

# A Study on the Relationship between Media Supervision and Judicial Adjudication in the New Media Era

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**Abstract:** How to deal with the relationship between media supervision and judicial justice has always been a problem that modern countries under the rule of law must face. Because of its unique openness and universality, the media plays a positive role in supervising judicial justice. At the same time, if the media supervision lacks restriction or oversteps the boundary, it will also have a negative impact on judicial justice. How to balance the freedom of speech of the press and the open and fair trial of the judiciary, and how to resolve the contradiction between judicial activities and media supervision? Is there any legal regulation in the freedom of speech of the press? How to deal with the conflict between the judicial trial based on facts and the supervision based on law and the media based on morality? These problems are urgent to be solved in our current judicial practice. This article will start from the "Yu Huan case", "Chongqing sister and brother fall case", "Jiangsu Nantong elderly supermarket sudden death with eggs" and other cases occurred in recent years to seek the balance between the media and the judiciary to solve related problems.

## 1. Introduction

Under the background of rapid social and economic development, the number of criminal, civil and administrative cases is increasing, and new types of cases are emerging. The media, administrative organs, social organizations and individuals may all intervene in the judicial field, affecting the judicial trial. The judiciary should not only face the public directly, but also actively accept the supervision of the media, which is conducive to promoting the implementation of the judicial disclosure system, enhancing the transparency of the work of the judiciary and meeting the psychological demands of the people and the media. The right of information transmission exercised by the media comes from the citizens' right to know, the right to freedom of speech and the right to supervise public affairs. The value and significance of the existence of the media lies in its ability to spread information to the audience in various ways. How to deal with the relationship between media supervision and judicial trial in the new media era is the focus of this paper.

## 2. Conflict between media supervision and judicial trial

### 2.1. Definition of new media

Broadly speaking, new media includes two categories: one is based on the transformation of media forms caused by technological progress, especially media forms based on wireless communication technology and network

technology, such as digital TV, IPTV (interactive network TV), mobile terminals, etc; Second, with the change of people's lifestyle, it has existed before and is now used as a carrier for information dissemination, such as building TV, car TV, etc. The narrow sense of new media only refers to the first category, which is based on technological progress. <sup>[1]</sup>New media can also be divided into traditional media and We Media, which are undergoing transformation. The emergence of We Media provides greater possibilities for the public to better express themselves. In the new era of vigorous development of We Media, media platforms such as Weibo, Tiktok, Bi Li Bi Li and so on emerge endlessly. Most people obtain information and make comments through these platforms. In addition, the popularity of 5G technology and the growth of mobile phone users has enabled everyone to express their views freely in the spotlight of public opinion.

In fact, new media can be regarded as the product of new technology, and the latest technologies such as digitalization, multimedia and networking are all necessary conditions for the emergence of new media. After the birth of new media, the form of media communication has undergone earthshaking changes. For example, subway reading, office building big screen, etc., all of them have transplanted the communication content of traditional media into a new communication space. The rapid development of Internet, digital technology and information technology has affected people's work and life to varying degrees. In this context, the emerging media has better met the needs of modern society for news communication with its inherent technological advantages. The emerging media has achieved the

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synchronization of information collection and dissemination through the Internet. Today, when everyone has a smartphone to access the Internet at any time, the dissemination of information has unparalleled universality.<sup>[3]</sup> An ordinary event, coupled with comments from different perspectives, sometimes in a short time, will ferment into a public opinion event, which will have a wide impact in the country and even the world.

With the rapid development of new media, new media in various forms, such as Xiaohongshu, Tiktok, Kwai, official account and video number, are increasingly flourishing. Because of their huge influence and acceptance by the public, the resulting exposure of various adverse events in society has led to a series of major public opinion events, such as the Iron Chain Girl incident at the beginning of the year, which even affected other countries in the world, The playback volume once reached 2 billion. The media around the world have reported the occurrence of this case to varying degrees, and has influenced the international image. Therefore, the judicial authorities cannot ignore the relevant judicial public opinion, because the judicial public opinion will have a profound impact on the judicial credibility. At the same time, it is also necessary to properly handle the relationship between the judiciary and the media, the judiciary and the supervision of public opinion. It is necessary to avoid improper influence on media supervision, but also to prevent improper interference of public opinion in the judiciary.<sup>[2]</sup>

## **2.2. Judicial impartiality and judicial independence**

Judicial activities mainly include judicial justice, equality before the law, taking facts as the basis, taking the law as the criterion, and the judiciary exercising its powers independently according to law. Among them, judicial justice and the independent exercise of judicial authority according to law are more vulnerable to external influences. Article 131 of the Constitution of our country stipulates that "the people's courts independently exercise judicial power in accordance with the law and are not subject to interference from administrative organs, social organizations and individuals." This means that only the courts can find suspect guilty, and no other institution has the right to make a conclusion about suspect guilty. As the main executor of judicial activities, judges should eliminate external interference and always adhere to the facts of the case and legal provisions as the basis for the trial.

The independence of trial is the basic premise for the creation of judicial credibility. Judicial independence means that people's courts handle cases in accordance with the law, exercise judicial power independently, and are not subject to any interference from administrative organs, social organizations and individuals. It includes three elements: the independence of judicial power, the independence of courts, and the independence of judges. The principle of judicial independence requires that the judicial authority only belongs to the judicial organ, so as

to avoid improper interference of other national powers in the administration of justice, prevent judicial corruption and maintain judicial authority. Adhering to judicial independence is the premise and foundation for realizing judicial justice, and also the basic guarantee for ensuring judicial justice. And a fair judgment is the minimum requirement for the public to have confidence in justice. If the trial is not independent, the exercise of judicial power will inevitably be subject to improper interference, and the judgment results cannot ensure fairness, so the judicial credibility cannot be realized. Therefore, the establishment of the principle of judicial independence is the premise and basis for the existence of judicial credibility.<sup>[3]</sup>

## **2.3. The relationship between new media and justice**

With the rapid development of media, the social influence of media supervision is growing day by day, which not only plays a key role in emergencies, but also plays an important role in curbing judicial corruption and pursuing judicial justice. However, due to the particularity of judicial activities, in the process of media supervision of judicial justice, conflicts between the two are inevitable. Some scholars once likened the relationship between the media and the judiciary to a subtle "marital relationship". As the two sides of the relationship, the media and the judiciary sometimes cooperate very well. Modern media not only provide a broad platform for the masses to express their opinions, suggestions and criticisms on judicial activities in a timely manner, but also improve the transparency of judicial activities through online public opinion, which makes it possible for the public to evaluate judicial acts and participate in judicial activities. However, conflicts sometimes occur. This is where the subtle relationship between media supervision and judicial justice lies.<sup>[4]</sup> How to give full play to the role of the media in the supervision of the judiciary, while avoiding its possible impact on judicial independence. It is a topic worthy of in-depth discussion to protect the freedom of speech enjoyed by citizens and the freedom of the press enjoyed by the media according to law, and to safeguard the principle of judicial independence and judicial authority and justice.

There is no doubt that the media has a supervisory role in the administration of justice, and at the same time, we should avoid the adverse impact on the judicial trials caused by inappropriate reports. The freedom of speech of citizens is the right granted by the Constitution, which is also the legal basis for the We Media to dare to speak. The freedom of the press enjoyed by the media and the independent trial of the judiciary are not subject to external influence, and each has its own legitimate legal basis, which belongs to the scope of freedom of speech in the Constitution; The root cause of the conflict between media supervision power and judicial trial is that China has not established a cohesive system between media and judicial mechanism.<sup>[5]</sup> Because in the process of case handling, media people and legal people have different

modes of thinking, fairness standards and operating rules, and handling modes, which lead to differences in their evaluation and conclusions, and even some parties attempt to use media influence to intervene in justice in advance, so as to achieve a favorable judgment for themselves. If the judicial authority lacks the ability to resist improper interference from the outside world, the media role is misplaced, the media people lack self-control and sense of responsibility, and arbitrarily exaggerate the role of public opinion, the resulting conflict between the media and the judiciary not only affects the realization of fairness and justice, but also poses a huge challenge to social order and stability.

### **3. Reasons for the Conflict between Media Supervision and Judicial Trial**

#### **3.1. Generation of public opinion pressure**

The pressure of public opinion has a great impact on judicial independence. The pressure of public opinion formed in the process of media supervision often has a negative impact on the judicial organs in the process of trial. Network public opinion pressure originates from the public opinion pressure formed by netizens' attention to events. In judicial cases, netizens continue to pay attention to cases and express their opinions, making the proportion of perceptual knowledge in social public opinion more and large. They confuse personal feelings with legal evaluation. When public emotions form a strong confluence of social public will, in fact, the whole judicial activity is pushed to the society, and the overwhelming network of public opinion exerts pressure on the judicial trial virtually.

The "Yu Huan Case" in 2016 attracted attention from news reports, fermented by media, and caused a huge wave of public opinion. The final judgment of the second trial was accepted by the society, but it also posed a certain challenge to the authority and prestige of the law. In the "Nie Shubin case", the Supreme People's Court even issued a document saying that supervision by public opinion is required, but not trial by public opinion. How the Shandong High Court makes a judgment according to law should be considered as the realization of justice. The comment of "justice telling" presupposes that the Nie case is the premise of an unjust case, atypical trial by public opinion, and an unwarranted interference with the court's fair judgment.

In the case of "the death of a sister and brother in Chongqing", many netizens were angry because of the huge contrast between Zhang, the biological father of the two young children, who made extreme remarks on various We Media platforms, quickly formed a strong force of public opinion, used the power of public opinion to influence the judicial activities, and tried to make the judicial verdict consistent with the tendency guided by public opinion. As the judge of the case, it will be directly affected by the public opinion of the We Media, which makes it unconsciously scruple during the trial. Therefore, to a certain extent, when there is a conflict between "media supervision" and judicial trial, "media

supervision" often prevails, which will result in a "media trial", which will undoubtedly interfere with the independence of our country's judiciary, and reduce the judicial authority and judicial credibility.[6]

In a general sense, the media's reporting of social events is in the form of expressing freedom of the press. In fact, the ultimate pursuit is a kind of social justice. Judicial power is the core of judicial power, which requires judges to make fair judgments based on facts and laws; The media's supervision of the court's judicial work can prevent the abuse of judicial power. In today's highly developed information era, for case supervision, the high attention of the media is conducive to the judges' multi-dimensional thinking on the case and the more fair trial of the case; However, some media are not fully aware of the professional and procedural issues of judicial adjudication, and sometimes misjudge, causing irreversible impact.

#### **3.2. Unregulated media supervision**

Unrestricted "freedom of the press" endangers the independence of the judiciary. Freedom of the press is not an absolute freedom, but a press activity within an established framework, which is not only limited by the laws of the press itself, but also by laws and regulations. However, there is no special press law and public opinion supervision law in China. In the absence of a sound news legal system, the media did not clearly identify which types of judicial cases can be reported and the boundaries of reporting.[7] Media people basically restrict themselves through the ethics and codes of conduct in the industry, and this kind of regulation has little effect.

When the media reports and supervises judicial events, based on various emotions and political orientations, it is inevitable that they will deviate from the neutral position, and sometimes even seriously tilt to one side. There are many factors influencing the potential position of the media. According to the summary of Zhang Zhiming, there are mainly the emotional tendencies of the public; The preference of leading political forces; Basic provisions of current laws; Catering to the needs of the audience; Influence or even control the will of relevant parties of the media. Freedom of the press is not an absolute freedom, but a press activity within an established framework, which is not only limited by the laws of the press itself, but also by laws and regulations. However, there is no special press law and public opinion supervision law in China. In the absence of a sound news legal system, the media did not clearly identify which types of judicial cases can be reported and the boundaries of reporting. Media people basically restrict themselves through the ethics and codes of conduct in the industry, and this kind of regulation has little effect. [8]In particular, as the media fell into the trend of commercialization, the pursuit of fame and profit and diversion became a boast, the media people extended their tentacles to the criminal cases without trial in the name of "freedom of the press". Preemptively make qualitative reports on the cases that are still being

investigated, prosecuted or tried, or publish comments with obvious tendencies, leading the public to doubt or even condemn the judicial fairness.

For example, in the case of Lao Rongzhi and Wu Yifan, the court has not yet made a judgment, but some media and netizens believe that guilty or innocent is just, which obviously presupposes the premise of guilty or innocent. Ask the court to pronounce a judgment as soon as possible. This is atypical "media trial", which is a fact of "media trial" in the name of news freedom. This will wantonly interfere with the fair judgment of the court, and at the same time cause the decline of judicial credibility.

#### **4. Solution to the Conflict between Media Supervision and Judicial Trial**

Balancing the conflict between media and justice is conducive to the realization of judicial authority, the promotion of judicial justice and the realization of their respective values. From the perspective of improving the relationship between justice and media reports, we should first standardize the professional ethics of media practitioners; From the perspective of the basis of judicial and media cooperation, we should establish and improve the idea of a benign interaction between media and justice, regulate the relationship between justice and media reports according to law, and regulate the relationship between justice and news according to law.

##### **4.1. Improve the corresponding laws and regulations of We Media and build a contact platform**

First of all, on the regulatory level, we should improve the laws and regulations of network information communication, extend the management tentacles to the We Media platform and users, and carry out macro regulation on the entire We Media communication industry, so that all types of information communication have laws to follow, and restrict the We Media public opinion from the source, thus reducing the occurrence of "media trials". Secondly, on the level of speech, we should establish a corresponding accountability system, and when the untrue information released by our media platforms or users has a greater impact on judicial activities, we should hold them accountable. Finally, at the level of public opinion governance, the judiciary should intervene in the management of We Media public opinion in advance, establish a public opinion detection system, sort out potential risk points, form plans in time, improve the perception of public opinion situation, actively voice in social hot spot cases with high attention through We Media platforms such as Weibo and WeChat official account, timely clarify the truth, and strengthen the ability to guide We Media public opinion, Hold the initiative in the formation and dissemination of We Media public opinion.<sup>[9]</sup>

In the era of We Media, the judicial authorities should actively establish a special account on the We Media platform to understand the public opinion. We will make

full use of microblog, WeChat and other self media platforms to build a "public opinion communication platform" to ensure that the public can understand the information related to the case in a timely manner, take the initiative to accept the advice and suggestions of the vast number of Internet users, and at the same time deal with and feed back the problems raised and reflected by the public in a timely manner.

##### **4.2. Give play to the authority of professional traditional media and guide the correct direction of public opinion**

Any vagueness or concealment is not conducive to reversing the public's preconceived "primary effect" on online public opinion, thus affecting the correct judgment of the public. In response to public opinion concerns, we must adopt an honest and transparent attitude, and publish the complete judicial truth in a timely manner when possible.<sup>[10]</sup> Only when the public obtains complete and accurate case information can the distorted information lose its growing soil. As an important part of the state authority, professional traditional media have the responsibility and obligation to correctly guide public opinion in society. For example, an old man in Nantong, Jiangsu Province, was stopped by a supermarket employee when he took two eggs to pay the bill. During the negotiation, the case of the old man's sudden death due to heart attack fell to the ground. After hundreds of millions of times of reading, people have different opinions on the judgment result of the second instance. Many professional media have made relevant reports in a timely manner, learned about the context of the truth, and invited relevant experts to comment. After the article was published, the netizens directly called the truth, and the court's decision has won widespread praise. The media should be good at capturing "sensitive points", and from the legal analysis of this "point", to solve a class of problems related to this "point", so as to correctly guide the judicial public opinion and avoid the interference of bad public opinion on the Internet to the judicial trial.

##### **4.3. Find the balance between media supervision and judicial justice**

Media supervision can promote judicial fairness. How can we achieve a dynamic balance between media supervision and judicial fairness? First, the media should give adequate respect to the judiciary, adhere to the principle of judicial independence and maintain judicial authority. The media should abide by the corresponding legal principles and adhere to fair procedures. This requires the media to be self disciplined, report truthfully within the framework allowed by law, respect facts, respect human rights, and adhere to the principle of presumption of innocence. Second, the judicial reports of the media should be professional and standardized. Although journalists have the right to investigate and collect evidence, they cannot be used as the basis for deciding a case without cross examination in court. The judicial organs pay attention to conclusive evidence

when collecting evidence, especially in criminal cases. Whether the evidence formed by their news or interviews meets the corresponding standards depends on the judgment of professionals. Too much public opinion will affect the objective authenticity of the case. As a result, the judge is extremely vulnerable to influence, thus making a tendentious judgment. Only when procedural justice is observed, can entity justice be guaranteed to the greatest extent and social justice be achieved.<sup>[11]</sup>

## 5. Conclusion

China's media industry and judicial organs are carrying out institutional reform. The values of freedom of the press and judicial independence are indispensable in the process of building democracy and the rule of law in China. Both media supervision and judicial adjudication should maintain a reasonable tension and achieve dynamic balance in conflicts. Public opinion supervision is a kind of right rather than power. The judiciary cannot be closed and the freedom of the press cannot be abused. The dynamic balance between the two lies in moderation, that is, the media supervision should be neither formalistic nor too powerful, so that the judiciary can remain independent while being supervised, so that a benign interaction between the media and the judiciary can be formed.

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