



Research on Institutional Advantages and Dilemma of Contemporary Chinese Public Participation in Public Administration

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Abstract: Based on the background that China is accelerating socialist administrative management reform with Chinese characteristics, this paper selects public participation in public administration as a research object and outlines the existing institutional arrangement of public participation in public administration. By focusing on the institutional advantages and dilemma of Chinese public participation in public administration, the paper analyzes from the national macro level, local government medium level and grassroots micro level and further proposes the suggestions on the ways to promote Chinese public participation in public administration.

Keywords: Public participation; Public administration; Institutional advantages; Institutional dilemma

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1. Introduction

Since the 19th National Congress of the CPC, law-based administration has become a core path for the construction of administrative management with Chinese characteristics. Public participation in public administration is both an internal requirement and an external manifestation for the law-based administration. Guided by the policy of “promoting the legalization of government openness, expand and guarantee the people’s rights to know, participate, express and supervise ^[1],” the public participation in public administration has gained a better development prospect in Chinese administrative management. This paper studied the Chinese public participation in public administration based on this circumstance. Meanwhile, since the system itself is the most fundamental basis and guarantee for the public participation in public administration, this paper chooses the system as a starting point to study the existing institutional arrangement, advantages and dilemma of public participation in public administration and explores possible paths to advance the progress of socialist administrative management reform with Chinese characteristics while promoting the public to participate in public administration.

2. Existing institutional arrangement of the public participation in public administration

As one of the important forms of China’s participation in the rule of administrative law and law-based administration, the public participation in government management and the dialogue and communication between the government and citizens have entered an institutionalized track. Whether it is top-level or bottom-level design, the institution of public participation in China’s administration boasts a mature framework, which is one of the major achievements of the administrative management institutional reform

since the reform and opening up in China.

2.1. From the constitutional perspective

The Constitution of the People's Republic of China, the fundamental law of China, provides basic provisions for citizen participation. Article 2 of the Constitution stipulates that "The people shall manage state affairs, economic and cultural undertakings and social affairs through various channels and forms in accordance with the legal provisions." Article 41 stipulates that "Citizens of the People's Republic of China have the right to criticize and make suggestions to any state organs and state functionary." These articles embody the principle of "popular sovereignty" and create an atmosphere that encourages citizens to participate in administration from the perspective of fundamental institution, and endows citizens with the legitimacy and legality of participating in administration, so as to provide specific and basic institutional support for citizens to participate in administration.

2.2. From the perspective of legal norms

The provisions on public participation in public administration in legal norms are specific manifestations of relevant basic principles of the Constitution, which mainly comprises institutional regulations on public participation in administrative legislation, administrative hearings, and administrative execution. It is stipulated in the Article 58 of Legislation Law of the PRC that "In the process of drafting administrative regulations, the opinions of relevant organs, organizations and citizens shall be extensively consulted, and the opinions may be heard in various forms such as seminars, hearings, and demonstration meetings". This clause defines the basic rights of Chinese citizens to participate in administrative legislation and propose suggestions. The "Administrative Punishment Law," "Administrative Licensing Law" and "Administrative Enforcement Law" all have relevant provisions and articles for the rights that citizens enjoy to participate in hearings, which clarify what specific rights the public have in the formulation of administrative laws and regulations, administrative punishment and administrative licensing, etc. These legal provisions provide operational institutional support for the public to participate in public administration.

2.3. From the perspective of government information disclosure

In the modern information society, the disclosure of government information is a significant basis to guarantee the public participation in public administration. In order to ensure that citizens, legal persons, and other organizations acquire government information in accordance with the law, improve transparency of the government work, promote law-based administration, and give full play to the service role of government information in the production, life, and economic and social activities of the people, China promulgated the Regulations on Disclosure of Government Information, which made strict provisions on the range, content, approach, procedure, supervision and guarantee, etc. of government information disclosure. Governments across the country have also successively introduced specific operation and implementation measures for the disclosure of government information, most of which focus on the refinement and specific implementation of the Regulations on Disclosure of Government Information with the system of government information disclosure as the main form.

2.4. From the perspective of local policy regulations

Local laws and regulations, local government regulations, and local public policies are also important institutional arrangements for the Chinese to participate in public administration.

At present, the system of soliciting opinions concerning major policy decisions and the system of public hearings on major issues have been established by local governments in China ^[2]. The drafts of local regulations and government rules will be issued prior to the implementation, with the suggestions for

revisions solicited from the society. This will not only help citizens directly participate in legislation and express their wishes and requirements, but also help the government understand the public sentiment and opinion, which is a manifestation of administrative legislative democracy. Local governments have vigorously introduced and promoted citizen hearings in the formulation of public policies, determination of public product price and administrative arbitration, etc., which not only allows the public to participate in the decision-making process, increases policy transparency but also reduces the resistance to decision-making implementation. Generally speaking, these systems are designed to encourage and promote the public to actively participate in public administration in terms of procedures, respect public opinions, and pool the public wisdom.

2.5. From the institutional level of primary-level organization:

Grass-roots autonomy is a manifestation of public participation in public administration with socialist Chinese characteristics. It mainly includes rural villagers' autonomy and urban community autonomy. Although rural village committees and urban sub-district offices do not belong to the first-level administrative organs, yet they both undertake the function of implementing the administrative management of the grass-roots government in reality. Therefore, the country specifies the rights and approaches of rural and urban residents to participate in grass-roots public administration through relevant laws, regulations and policies, which is also a huge impetus for the public to participate in public administration.

3. Institutional advantages of the public participation in public administration

3.1. Pay attention to public participation in the top-level design of public administration

The top-level design refers to an overall concept starting from the high-end. The top-level institutional design is the construction of the basic institutional framework by the government. It focuses on the government's solution to public problems from top to bottom, which contributes to grasping the key to the problem and solving the problem from the source. From the perspective of the top-level design of Chinese public participation in public administration at the current stage, the basic institutional framework is relatively complete. From the basic level of the Constitution, to the medium level of administrative regulations, departmental rules and local regulations, and then to various specifications at the operational level, the top-level design has spanned the central, provincial (municipalities, autonomous regions), prefecture-level cities and other multiple administrative levels and functional departments of governments at all levels as well as covered many items of citizen participation in administration, thus forming an interwoven institutional network. This indicates that governments at all levels attach importance to the top-level design of public participation in administration from top to bottom, and strive to protect the public's right to participate in public administration from the institutional perspective.

3.2. Pay attention to orderly public participation in public administration

Whether it is the Constitution of China or a host of national policies in recent years, it has clearly guaranteed the public's right to manage state affairs, economic and cultural undertakings, and social affairs through various approaches and forms in accordance with the law. The overall institutional environment not only reflects strong encouragement of the public to actively participate in public administration, but also reflects the legal and orderly requirements for public participation in public administration. The public participates in public administration in accordance with the principles and procedures stipulated by law, and shall not organize assembly illegally and unlawful petitions or adopt extreme means to solve problems. The public's orderly participation in public administration in accordance with the law can help alleviate the pressure caused by excessive participation and avoid intensification of conflicts so as to ensure social harmony and

stability, which not only protects the public's rights and interests, but also safeguards the authority of the government.

3.3. Pay attention to the effect of public participation in public administration

Governments at all levels have reserved a large space for public participation in public administration through the national macro system, medium level system of the local government and systemic arrangements of grass-roots micro level system, with multiple measures taken to achieve practical results. It has proved that whether it is the petition system, administrative reconsideration, grass-roots mass autonomy or democratic evaluation of the government, public participation in public decision-making, etc., these institutions have played a real and effective role in meeting the public needs of interest expression, safeguarding public rights and interests and exercising the public's enthusiasm and initiative in participating in public administration. They have also been fully recognized by the public, which not only conforms to China's actual conditions, but also meets the requirements of promoting the legalization of administrative laws.

4. Institutional dilemma of the public participation in public administration

4.1. System supply at the local government level relatively lags behind

For the system support at first, although the system at the national level is relatively standardized and complete, the supporting measures for public participation in public administration at the local government level are not yet perfect. Take democratic evaluation of the government as an example, some local governments have only formulated the operation methods for public participation in the evaluation of the government and stipulated the means and methods of public participation in the evaluation. However, there lacks in significant supporting mechanisms including information disclosure, analysis and comparison of participation means and methods, and configuration of the power and responsibility system reviewed by the public, publicity of review results and citizen participation incentives. Hence, there are problems such as incomplete object information concerning the citizens' evaluation of the government, insignificant supervision effect, low enthusiasm of citizens in participation and formalistic review. From the perspective of operability next, some local governments at the grass-roots level have not fully put the national laws, regulations and policies in place to ensure public participation in public administration and failed to provide operable channels and means for the public with insufficient response to public appeals.

4.2. Absence of the bottom-level design

In contrast to the top-level design, the bottom-level design refers to a plan started from the bottom of the system as a bottom-up plan. However good the "top-level design" is, it cannot be all-encompassing. It needs to be supported by more specific and more operable "bottom design" one after another. Without the support of specific "bottom design," no matter how wonderful the "top design" is, it may be trapped in a dilemma that it cannot be implemented ^[4].

China has relatively paid more attention to the top-level design of citizen participation in the administrative system, but the bottom-level design relatively lags behind. The main reason lies in the fact that the practice of Chinese public participation in administration is more proactively initiated by the government from top to bottom. Therefore, more policies are formulated by the government from the macro level, and thereby more top-level design from top to bottom is adopted with a lack of concern for the grass-roots society and insufficient thinking about the bottom-level design. On the other hand, although the original practice of the grass-roots public in some areas of China has provided motivation for government system decision-making, generally speaking, the development of civil society in our country is still immature, the autonomy of citizens and social organizations is not high, and the level of public participation

in the administration and discussion of state affairs needs to be improved. From such perspective, the government needs to change the orientation of system design, shift the focus from top-level design to bottom-level design, so that public participation in public administration can be transformed into a more operational and feasible practice at the grass-roots level.

4.3. Lack of accountability system

The Chinese public participation in public administration takes on an extensive institutional framework, and the public participating in administration still confronts a government-led institutional environment characterized by a strong government and weak public. The main manifestation is the lack of accountability mechanism. Even if the local government fails to perform their duties for public participation in public administration, they will not pay their due price.

Under such circumstances, the public's interest appeal may not be adopted by the government, and thereby it is difficult to effectively participate in the game of public interest. Meanwhile, some local governments will adopt a series of measures to prevent a deviation from the government's wishes resulting from public participation in public administration. This essentially reflects the government's manipulation of public participation, which runs contrary to the original intention of advocating public participation, hinders the channels of citizen participation and suppresses enthusiasm and initiative of the public in participation, making it difficult for the country to achieve its intention to effectively expand the public's orderly participation in public administration at a local level, and there is a possibility of making public participation in public administration impracticable.

5. The ways to improve public participation in public administration

5.1. Accelerate the legalization progress of public participation in public administration

Promoting the legalization of public participation in public administration is essentially to transfer part of public power from the hands of a strong government to the public, so that the latter can grasp and own the power in substantive expression of interest and game of interest, rather than just passively exercise the rights granted by the government, thus realizing mutual checks and balances between administrative power and public rights. The relevant government behaviors and "misconduct" of government administration are regulated and restricted by law, which can prevent and eliminate restrictions on public participation in public administration and maximize public interests. The government access to public administrative power also means the assumption of reciprocal responsibilities, because power and responsibility themselves are a pair of contradictory unity, and they are indispensable for each other. The key to promoting the legalization of public participation in public administration in China lies in the redistribution and recombination of public power applied to public participation in administration.

5.2. Establish and improve the accountability system

There are obvious loopholes in the asymmetry of public rights and responsibilities of public participation in public administration in China. First, the responsible subject is not clear with a lack of accountability for government violations; Second, the composition and method of responsibility are not included in the institutional arrangement, which takes on a blank state; Third, the government accountability procedures are unclear and imperfect. In light of these problems, the top-level design of the accountability mechanism should be combined with the bottom-level design, the existing accountability system should be improved in the form of laws and regulations, the rules and regulations on the composition and manner of government responsibilities for public participation in public administration should be supplemented in accordance with the principle of "public exemption." Regarding the composition of responsibilities, the responsibilities of government leaders and public servants concerned should be strengthened to ensure that there are clear

targets for accountability; As regards the manner of responsibilities, warnings, demerits, serious demerits, demotion, dismissal and expulsion can be used as the main method in accordance with the relevant provisions of the “Civil Servants Law.” And the performance of civil servants in the implementation of public participation in public administration is adopted as necessary conditions for appointment, promotion and degradation, rewards and punishments.

5.3. Improve the efficiency of public participation in public administration

Vulnerable groups are the weakest in public administration participation in China. Increasing their participation efficiency means a dramatic improvement of the overall efficiency of Chinese public administration participation. We should establish a support mechanism for vulnerable groups to participate in public administration, help the group realize the expression of interest appeal and encourage the group to participate in public administration through formal institutionalized channels. The government should establish a special assistance and compensation mechanism, open up special participation channels for the disadvantaged groups and allocate experts to provide intellectual support. When necessary, the group can be compensated in various forms. Since disadvantaged groups tend to express their interests to the government in an unconventional and non-institutional form of participation when their needs for legitimate interest are not met, which should be transformed into legal and effective public administration participation behaviors through effective methods.

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References

- [1] 2017, The 19th National Party Congress Report: Tutoring Book, People’s Publishing House, 282.
- [2] Jiang G, Mei Y, 2017, Establishment and Improvement of Public Participation System for Major Administrative Decisions - Based on the Perspective of Text Investigation and Case Analysis. *Learning and Practice*, (1):71-79.
- [3] Kang H, 2017, Research on the Legal System of Public Participation in Administrative Decision-making. Beijing: The Party School of the Central Committee of the Communist Party of China, 13-14.
- [4] “Top-level design” is also Inseparable from “Bottom-Level Design,” *Legal Daily*, 2012.
- [5] Mo Y, 2011, Public Participation Trend and Participatory Administrative Legal System Model - Analysis from the Perspective of the Development Trend of China’s Administrative Law Democratization, *Journal of the National Prosecutors College*.
- [6] Liu Y, 2019, Analysis On The Public Participation Mechanism Of The Evaluation System Before Administrative Legislation. *Legal System and Economy*, (01).