

From "Consultation" to "Empowerment"-A Study on the Effectiveness and Guarantee Mechanism of Public Participation in Environmental Decision-Making

Kai Chen

East China University of Political Science and Law, HangZhou, Zhejiang, China

Abstract: Currently, most public participation in China's environmental decision-making remains at the "consultation" stage, thus failing to exert a substantive impact on administrative decisions. From the perspective of the "Spectrum of Public Participation," the levels of participation can naturally be divided into four tiers: "Inform-Consult-Involve-Empower." The root cause of current practices being stuck at the lower stages is precisely the absence of "procedural justice" elements. Therefore, using procedural justice as a theoretical framework, this paper conducts a systematic theoretical analysis of typical cases in the fields of environmental impact assessment (EIA) and planning, clearly proposing two objectives: First, to establish evaluation criteria for examining the effectiveness of public participation from the aspects of participation timing, information transparency, interactivity of consultation, and feedback on opinions. Second, to derive specific pathways for optimizing the dynamic mechanism, information mechanism, and communication-feedback mechanism. The research draws a clear and robust conclusion: The fundamental reasons for participation failure can be summarized as insufficient guarantees at the "procedural" level, contextual constraints at the "structural" level, and lagging concepts at the "paradigm" level. More importantly, drawing on the international experience of the Aarhus Convention and the domestic practice of the Institute of Public & Environmental Affairs (IPE), this paper proposes a set of integrated guarantee mechanisms encompassing legal safeguards, procedural guarantees, capacity building, and supervision and remedies. The final logic is rigorous: only by implementing procedural justice and shifting the participation model from one-way

consultation to two-way collaboration and empowered co-governance can the public be truly transformed from passive objects of consultation to active collaborators, thereby achieving a genuine unity of democracy and scientific validity in environmental decision-making.

Keywords: Component; Public Participation; Environmental Decision-Making; Procedural Justice; Guarantee Mechanism.

1. Introduction

1.1 Research Background

China's environmental governance is undergoing a transition from "government-led" to "multi-stakeholder co-governance." The first National Environmental Protection Conference in 1973 proposed the guideline "rely on the masses, everyone gets involved," laying the conceptual foundation for public participation. The 2014 Environmental Protection Law dedicates a chapter to "Information Disclosure and Public Participation," marking the elevation of public participation to a legal institution. The modern environmental governance system comprises the government, enterprises, social organizations, and the public. Empirical research shows that public participation, represented by the environmental hotline, has significantly reduced the pollution discharge intensity of enterprises, confirming its governance effectiveness.

1.2 Research Questions

Due to the clear and prominent gap between "formalistic participation" and "substantive impact" in practice, this paper naturally and appropriately discusses three major contradictions: First, the lack of participation effectiveness, manifested as "more post-hoc complaints, less front-end decision-making involvement," mostly remaining at the one-way

"inform" stage. Second, insufficient institutional safeguards, with poor operability of procedural norms and unclear participation channels. Third, structural imbalance in participation, where urban and rural publics have different capacities, and the proportion of substantive participation is extremely low.

1.3 Research Significance

Theoretical value: Systematizing procedural justice theory into an analytical framework for examining China's public participation practices, integrating interdisciplinary perspectives from administrative law, jurisprudence, and risk management theory. Practical significance: Constructing localized evaluation indicators and guarantee mechanisms to provide an operable legal pathway for resolving "participation failure."

2. Theoretical Foundation and Literature Review

2.1 Theoretical Foundation

The theory of environmental rights is regarded as the legal basis for public participation. It encompasses not only the substantive right to a clean environment but also the procedural rights to information, participation, and remedy, thereby transforming the public from governance "objects" into true rights "subjects." Deliberative democracy theory advocates forming decision-making consensus through rational dialogue, explicitly promoting the integration of public and expert knowledge and the legitimization of regulatory processes. Polycentric governance theory directly and powerfully proposes the idea of coordinating environmental governance issues among multiple subjects, including the government, enterprises, the public, and social organizations.

2.2 Literature Review

Domestic academic discussions on why public participation "fails" and how it can "become effective" have been thorough and clear, and these studies can be naturally summarized into three perspectives.

First, the "procedural" perspective provides a clear and logically structured analytical framework: the root cause of participation failure is naturally attributed to insufficient procedural guarantees. Wang Jin, in his "Research on Public Participation in

Environmental Impact Assessment Procedures," systematically and appropriately demonstrates the four major structural defects in China's EIA public participation—"object, timing, method, and legal effect"—making it easy to degenerate into a "decoration" for decision legitimacy. [1] Complementing this well, Qi Jiangang, in "The Legitimacy of the Risk Regulation Process," proposes that effective participation must leap from "rights declaration" to "rights realization," for which a "reason-giving" system should be established. [2] This requires decision-makers to provide a public, well-reasoned formal response on whether public opinions are adopted. More notably, in "Reflections on China's Administrative Decision Risk Assessment System," he logically points out the major drawback of the existing risk assessment system being "work procedures rather than procedural rules," which should be thoroughly reconstructed based on the concept of procedural justice. [3-4] Second, this paper provides a clear and logically rigorous exposition of the "structural" perspective: participation effectiveness results from the interplay of both macro-level institutions and micro-level implementation. Li Yanfang, in "Legal System Construction for Public Participation in Environmental Protection," offers an excellent analysis, identifying the closed culture of the administrative system, the singular pursuit of decision-making efficiency, and the dual disadvantages in the public's degree of organization and professional capacity as deep-seated contextual factors hindering effective participation. [5-7] More importantly, in judicial practice, the Supreme People's Court's Administrative Ruling (2020) No. 1797 directly and appropriately argued that "if the administrative organ, while formally fulfilling the procedure in organizing a hearing, fails to substantively review and respond to the core objections raised by the applicant, it is insufficient to safeguard their legal rights and interests," thereby naturally and powerfully demonstrating the importance of substantive procedural safeguards. [8]

Third, the "paradigm" perspective clearly and logically advocates for a shift towards more advanced models of "risk communication" and "collaborative governance." Jin Zining and Liu Lihao, in "Improving the Judicial Review Mechanism for Public Participation in EIA," provide an excellent complement, arguing that

given the uncertainty of environmental risks, the legitimacy basis of decision-making must inevitably shift from expert rationality to the construction of social rationality, a transformation inseparable from candid and sufficient risk communication in the decision-making process. [9] Echoing this naturally is the argument by Qi Jiangang and Lan Haohao in "The Dilemma of Environmental Governance Tool Selection in China and Its Overcoming": the choice among different environmental governance tools should aim to transcend the dilemmas of traditional governance tools through a collaborative governance paradigm.

In international research, Arnstein's "Ladder of Citizen Participation" theory categorizes participation into eight levels, revealing the essence of power redistribution. The Aarhus Convention establishes three pillars of rights: access to information, public participation in decision-making, and access to justice, requiring "early participation" and "due consideration" of participation outcomes. Li Yanfang systematically introduced the U.S. public participation system in EIA, pointing out the deficiencies in China's environmental information rights provisions.

2.3 Research Gaps

Existing research has three main gaps: a lack of localized procedural justice evaluation tools; insufficient analysis of the mid-level mechanisms where "structure-process" interaction leads to formalized participation; and guarantee mechanisms that mostly focus on macro-level legislation, lacking detailed exploration of micro-level mechanisms.

3. Current Status and Problems of Public Participation in China's Environmental Decision-Making

3.1 Institutional Development

The 2002 Environmental Impact Assessment Law first stipulated the right to public participation; the 2008 Measures for Environmental Information Disclosure (for Trial Implementation) promoted information disclosure; the 2014 Environmental Protection Law dedicated a chapter to clarifying the rights to information, participation, and supervision; the 2019 Measures for Public Participation in Environmental Impact Assessment detailed

procedural requirements.

3.2 Practice Models

Macro-level decision participation: Forms include soliciting public opinions and expert consultations in the formulation of laws, regulations, and policies. Mid-level project participation corresponds to information disclosure, questionnaires, and hearings in construction project EIAs. Back-end supervision participation includes environmental hotline reports, environmental petitions, and public interest litigation. Research has clearly and powerfully demonstrated that the "12369" hotline helps reduce enterprise pollution emissions.

3.3 Existing Problems

Depth of participation is insufficient: Most people are in a state of "tokenism," with a predominance of back-end complaints and a lack of effective front-end suggestions. Due to weak procedural safeguards, norms have poor operability, channels are unclear, and information disclosure is inadequate. Furthermore, subject capacities are uneven: urban and rural participation willingness differs, the public lacks professional knowledge, and grassroots environmental organizations are weak.

4. Analysis of Influencing Factors on the Effectiveness of Public Participation in Environmental Decision-Making

This study identifies key influencing factors from four dimensions:

As environmental information disclosure and transparency are the foundation of public participation, it must first be recognized that the public can only form meaningful opinions if they have access to sufficient and authentic environmental information. The public's environmental awareness and participation capacity directly affect the quality of participation; the level of education and professional knowledge determines whether the public can express their demands reasonably and effectively.

Since the participation mechanism itself has clear logical dimensions, attention must first be paid to the diversity of participation channels and methods—hearings, questionnaires, symposiums, public interest litigation, etc., each serving its purpose. Secondly, attention must be

paid to the choice of participation stage and timing, proactively ensuring whole-process participation from the front-end to the back-end of decision-making, giving the public opportunities to express opinions at every key juncture.

From the perspective of institutional safeguards, a clear, layered analysis is possible: legal basis and procedural norms are the foundation of participation, so their operability and procedural rationality directly affect whether participation can be realized. The mechanism for opinion feedback and adoption is the hub connecting formal and substantive participation; the Supreme Court ruling also explicitly states that substantive review of core objections is a procedural requirement-no sincere feedback means no effective participation.

From the perspective of the social environment, a clear, layered analysis is possible: The government's attitude and support determine the space for participation, and the openness of the government as the environmental protection leader directly affects policy outcomes. The development level of social organizations influences the professionalization of participation; environmental NGOs can play a bridging role in areas like consultation and litigation. The IPE, through its Blue Map platform, provides tangible technological empowerment for public participation. Therefore, the four dimensions of factors are interconnected and mutually causal.

5. Constructing a Guarantee Mechanism for Public Participation in Environmental Decision-Making

5.1 Legal Guarantee Mechanism

Promote the expansion of public participation from pollution prevention and control to areas of ecological protection and low-carbon development. Draw on the Aarhus Convention to establish the three pillars of environmental information rights, decision participation rights, and judicial remedy rights, requiring "early participation" and "due consideration" of participation results, providing a reference for improving legislation.

5.2 Procedural Guarantee Mechanism

Differentiated participation pathways: Online opinion solicitation during the planning stage, hearings and demonstratings during the EIA

stage, community symposiums for remediation projects. Whole-process participation guarantees: Focus on opinion expression at the front-end, process supervision at the mid-term, and evaluation and remedy at the back-end, ensuring full coverage from the "front-end to mid-term to back-end."

5.3 Capacity Building Mechanism

Enhance public environmental literacy: Strengthen environmental knowledge learning, organize skills training in pollution identification, evidence fixation, etc. Cultivate environmental social organizations: Government procurement of services can support organizational development. The IPE's practice demonstrates that environmental organizations can play a professional bridging role in information disclosure and green transformation of supply chains.

5.4 Supervision and Remedy Mechanism

Improve public interest litigation: Since the system has matured after 2015, discussing environmental public interest litigation filed by environmental organizations and establishing accountability mechanisms-such as audits of outgoing natural resource assets and lifelong accountability for ecological and environmental damage-can be done naturally and appropriately. It is also advisable to improve issues related to notification upon public announcement in judicial review.

6. Conclusion and Prospects

6.1 Research Findings

First, the crisis of participation effectiveness is essentially a legitimacy crisis caused by the absence of "procedural justice." Therefore, the "procedural," "structural," and "paradigm" perspectives can all be naturally and appropriately understood as analyses of the hollowing out of core procedural elements. Second, the three rights pillars established by the Aarhus Convention provide an excellent international reference for China. Furthermore, the practices of organizations like the IPE have clearly demonstrated that technological empowerment facilitates information disclosure and social supervision.

6.2 Policy Recommendations

Legislative level: Integrate substantive,

procedural, and remedial rights, dedicating a specific chapter in the Environmental Code to regulate them. Subsequently, establish a whole-process participation mechanism institutionally and clarify rules for opinion feedback and adoption. Practically, explore both online and offline channels, develop intelligent platforms, and promote incentive mechanisms. Capacity level: Strengthen training and cultivate environmental organizations.

6.3 Research Prospects

Future research can be deepened in three directions: digital governance, environmental justice, and transnational comparisons.

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