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RESEARCH ARTICLE

Legalising Public Participation and Governance in Urban–Rural Planning in the New-Media Era: Evidence from Typical Planning Cases in Nanjing

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Abstract

New media have become deeply embedded in urban–rural planning. They can disseminate planning information and professional knowledge more effectively, they can exercise oversight over plan implementation and over administrative planning acts, and they allow citizens to state their interests and propose improvements directly. If planning is to be genuinely democratic, public participation through every kind of medium should be encouraged in principle; institutionally, a media-based release mechanism for planning information should be completed; and technically, a media platform for debating planning issues should be established, so that public participation in planning acquires both a mediated and a lawful form. Effective mediation through the media accelerates the legalisation of planning. At the same time, planning authorities responding to media opinion must shift from the traditional mindset of "rule" to the modern rule-of-law mindset of "governance". Only when planning proceeds along both the legal and the mediated track will it support the sound operation and sustainable development of cities.

Keywords: new media; urban–rural planning; rule of law; participation; governance

1. Two Cases: Planning Controversies Carried by New Media

1.1 The Outer Qinhuai River Planning Controversy in Nanjing

On 23 October 2003, a Nanjing evening paper published a report headlined "Luxury mansions crowd both banks; the Outer Qinhuai River scenery is buried", and carried it simultaneously on the news channel of Sina.com. The article disclosed that the banks of the Outer Qinhuai River, which runs around the old city, were lined with luxury housing, and that catching a glimpse of the river had become an expensive privilege. The piece recalled that "revealing the hills and the water, bringing the city to the riverbank" was a basic principle of Nanjing's new round of planning, and asked how the water could be seen at all if the banks were dense with high-rises, and where the riverside landscape belt could possibly be. It warned that if planning were not done early and the banks were simply filled with more commercial floors to extract money, the landscape would be damaged, the ecology sacrificed, and the beautiful blueprint turned into waste paper. The article also carried comments from a people's congress deputy, a standing committee member of the political consultative conference and planning experts, published a hotline number for discussion, and invited residents to take part. The Sina news channel gave prominence to two regulations—the Nanjing Municipal Regulations on the Protection and Management of Flood-control Embankments and the Jiangsu Provincial Regulations on Flood Control—using legal instruments as the basis for opposing disorderly planning and construction [2]. On 24 October the same outlet ran a long feature under the title "Qinhuai scenery buried; residents grieved", printing readers' calls at length, while the Sina news channel carried, under the heading "Excessive property development on both banks of Nanjing's Outer Qinhuai River; riverside scenery buried", the reactions of municipal departments and of citizens to the disclosures. The opinions voiced by residents included: damage to the public interest cannot last; planning must not be short-sighted; running a city is not the same as selling land; Nanjing should learn from other cities' experience; legislation should restrain planning that changes from day to day; and an accountability system should be established for erroneous planning [3]. A climate of media opinion about the comprehensive improvement plan and construction of the Outer Qinhuai River had formed, and it intensified under the momentum of the network [4].

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1.2 The Plane-Tree Felling Controversy in Nanjing

At the end of February 2011, in order to build metro lines 3 and 10, the Nanjing municipal government began, in accordance with the plan, to transplant some of the London plane trees in the central urban area. Planted in the mid-twentieth century, these street trees are an important city emblem in the minds of Nanjing residents, and the transplantation work provoked discontent. At the plan-formulation stage, before works began, an environmental impact assessment notice for the metro project had been published, but only on two websites, "Jiangsu, China" and "Jiangsu Environment", so public participation was slight. Once construction started, residents photographed the pruning and the impending transplantation, and the pictures circulated and were discussed online. Netizens first used microblogs to publicise and comment, then used the network to bring the matter to the attention of influential public figures; after those figures reposted and commented, the incident attracted wider attention and discussion, and drew in the conventional media. Coverage in newspapers and on television further raised its impact and visibility, and more residents and netizens joined the discussion. The reach of the incident had by then extended from Nanjing to the whole country, and a legislator of the Kuomintang caucus in China's Taiwan region also expressed concern and opinion online. Meanwhile, netizens launched an online campaign entitled "Save Nanjing's plane trees, build a green Great Wall", which drew more than ten thousand participants, and posted the latest developments and discussed countermeasures on a dedicated website. Under the pressure of new-media opinion, on 19 March 2011 the "tree protection incident" occurred in Nanjing, when several thousand residents took to the streets of their own accord and gathered outside the Nanjing Library for a sit-in protest against the felling and transplantation of the plane trees at Daxinggong [5].

2. Analysis: Participation and Governance in the New-Media Era

These are two major planning controversies disclosed and driven forward by new media, and both bear the clear imprint of governance and public participation in the new-media era. At each stage of each incident, the "governance" of the planning authority and the "participation" of the public were both at work.

2.1 Participation "from Below"

China's Urban and Rural Planning Law emphasises active law enforcement by planning authorities. This is the "top-down" mode of planning governance, and it reflects the fact that planning administration is expected to take initiative in enforcement. Public participation can also run "top-down", through the legislative and enforcement process. Judged by the current state of participation in China, however, top-down participation remains symbolic and of little substantive significance. By the time most of the public becomes involved, the draft plan is already complete, so participation is in part foreclosed. Public attitudes are also limited: the motive that prompts residents to take part is usually self-interest, and they engage only when something bearing on their interests occurs. Procedural participation, moreover, tends to be superficial. The law does provide for publicity and public hearings as a route for gathering opinions and suggestions, but the authority that conducts them is normally the competent department, with its own limits of competence, and the law lays down no specific degree or scope of adoption, so whether suggestions are taken up depends heavily on subjective inclination and is highly arbitrary. Participation in China therefore takes a predominantly "bottom-up" form. The harm done by large-scale development gives vulnerable groups a strong need to voice their wishes, and in some areas residents, lacking proper guidance, resort to extreme confrontation. Such expression is an important part of participation, but its effect is negative, and it results from the absence of a clear channel for participation in planning. At the same time, the growth of information technology, the internet above all, is pushing us rapidly into the new-media era. Ordinary individuals now have the capacity of a self-publisher, the mode of information dissemination has been transformed, and new possibilities have opened for public participation in planning in China. New media make it possible for citizens, individually or in groups, to participate actively, and constructive criticism is the kind of oversight the law encourages. Citizens' use of new media meets the demand for the legalisation of planning, and broad media involvement in planning serves such positive functions as publicising planning information and expertise, overseeing plan implementation and administrative acts, and expressing interests and proposing improvements. New media have become an important bridge for the dissemination of planning information and for citizen participation. As planning theory has developed, public participation has come to be regarded as an essential basis for the legitimacy and scientific quality of planning decisions. To a considerable extent, public participation has already become an important social and political factor shaping the future direction of planning technique and institutions [1]. The Urban and Rural Planning Law, in force since 2008, provides a legal foundation and safeguard for planning disclosure, the public's right to know, and the methods and procedures of participation, and represents substantial progress in institutionalising participation in China. Yet in both practical effect and the system of safeguards, participation in China remains at a comparatively rudimentary stage, and the problems of media-based participation deserve continued attention. In the two cases above, the great weight the Nanjing municipal government gave to the incidents owed a great deal to the publicity and the heightening of sentiment on the network; had it not responded actively, the consequences would be hard to imagine.

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2.2 Governance "from Above"

In the new-media era, as information technology has spread, planning authorities have begun to take note of the internet's immediacy and interactivity, to make use of its capacity for publicity, and to solicit public opinion online, so as to promote interaction between government and citizens and to reduce the blindness and confrontational character of public perceptions of planning [6]. In both cases the Nanjing planning authority used new media to give a reasonably good response, keeping pace with the times in the way it handled citizen participation. After the Outer Qinhuai River controversy, the municipal government and the planning authority attached great importance to the matter. On the day of the report the municipal government convened a press conference, at which the spokesperson, having noted the suggestions and opinions put forward online and having acknowledged that the landscape planning of the Outer Qinhuai River had lagged somewhat, undertook to look into the specifics of the planning and to report back to the media promptly. On 26 October a special press conference was held on "the planning of the comprehensive improvement of the Outer Qinhuai River, a project for the people's wellbeing". There the director of planning briefed the press in plain language, using visual presentation and computer multimedia, in six parts: the history and present state of the Outer Qinhuai River; previous plans for the river; the present comprehensive improvement plan; its management and implementation; the results the plan is expected to achieve; and comparable waterfront cities elsewhere in the world. The presentation demonstrated the government's concern for the public interest and the planning authority's close attention to the river corridor. Newspapers, radio stations and television stations were invited, the information was made public through the media, and the journalists' questions were answered one by one. Two experts who had taken part in preparing the improvement plan were specially invited, which lent the briefing objectivity and academic weight and helped the media understand the various aspects of the facts; this press conference, as a response to media involvement in planning, was notably effective. In the plane-tree case, as the public discussed the matter vigorously through new media, the Nanjing municipal government and the State Council's Taiwan Affairs Office responded in good time through radio, newspapers, the internet and other media. On the day after the gathering the municipal government announced a suspension of the transplantation work; on 22 March, adopting a posture of deference to public opinion, it held a press conference and proposed convening a "green review meeting" of experts, officials and citizen representatives to consider optimised options, releasing the decision simultaneously on television, in newspapers and online. It then recruited "green reviewers" from among residents by hotline and e-mail, and held six such review meetings through formal procedures to consider the metro construction plans for different sections, followed by two further rounds of public environmental assessment notices.

For the Nanjing planning authority these two cases were reasonably successful responses to public participation in the new-media era. Besides disseminating information through the conventional media, the government cooperated actively through the new media, and the effect of its straightforward presentation of the facts was evident. Guided by a sound conception of governance, the municipal government responded to and steered a public participation that had for a time run out of control, and planning in Nanjing returned to the orderly, conventional channel. Both controversies were quickly settled: the government made full use of the media to feed back planning information—a "governance" act—and its efforts were laid before the public in an open and transparent manner. The questions residents cared about received reasonably clear answers, and public opinion and popular sentiment were effectively and positively steered. The successful resolution of these cases prompts some deeper reflection.

3. New-Media Participation: Legalising Planning "from Below" and "from Above"

3.1 Advocating a Legal Ethos of New-Media Participation in Planning

Advocating new-media participation in planning is a precondition for the rule of law in the city. New media have changed the conditions of traditional citizen participation: they break through geographical limits, improve the timeliness and validity of information, and at the same time make possible the organisation of interests on a larger scale, giving participation a broad popular base. "Bottom-up" media participation is an important stage at which public oversight takes effect. In handling the two network-driven incidents, the Nanjing municipal government, guided by a sound conception of governance, respected the legal oversight exercised by new-media opinion; it did not confront public opinion but deferred to it, responding in good time and steering a participation that had briefly run out of control back into the orderly channel. It is clear that when government and planning enforcement departments respect the opinion generated by new-media involvement in planning, and treat it reasonably and handle it with care, the result is not deeper antagonism but a clearing of misunderstandings between the authority and the public, so that residents who did not know the facts come to understand the purpose and meaning of the planning concerned. Had the planning authority, at the outset, disclosed planning information more transparently through the media—had it, above all, used new media to let the public know the various planning particulars in advance, or brought the public genuinely into planning earlier, realising "top-down" participation from the start—some of these conflicts could have been prevented or avoided. Whether "bottom-up" or "top-down", new-media participation in planning is an effective unofficial channel for overseeing public administration; it is a basic

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condition for legalising planning and a foundation of the legal thinking behind citizen participation. China's planning authorities, in a society in transition, should keep pace with legalisation and respect citizens' use of new media to take part in planning. They should also take the new-media era as an opportunity to draw useful criticism and suggestions into planning through the creativity of the media.

3.2 Institutional Innovation for Public Participation in Planning

To give effect to the principle of public participation in planning and to realise the corresponding legal ethos, local planning administration must be strengthened and the relevant law publicised and taught; public awareness of planning and of the legal system must be raised; planning bulletins must be issued periodically through new media to safeguard the public's right to know and to give effect to its oversight; and institutions of participation must be established and improved, so that the public and every social stratum can express opinions through regularised procedures and exert the necessary influence on major planning decisions. The laws that currently provide for participation are chiefly the Urban and Rural Planning Law and the Measures for the Compilation of Urban Planning, but their provisions are incomplete. They embody a philosophy of loose constraint and lack clear operational content. Article 9 of the Urban and Rural Planning Law, for instance, gives a legal basis for participation in enforcement and requires the competent department or other relevant departments to accept a report or complaint promptly and to organise verification and handling, but provides no corresponding oversight of whether the department in fact verifies and handles it. If the authority merely accepts a report without performing its administrative duty, oversight becomes a formality and public trust in the administration is damaged. In the formulation and implementation of local plans, moreover, participation is largely ex post: activities begin only after the draft is complete. Some places have adopted measures that raise the rate of participation, but the effect is poor and neither the expression nor the adoption of public opinion works well, there being no effective constraint or requirement governing adoption. By contrast, after settling the plane-tree controversy, the Nanjing municipal government achieved an institutional innovation in public participation that is worth studying. The Nanjing Municipal Regulations on Urban Greening, in force from 1 January 2013, provide that an applicant seeking to transplant or fell more than ten street trees or trees in a residential area, or any tree with a trunk diameter of eighty centimetres or more, must also submit the opinions of local residents and the conclusions of a review by greening experts. A platform established by the municipal housing and urban–rural development commission brings together government decision-making departments, the urban management department and the landscaping department with deputies to the people's congress, members of the political consultative conference, experts, scholars and citizen representatives in an advisory group that assesses and advises on the environmental impact of major construction projects in Nanjing. This is the "green review" system, a breakthrough of real significance in raising public participation in planning and construction in China. Green review has become a required procedure before any major construction in Nanjing, and constitutes an institutional innovation in public participation. Residents achieved their aim of participating through the influence of new media, and the development and refinement of local planning legislation was greatly advanced at the same time. Publicity through new media is an important route to the legalisation of planning, but in the new-media era the truthfulness and validity of information are hard to guarantee, oversight and regulation are inadequate, and excessive participation allows citizens to use new media for conduct that is unlawful and harmful to planning. Government should therefore strengthen positive guidance and lay down specific mechanisms and procedural safeguards for public oversight, regulating by law or regulation the forms of oversight, the manner of reporting, the procedure for acceptance, the publication of verification and handling results, feedback on public opinion and incentive arrangements, so as to strengthen the legal protection of participation in the administration of planning.

3.3 Strengthening the Technical Means of New-Media Participation

The spread of new media, the internet above all, has multiplied the ways in which the public can take part in planning. New media have been active in the "bottom-up" planning process, chiefly in gathering and disseminating planning information and in providing a platform for exchange and discussion, thereby strengthening the public's capacity to obtain and circulate information, deepening scattered opinions into a majority consensus, and successfully linking online and offline participation. The effect on the traditional institutions of participation has been considerable. Yet a large part of the Chinese public still has no access to the network, so participation through it lacks technical practicality. In the new-media era, moreover, the groups most in need of attention—the vulnerable above all—are easily excluded from the new media. The power to decide what may be disclosed still rests with the competent department, and what government discloses cannot fully meet public demand, which produces asymmetry and inequality of information. And although information sharing is very convenient in the new-media era, online opinion is not broadly representative and can easily become a single dominant voice, while the separation of official from informal platforms prevents effective communication between "above" and "below". Government, which occupies the dominant position, must therefore take the initiative in strengthening the technical means of new-media participation. Many Chinese cities have made efforts in this direction, establishing planning exhibition halls of various kinds and building comparatively advanced promotional websites by means of new media, but how effective these are and how far citizens actually participate is a question planning authorities should continue to

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examine.

4. Conclusion

In recent years, as the conception of governance held by relevant government departments has changed and their understanding of new media has deepened, the pattern of interaction between "top-down" governance by planning authorities and "bottom-up" participation by citizens has begun to shift. Planning authorities have started to use new-media platforms actively, building direct channels of dialogue with the public: drawing on the properties of new media and the latest network technology, they communicate and interact with the public directly through official microblogs, WeChat accounts and similar tools. In this mode the connection between planning authorities and new media has widened, and the authorities have acquired a measure of voice on new-media platforms, so that "top-down" governmental use of new media is becoming more balanced and relevant departments are beginning to interact constructively with the public through them. Overall, however, public participation in planning in China remains in a state where the "top-down" channel is blocked while the "bottom-up" channel surges without cease. Participation at the implementation stage, for instance, is insufficient, with the result that demands are typically voiced "from below" during implementation—which is the main reason new-media platforms now play so large a part.

The emergence and growth of new media is both an opportunity and a challenge. If network-based new-media channels can be brought within the institutions of public participation in planning, and the healthy expression of public opinion guided, then the "bottom-up" participation that currently lacks guidance and often turns extreme will be given a clear channel. If the shift in the mode of information dissemination is not accommodated, and public opinion continues to be managed in the "rule" mode, so that citizen participation remains symbolic, information asymmetry will persist and misunderstanding and antagonism between public and government will be inflamed. News events are often what the public focuses on, whereas the substance of planning work is comparatively unknown to them. Planning authorities must therefore respond actively: from a planning standpoint, drawing on the advantages of new media and relying on the media of their own initiative, they should publicise their work in every dimension, acquainting a wider public with planning ideas, planning law and regulation, and the government's stance and measures, thereby reducing speculation and rumour and correctly steering public opinion. Through the advanced technology of new media they should actively seek the judgement and advice of every social interest group, so that opinions from every quarter have a chance of expression and a social compromise, reconciliation and consensus can be reached. Only when citizen participation in planning joins the legal and the mediated track together will the city move toward sound operation and a sustainable future.

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