, which can draw on the German experience to realize the independence of judges' affairs and identity and establish a supporting system to ensure that the right to an independent trial can be implemented.

### 5.3. Sound Trial System to Prevent Trial by Public Opinion

Trials of public opinion can occur because judges are subject to strong social pressure when trying cases. For some cases with high social impact and much attention, the competent court or the defendant believes that the relevant news reports and comments have formed a serious bias against the defendant and may affect the fair trial of the case, which seriously undermines the spirit of the rule of law, so in order to prevent trials of public opinion, we can learn from the American experience and impose justice itself, and apply for a change in the receiving court by a higher court, or have the higher court directly designate jurisdiction for an off-site trial, according to our national conditions. For some major cases, the trial of the case can be postponed or suspended, and the trial date can be reset or resumed when the case is no longer widely publicized.

## 6. Conclusion

The supervision of public opinion has both positive and negative effects on judicial justice in China. These negative influences are often related to the media in judicial practice, but, at present, China does not have a law specifically regulating the press in terms of media coverage, and in the face of some high-impact cases, the judiciary is also susceptible to the influence of administrative organs and other organizations, and judicial independence is seriously affected and easily "kidnapped" by public opinion "Trial. Therefore, we need to establish and improve the legal norms regarding the supervision of public opinion as well as improve the trial system to firmly safeguard the independence of trials. Only in this way can we give full play to the role of public opinion supervision in safeguarding judicial justice, so that judicial justice can be reflected in every case and every judicial activity, and so that the people can actually feel judicial justice.

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