

Original Paper

The Impact of Online Opinion on Justice: Two Cases in Comparative Law Perspective

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Abstract

In the early stages of the judicial process, trials were characterized by a pursuit of independence and justice, with judges adhering strictly to legal statutes and delivering judgments that aligned with legal logic. However, as today's digital landscape evolves, Internet users engage with the judiciary in distinct ways; they communicate online, actively voice their opinions, and gradually cultivate a representative form of public opinion on the web. As the impact of online public sentiment on judicial administration grows stronger, it increasingly exhibits a tendency to exert dominance. While the independence of the judiciary remains unquestionable, certain explosive instances of online public opinion also highlight pressing societal issues that warrant attention and cannot be overlooked. Using two well-known cases as an entry point, we will compare how networked public opinion influences justice differently in Japan and China. This analysis will delve into the underlying jurisprudence while seeking solutions tailored to China's national context. The goal is to foster positive interaction between these two realms—leveraging the constructive influence of online public opinion on judicial processes—and ultimately enhance China's judiciary system.

Keywords

online public opinion, justice, judicial authorities, Judicial Independence

1. The Impact of Online Public Opinion on the Administration of Justice in Two Cases

1.1 An Analysis of the Case of Yao Jiaxin

Late at night on October 20, 2010, Yao Jiaxin was operating a motor vehicle and struck Zhang Miao, who was on foot. After exiting the vehicle, Jiaxin proceeded to stab Miao eight times, ultimately resulting in the victim's demise. In the process of fleeing the car, hit the pedestrian again at the intersection, was caught by the nearby people, was sent to the police station and released. On October 23, 2010, accompanied by his parents, Yao Jiaxin surrendered to the police station. On January 11,

2011, the Xi'an Municipal Procuratorate formally charged Yao Jiaxin with intentional homicide. Subsequently, on April 22, 2011, the Xi'an Intermediate People's Court rendered a first-instance verdict sentencing Yao Jiaxin to death and permanently depriving him of political rights. On May 20 of the same year, the Shaanxi Provincial Supreme People's Court affirmed the death sentence issued by the lower court.

The case of Yao Jiaxin generated significant shock among netizens when it was first disclosed online. The day following the revelation, nearly all major websites republished the news, leading to a surge of online opinions condemning the perpetrator. The public widely acknowledged that Yao Jiaxin's actions were exceptionally cruel and the circumstances surrounding them were dire. According to an opinion poll initiated by Zheng Yuanjie, over 90% of netizens believed that the court should impose a sentence of "immediate execution." (Su, 2011) In this context, The online public opinion has prevailed.

The significant public outcry is attributed not only to the egregious circumstances surrounding the case but also to the disposition of legal professionals in the judicial process. The court's expedited public opinion survey conducted at the trial's commencement, which predominantly sought input from a specific group—80% being college students, many of whom attended the same institution as the defendant Jiaxin—has raised concerns. In contrast, villagers and families of victims constituted merely 5% of respondents. (Court seeks sentencing opinions from bystanders at trial site of Yao Jiaxin case, 2011) This disparity has led many netizens to suspect potential behind-the-scenes manipulation, thereby eroding public trust in the judicial process.

There are three fundamental principles of criminal law. The first is the principle of equality in the application of criminal law, which asserts that all individuals are equal before the law. The second is the principle of proportionality between crime and punishment, indicating that the penalty imposed on an individual should be commensurate with the severity of their offense. China's criminal law specifies that penalties for intentional homicide may include capital punishment, life imprisonment, or a term of imprisonment lasting ten years or more. Additionally, China's sentencing system includes provisions for self-reporting; offenders who voluntarily confess to their crimes may receive a lighter or less severe sentence. The case was evidently influenced by public opinion on the Internet during the judicial process, resulting in a more severe sentence. Given these circumstances, does the immediate imposition of the death penalty on Yao Jiaxin align with his crime? In this instance, justice ultimately favored public sentiment—a choice driven by necessity rather than representing an ideal resolution. The optimal outcome would involve media fostering positive public opinion, thereby bridging the divide between intellectuals and the general populace. (Su, 2011) Most of the time, public opinion on the Internet reflects the moral standards of society. Judicial trials result from a combination of legal reasoning and various non-logical factors; judges, during the trial process, are not merely mechanical but draw upon their experiences and emotions. If justice becomes overly aligned with public sentiment, it risks losing its impartiality, which can lead to an imbalance in the scales of justice.

1.2 An Analysis of the Jiangge Case

In the early morning of November 3, 2016, Jiang Ge, a student in Japan, intervened to assist her close friend Liu Nuanxi (formerly known as Liu Xin) in confronting her ex-boyfriend Chen Shifeng. Tragically, during this confrontation, Jiang Ge was stabbed multiple times in the neck by Chen Shifeng and subsequently lost her life. On December 14 of the same year, Japanese authorities formally charged the suspect, Chen Shifeng, with intentional homicide. Subsequently, on November 4, 2017, Jiang Ge's mother, Jiang Qiulian, traveled to Tokyo to initiate a series of petition campaigns. She utilized social media and various platforms to advocate for the imposition of the death penalty on Chen Shifeng by the Japanese court. The public trial of the case commenced on December 11, 2017, at the Tokyo District Magistrate's Court in Japan. On December 20, the court delivered its verdict, sentencing Chen Shifeng to 20 years' imprisonment for intentional homicide and intimidation. Since then, Jiang's mother, Jiang Qiulian,, and Liu Nuanxi have been embroiled in a dispute regarding the cause of Jiang's death. Liu Nuan Xi has made provocative remarks about Jiang Qiulian via the Internet. On April 15, 2021, the court held a hearing for the case of Jiang Qiu Lian v. Liu Xin concerning the right to life dispute. The trial was initially scheduled to commence on December 31; however, it was postponed due to the sudden illness of the presiding judge. On January 10, 2022, the Chengyang District People's Court in Qingdao City, Shandong Province delivered its first-instance verdict. Subsequently, on December 30, 2022, the Qingdao Intermediate People's Court issued a second-instance ruling in this case. The court rejected the appeal and upheld the judgment from the first instance.

In the Jiang Ge case, based on the principle of territorial jurisdiction, the nation in which the crime occurred holds primary jurisdiction. Consequently, the case was adjudicated in Japan. According to recent judicial precedents in Japan, most first-time offenders convicted of killing a single individual receive prison sentences ranging from 13 to 20 years. In an effort to pursue the death penalty for Chen Shifeng, Jiang Ge's mother, Jiang Qiulian, initiated a petition on microblogging and successfully gathered 4.5 million signatures in support of the death penalty in Japan prior to the trial. However, the Japanese court did not take this public sentiment into account; it ultimately had no significant impact on the judge's deliberation of the case. As a result, Chen Shifeng was sentenced to 20 years' imprisonment in the first trial. (Tai, 2020) The verdict did not quell the nation's anger. In China, under similar circumstances, Chen Shifeng would likely have been subjected to a more severe sentence. At the conclusion of the second trial concerning the right-to-life dispute between Jiang Qiulian and Liu Xin, numerous netizens expressed their belief that justice has finally been served. The case has elicited differing opinions among the Japanese and Chinese publics. Most Chinese netizens appear to lack a legal perspective on the matter, expressing support for Jiang Ge's mother's petition and arguing that Liu Nuanxi should also be held accountable. Meanwhile, Japanese netizens tend to be more rational, believing that it is a moral judgment.

In the cases of Yao Jiaxin and Jiang Ge, from the inception of each case to the conclusion of their respective trials, public opinion on the Internet played a significant role and sought to influence judicial

proceedings. However, the courts in these two cases rendered differing judgments. In the case of Yao Jiaxin, from the commencement of the first trial to the conclusion of the second trial, public opinion on the Internet has exerted a profoundly significant influence on the administration of justice. While this influence may superficially appear to serve as a robust mechanism for oversight, it has, in fact, interfered with the adversarial nature inherent in judicial proceedings. In the Jiang Ge case, the Japanese court acknowledged Jiang's mother's petition for the death penalty, which was influenced by online public opinion. However, it did not allow this sentiment to affect the trial proceedings. Instead, the court made its ruling based on the actual circumstances of the case, utilizing online public opinion as a means of social oversight.

2. The Role of Internet Public Opinion in the Administration of Justice in Two Countries

With the advancement of Internet technology, the cost of national communication online has gradually decreased. Coupled with the anonymity afforded by online discourse, an increasing number of citizens are voicing their opinions on the Internet. This phenomenon appears to relax restrictions on freedom of speech, leading people to perceive Internet public opinion as “the most effective means of expressing public sentiment.” Gradually, netizens have begun to harness the power of online public opinion to engage in social issues, articulate their sense of justice, and even attempt to influence the judicial process. In various countries, the influence of Internet public opinion on the judiciary exhibits a degree of variability. This phenomenon will be analyzed below, primarily using China and Japan as case studies.

2.1 Internet Public Opinion and the Judiciary in China

In the process of judicial adjudication in China, the influence of public opinion on the administration of justice has increasingly exhibited a complex trend. In various types of cases, public opinion manifests in diverse forms and encompasses different content, thereby exerting varying impacts on the administration of justice. The imposition of penalties in individual cases, the identity of the perpetrator, the identity of the victim, and the social issues highlighted by these cases are key factors that draw public attention to matters of justice on the Internet. Serious criminal cases are particularly likely to capture public interest and create tension between online opinion and judicial proceedings, as exemplified by the Jiang Ge case. However, this does not imply that misdemeanor or seemingly innocuous cases will fail to capture public attention. When a case has broader social implications or when the underlying societal issues are significant, it can indeed garner widespread interest. Notable examples include the “Panda Burning Incense” computer virus incident and the arrest of Chen Pingfu for his online postings. In terms of the identity of the subjects involved in criminal cases, there is a notable disparity in public sentiment regarding punishment. For instances where individuals with significant social standing—such as officials, affluent individuals, and their descendants—commit crimes, or when those closely associated with them are implicated in criminal activities, the public's demand for stringent and severe penalties is markedly strong. A pertinent example is the case of Yao

Jiaxin, who was sentenced to immediate execution; In cases involving crimes committed by vulnerable individuals, the public tends to attribute these actions more to social factors while paying less attention to the personal circumstances of the offenders. Consequently, there is a prevailing demand for the judiciary to impose lighter sentences on such vulnerable subjects. This call has been answered, at least at the judicial level, within the elastic space of the law. For instance, in the case of Li Changkui, he was convicted of murdering two individuals; however, his sentence was subsequently modified to probation during the second trial. (Xu, 2015) In the case of Yao Jiaxin, the influence of Internet public opinion on justice was unprecedented. As a consequence of the proliferation of various forms of misinformation on the Internet, the public came to believe that Yao Jiaxin was a "second-generation government official" or a "wealthy heir" who struck individuals with his vehicle and exhibited discrimination against rural migrant workers... Some netizens engaged in an extensive online search for information about his family, leading to rumors suggesting that they were attempting to leverage their influence to manipulate the judicial system and secure immunity from capital punishment. With the assistance of online media, public sentiment became increasingly agitated. Finally, the online public opinion prevailed.

Although there are instances where online public opinion may influence the independence of the judiciary and act as a negative force swaying judicial decisions, it is undeniable that such public sentiment also has a positive impact on the judicial system. It fosters communication between officials and the public, helps identify and rectify errors, and provides robust support for online oversight of the judiciary. Furthermore, the interplay between online public opinion and justice is an inevitable topic of discussion, with the trajectory of online sentiment regarding judicial trials being inherently unpredictable. The optimal outcome lies in effectively restraining and appropriately guiding online public opinion so that both can mutually reinforce each other. (Yue, 2019)

2.2 The Influence of Internet Public Opinion on the Judiciary in Japan

Japan is a country that follows the civil law system, and its legal system has undergone a process of integration and reform based on both the civil law system and the common law system. Its judicial system includes multiple levels, such as the Supreme Court, High Courts, and district courts. In 2009, Japan officially introduced the jury system, also known as the lay judge system. Judicial officers in Japan are mandated to successfully complete the national "Judicial Examination," which is widely regarded as the most challenging of all national examinations in the country. Consequently, Japanese judicial personnel typically possess a strong sense of mission and high self-esteem. Furthermore, Japanese courts benefit from comprehensive and absolute "judicial independence." Individual judges should bear the main responsibility for their decisions. Judicial officials are not allowed to interfere in the trial process. Simultaneously, judges are assured that they can exercise their judicial authority in accordance with the law through rigorous trial procedures and structures, as well as multi-tiered appeal and protest mechanisms. Therefore, Japanese judges enjoy complete independence in their judicial power.

Japan's online media exert limited judicial influence, and the online media have not avoided the courts

to conduct moral trials on the Internet. (Wang, 2018) Japanese justice prioritizes the safeguarding of judicial authority and prohibits the media from making arbitrary judgments regarding case outcomes. Furthermore, it does not accommodate public opinion that contravenes legal standards. Japanese law and cultural morality exhibit a profound sense of "oneness" or "synonymity," wherein the law is perceived as a form of morality that has been both "normalized and culturalized." This has rendered the Japanese courts, in effect, both "legal" and "moral." They have consistently demonstrated a "judicially activist" approach in their treatment of individual rights and personal privacy. Therefore, the online public demand for the death penalty for Chen Shifeng and the petition of Jiang's mother, which did not receive support from Japanese courts, is the correct result of handling online public opinion within the legal context of Japan.

2.3 Variations in the Influence of Internet Public Opinion on the Judiciary in the Two Countries

The nature of the countries of China and Japan, their cultural concepts, the people's understanding of the relationship between law and morality, and the effectiveness of justice have led to differences in the impact of online public opinion on justice. The nature of the socialist state of China's people's democratic dictatorship determines the people's nature of China's justice, and this nature requires that the judicial organs must fully reflect and embody the fundamental interests of the broadest possible range of people in the judicial process, and the people's appeal to "be the masters of the people" and the mentality of officials have permeated the trial process throughout China's successive dynasties, and public opinion will to a certain extent influence the judiciary's trials. To a certain extent, public opinion affects the judiciary's trials, and the stronger the public opinion, the greater the impact on the judiciary. Japan's state system is guided by two basic principles - democracy and rule of law (constitutionalism) - and the judiciary takes into full consideration factual and reasonable public opinions that are in line with the spirit of the Constitution before making a judgment, and resolutely resists public opinions that run counter to the spirit of the Constitution, are not in line with the facts, and are unreasonable and irregular. (Zhang & Ding, 2021) Japan is a country with separation of powers, where the government has no right to interfere with the judiciary, and where the judiciary plays the most crucial role as the "gatekeeper" of the rule of law. And in Japan, the constitution gives the court "the power of review of unconstitutional legislation", one of the purposes is to give the judiciary to resist the unreasonable "public opinion" of the authority. In Japan's legal education, emphasizing the "independence of the judiciary", "previously refers mainly to the independence from the political and executive branches, but now more emphasis is placed on independence from public opinion on the Internet.

Behind the netizens' concern about the judiciary's verdicts and their desire to influence the judiciary is their desire to understand the various cases reported on the Internet, and then to comment on what they consider to be unreasonable. In the case of Yao Jiaxin, he was impulsive, intentional murder, but not intentional murder, and there is a self-surrender behavior, it is "killable" or "unkillable", in the face of enormous public pressure, the judicial trial finally sentenced Yao Jiaxin to death immediately. The influence of network public opinion on the judiciary has taken over the dominant position, leading to

the independence and impartiality of the judiciary to be questioned. In China, judges during trials are not strictly managed, and they inevitably come into contact with the Internet, and their subjective handling is a channel through which online public opinion enters and influences judicial trials; every aspect of a judicial trial requires the judge to combine his or her work experience, and the end result of the trial should be a consideration of current social policies and an understanding of future directions of development, and should be a blend of sensibility and rationality. Japan is influenced by western culture and civil law system, coupled with its complete and total independence of the judiciary, nationals are more inclined to act in accordance with the law, for the violation of the constitution, law, unsubstantiated public opinion, the Japanese judiciary will be firmly excluded. In the case of Jiang Ge, many media part of the statement or testimony of the parties simply as the court has confirmed the facts to be reported and disseminated, etc. behavior in Japanese law is illegal, in the Japanese judicial circles, "the media public opinion supervise the court" this proposition is considered to be "the cart before the horse!" "In a country governed by the rule of law, it is not the media that should supervise the courts, but rather the courts that should supervise the media. (Wang, 2018) Moreover, Japanese courts have established independent "sentencing databases", in which different data elements of a case are entered into the database, the results are analyzed based on big data from similar cases in the past, and the final conviction and sentence are imposed by a full-time judge and adjudicator. In conducting judicial trials, Japanese courts have avoided the negative impact of Internet public opinion on legal activities, and Internet citizenship is used only as a form of social supervision. (Meng, 2021)

3. How to Correctly Handle the Relationship between Public Opinion and Justice on the Internet

In order to correctly deal with the relationship between online public opinion and justice, we must first correctly understand online public opinion. Network public opinion is composed of private individuals with independent personality, through the Internet speech, fully integrated to form a representative "public opinion", compared with the traditional form of public opinion, network public opinion is younger, more active thinking, often full of sense of justice, when the network public opinion reaches a certain degree of power, it will try to break through the barriers, effective impact the judicial trial and intervene in it. This is essentially a conflict of value standards between the two subjects, as well as netizens' distrust of the quality of judicial personnel. Today, with the high popularity of the Internet, Chinese netizens lack self-discipline, and the media have not played an exemplary role in leading the way, so network morality and civilization are slowly disappearing, and the "anonymity" of network speech gives netizens the "courage" to say what they want, and some network media publish false information irresponsibly, leading to a lack of awareness of netizens. Some online media irresponsibly release false information, causing netizens to blindly follow the trend, resulting in online public opinion to promote justice, but also brought about violent interference. Nowadays, China's online public opinion is mostly formed by articles, comments and forwarding on the Internet, and the media also tend to publish some special events to stimulate the Internet's desire to talk, so that the majority of users can

participate in the discussion at the first time.

Internet public opinion does not suddenly interfere with judicial trials, it has its own unique way - usually manifested as moral intervention, this situation is a "battle" between judicial authority and public morality. When public opinion and morality jointly interfere in judicial proceedings, it can lead to unpredictable judicial trials. Although the judiciary is independent, due to the historical and cultural reasons in China, judges are influenced by public opinion in the trial process, and will cater to their own subjective emotions to find the most reasonable judicial results in the public voice, but this does not mean that after the conviction of a particular case must listen to the Internet public opinion. The quality of netizens varies, the anonymity of network speech and the immaturity of China's public opinion monitoring mechanism, resulting in the opinions of netizens are often irrational, unpredictable and violent, in the case of Jiang Ge, the network in order to recover the responsibility of the other victim Liu Nuanxi, outflow of the murder weapon to commit murder is the Liu Nuanxi handed Chen Shifeng's remarks, which led to the outbreak of some of the netizens in the network and even in real life to Liu Nuanxi "Recovery", but this is actually Chen Shifeng in the trial to reduce the responsibility of fabricated. In the process of judicial and network public opinion "contest", the judicial trial must not be because of the network public opinion of one of the values of the previous rules will be given up, if it is so wavering, it will be very easy to lose their own independence, lose the authority of the law.

We cannot dismiss one or the other when there is a conflict between public opinion on the Internet and the administration of justice. The purpose of both is social justice, the law is the bottom line of morality, justice from the beginning is a hot spot of public concern, the popularity of the Internet is for public attention to provide a powerful condition, to create a good social environment, improve the credibility of the judiciary, and effectively control and guide the network of public opinion, the network of public opinion into a good and effective way of supervision, into a tool to promote the judiciary, and jointly promote the rule of law The construction of society.

4. Some Recommendations

Everything has two sides, to correctly recognize the impact of network public opinion on justice. First of all, it is necessary to improve the legal literacy of citizens, correctly guide and control network public opinion, rationally and legally play a positive role in network public opinion, strengthen the media's self-discipline and legal awareness, and build a harmonious environment between network public opinion and justice. It is necessary to build a good network environment, construct a perfect network monitoring mechanism, standardize the media's coverage of judicial activities, and use the will of public power to guide and channel network public opinion. Improve the legal thinking and legal literacy of citizens, instead of evaluating legal activities only with moralized thinking. Secondly, build an institutional channel to promote the direct interaction between online public opinion and the judiciary. Due to the irrationalization and unpredictability of the formation of online public opinion, it often leads to interference and mixing of other factors in the process of public opinion reaching the

judiciary. Improving the direct interaction between online public opinion and the judiciary can reduce the interference of other factors and eliminate uncontrollable factors. The direct interaction between network public opinion and the judiciary is conducive to the realization of good interaction between network public opinion and the judiciary, and promotes the supervisory role of network public opinion, as well as facilitates the judiciary to respond to network public opinion in a rational manner, and guarantees that the judgment will not deviate from the law. Finally, the judiciary should give full play to its role in guiding online public opinion, improve the standardization and accuracy of judicial activities, and ensure the disclosure of trial information while insisting on the independence of the judiciary, so as to eliminate people's doubts fundamentally. When the public pays attention to an individual case, it is often because netizens are worried about the social relations and social impacts reflected behind the case, fearing that justice will be abused, and the public hopes to promote reforms in these areas through online public opinion. When the independence of the judiciary is guaranteed, trial information is publicized, and the public can see that their concerns are being handled, the tension between online public opinion and the judiciary will be alleviated, which will be conducive to the positive interaction between online public opinion and the judiciary.

5. Conclusion

Judicial independence and public opinion supervision are important factors in the rule of law in China, and have always existed in the process of building a socialist rule of law country with special characteristics; today, with the increasing development of the Internet, the public participates in the administration of justice and supervises the judiciary in its own way. Judicial trial is based on laws and regulations as the premise, rational and emotional combination of legal logic reasoning process, in this process, including experience and feelings, it is impossible to exclude factors other than legal logic. Internet public opinion represents the general will of the majority of netizens, standing from the public's point of view and analyzing legal issues from a non-professional point of view. Moreover, the mainstream viewpoints of Internet public opinion are usually in line with traditional values, which can facilitate the communication between the official and the public, and make the results more reasonable. Therefore, under the premise of maintaining a relatively independent status, the judicial system should pay proper attention to the social hotspots reflected by online public opinion, give timely solutions, and form a good interaction with online public opinion.

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Notes

Note 1. Su Ling. Internet Public Opinion and Judicial Trial--The case of Yao Jiaxin. *Journalism Communication*, (08).

Note 2. Court seeks sentencing opinions from bystanders at trial site of Yao Jiaxin case[N]. Xinhua Newspaper Network-Yangtse Evening Post. April 14, 2011 .

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Note 10. Same as 7.

Note 11. Meng Shaohao. The Impact of Internet Public Opinion on Justice in Comparative Law[J]. Legal System and Society, 2021, (08).