

# The Relationship between Judicial Trial and Network Public Opinion

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**Abstract.** Independent Trial and Public Opinion Supervision as two important factors driving China's construction have always existed in the development process. The judicial trial pursues justice and independence. The judges also strive to follow the logic of the law on the results of the trial and make judgments in strict accordance with the law. Today, as the network is increasingly developed, netizens participate in justice in a unique online way. They communicate on the Internet, actively express their opinions and gradually gather together, which we call "network public opinion". As the influence of public opinion on the judiciary in today's society is growing, it has gradually emerged as a trend led by public opinion. Although the independence of the judiciary cannot be shaken, some explosive public opinion also reflects some issues that are worthy of attention in the society at present, and cannot be ignored. In fact, the judicial system needs the attention of the society to strengthen its own perfection. What is needed now is to properly pay attention to the social hotspots reflected by public opinion and give solutions in a timely manner on the premise that the judiciary maintains a relatively independent status.

## Conceptual Analysis of Judicial Trial and Network Public Opinion

### Judicial Trial Overview

Judicial trial generally refers to the investigation, trial and judgment of procuratorate or court in accordance with laws and regulations. The life of law is not just logic, but also experience; judges' judgments on cases are not mechanical, but contain experience and feelings. Therefore, the nature of judicial trial can be defined as the result of the combination of legal logic reasoning and various non-logical factors.

The syllogism of the judiciary has long been regarded as the main form of judicial trial reasoning in the continental law system. Judges should remain neutral during the trial and conduct reasonable trials in accordance with the law, but there are factors within the discretion of the judges in all aspects of the process. They are factors other than logical reasoning. Laws and regulations are the code of conduct for judicial staff, but it is impossible to isolate factors other than legal logic to trial in the actual judicial process. The factors of practice and emotional value are the gaps in judicial trials and a channel for network public opinion to enter judicial trials.

### Network Public Opinion Overview

Network public opinion means that netizens use the Internet as a carrier to express opinions on certain public affairs by means of online messages and posts, which have obvious characteristics such as the tendency of public opinion and the unconstrained dispersion.

Network public opinion generally represents the general will of the majority of netizens. Although it is difficult to reach a consensus point of view, but because people's pursuit of fairness and justice is consistent, the mainstream view is basically in line with traditional values. People can't analyze problems from a very professional point of view, but they are more inclined to stand on the public's point of view. At the same time, the network public opinion is based on certain network information. The high inclusiveness of the network and the extensiveness of time and space lead to the quality of the netizens. Moreover, the virtual network world may amplify certain problems. In addition, the network speaks mostly in an anonymous form, and there is a biased

speech that stimulates the “sense of justice” of the unidentified person and triggers more emotional speech. The result is like a “butterfly effect”. It evolved from a small commentary into a storm of public opinion. This kind of dispersal is eagerly calling for some countermeasures to be constrained.

### **The Relationship between Judicial Trial and Network Public Opinion**

Network public opinion is very important for the administration of justice. Even if public opinion will bring about negative influence or even interfere with judicial independence, its positive role is undeniable — it can promote the exchange of official and public opinion; promote the progress of the program; discover and correct the mistake to make the results more rational. From the perspective of social status quo, public opinion care and influence of justice is an inevitable topic, so it is the correct way to constrain and guide public opinion, so that the two complement each other and conform to the needs of the times.

### **The Direction and Channel of Network Public Opinion Affecting Judicial Trial**

#### **The Influence Direction of Network Public Opinion on Judicial Trial**

Netizens care about the judiciary and want to influence the judiciary. Their focus is mainly on understanding the various cases reported by the Internet, and then making comments on places that they think are unreasonable. In the "Li Changkui Case" with greater social influence, the court of first instance sentenced him to death; the second instance changed the sentence to death; but within six months after the second instance, after approval by the Supreme People's Court, Li Changkui was executed according to law. As an ordinary peasant, he may not think of it anyway. He even caused a big discussion about the death penalty in China in recent years. The senior officials of the court held that the final result had a tendency of "public opinion to interfere with the judgment" and lamented "when is the time to report the incident"; but it is obvious that the popular "retaliation mentality" of the public is unable to accept the result of the second instance and the change of Li Changkui's death. The "Xu Ting Malicious Withdrawal Case" also aroused great concern in the society. The case was finally sentenced to five years in prison by life imprisonment. This result has brought a bright future to Xu Ting's future life.

In the above two cases, the impact of network public opinion on the judicial system is dominant. The trial results have been changed in the face of huge public opinion pressure. In these two cases, the network public opinion has indeed corrected some unreasonable places in moral evaluation. On the whole, the direction of the impact of online public opinion on judicial trials is unpredictable. It is the best result to study the channels in which public opinion enters judicial trials and absorb suggestions without being restrained by public opinion.

#### **The Channels of Network Public Opinion Influencing Judicial Trial**

Every aspect of the judicial trial has a place where judges need to combine work experience, that is, where discretion applies. The final outcome of the trial should take into account the current policies of society and the understanding of the future direction of development. This is the part of the integration of emotion and reason. The so-called "law is not tolerant" is a kind of misunderstanding. It can be concluded that the interpretation and application of law, reason and emotion are biased. Judicial trials are generally in line with social development and core values, so it is also necessary to be in line with social policies. With this series of considerations, judicial trials will have gaps; the independence of judicial trials is not necessarily absolutely inciting but certainly gives the opportunity for public opinion to enter.

In China, judges during trials are not closely managed. As an ordinary person, they will inevitably come into contact with the Internet. Although the power of online public opinion is not clearly recognized by people, their existence and influence are undeniable. Subjective processing in the process of trial is a channel through which network public opinion enters and affects judicial trials.

While online public opinion will not be abruptly involved in judicial trials, and it will have an impact on the judiciary in its own unique way — usually manifested as moral intervention. At this time, it is a "game" between judicial authority and public morality. Public opinion is involved in the judicial process with morality, and morality is mixed, so the direction of the judicial trial is unpredictable. Judges have discretion. Chinese judges are influenced by public opinion in the process center of processing facts because of historical and cultural reasons. Therefore, although the judiciary is independent, judges will still slightly cater to the judge's subjective emotions and to find the most reasonable judicial trial results in the public voice. Does it mean that the conviction of a specific case must be followed by the opinions of netizens? The answer must be no. Many people say that the national will is very illusory, and the opinions of netizens are tangible and statistic, so equate the opinions of netizens with the national will. This understanding is unreasonable. Because the national will must be a rational way to be reflected in the legal provisions, and the netizens' opinions are often irrational, unpredictable, and violent, so in the handling of specific cases, it is not appropriate to take the opinions of netizens as the standard, and it is impossible to equate the opinions of netizens with the national will. This is a requirement of democracy. It should be noted that the judicial trial must not abandon the previous rules because of one of the values in public opinion. If the judicial is so vacillating, it will inevitably lose its authority.

## **The Relationship between Judicial Trial and Network Public Opinion**

### **The Problem of the Relationship between Judicial Trials and Network Public Opinion**

Network public opinion is composed of private individuals who have independent personalities and then fully integrate through the Internet to form public opinions. Compared with the audience of traditional media, the netizens are young and vigorous, active in thinking and full of justice. They make the invisible power formed by network public opinion gradually take shape. This is likely to influence the independence of judicial trials. When public opinion reaches a certain level of strength, it will effectively impact the walls of judicial trials and attempt to break through the obstacles and intervene in judicial trials. The reason why network public opinion wants to influence judicial trials is mainly because of the conflict of value standards between the two subjects and the mistrust of netizens caused by the quality of judicial personnel.

Network public opinion also carries violent intervention while promoting judicial trials. This is caused by its own defects. In today's society where the Internet is highly popular, network moral civilization is slowly missing. From a series of network hot debates, we can certainly see the high sense of justice of netizens and the indignation of those who have lost their morals. However, Chinese netizens lack self-discipline and the media has not fully played a model role. Although the freedom of speech is controlled within a certain limit, the anonymous form of the network speech approaching "zero risk" gives the netizens "courage" to speak freely. At the same time, online news should adopt a fully affirmative attitude towards the reporting of positive events. However, it is undeniable that there are still negative things in the society that are not essential and mainstream. The irresponsible release of false information by some media has become the fuse of public opinion storms.

### **Current Situation and Prospects of Judicial Trial and Network Public Opinion**

The main form of network public opinion in China today is to publish articles, comments and forwards. The media also tends to publish special events that stimulate the desire to confide to the Internet so that the majority of Internet users can understand and participate in the discussion at the first time. The reason why netizens are more concerned about these events because of their nature, and they also hope to change the outcome of similar events through spreading the influence of events.

When logic cannot play a full role in the trial process, it is necessary to use "value judgment" to assist the judge to complete the work. The network public opinion influences the judicial trial

through subjective factors other than this logic. The so-called "public opinion, such as a gun, can kill people", the judiciary needs to consider the trial in light of the public's point of view, but must not blindly cater to the public.

It is undeniable that the judiciary is indeed absorbing the voice of network public opinion. Today, courts generally have official websites, and the system may add a module for netizens to discuss on their own websites and strengthen the promotion of this module. As a result, netizens have a clean and reasonable discussion atmosphere and space, and are closer to the body of the judiciary, allowing them to more deeply understand the respect and acceptance of the public's will, and also reduce the excitement of netizens. It will make everyone more peaceful and more objective in the more professional atmosphere. At the same time, we must pay attention to the boundaries of network public opinion: play the role of the people's jury, strengthen the self-discipline and the law of the media, the network and control and guide the direction of public opinion.

Technology is increasingly developed and the network is gradually living in depth. From the beginning to the end, the affairs of judicial enforcement are all hot issues. The rise of the network has undoubtedly become a powerful condition for the public to pay attention to the judiciary. Creating a good social atmosphere, improving the credibility of the judiciary, effectively controlling and guiding the direction of public opinion, can turn the network public opinion into a great weapon to assist the judicial trial. The two things complement each other and will jointly promote the development of the judiciary and the progress of society.

## Summary

The anonymity of speech brought by the rise of the Internet has been published to the netizens for a wider range of speeches and spaces. On the surface, it feels relaxed the restrictions on freedom of speech. Thus, people regard network public opinion as the "most way to express public opinion". Gradually, netizens begin to use the power of network public opinion to participate in social events, express their own justice, and even try to influence the administration of justice. However, China's network public opinion supervision mechanism is not yet mature and the quality of netizens is uneven and their self-discipline awareness is poor. Once it is neglected, the trend of network public opinion tends to develop abnormally and bring about the outbreak of emotional speech. However, the mainstream consciousness of network public opinion is still in line with traditional values. Therefore, as long as it is controlled and guided, it also a good and effective way of supervision.

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