

An Analysis of Procedure in Selection of Representatives from Hearings: Take the Price Hearing in Z city as Case

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Abstract

Currently, because the legal approach is limited, an administrative hearing has become the main approach that Chinese citizens may use to participate in and influence public policy. In recent years, thousands of price hearings have been held in China. However, the public generally mistrusts the outcome of the administrative hearing because it differs materially from the results online surveys. The issues focus on how the delegates were determined. The purpose of the paper is to promote the universality and the validity of public participation in decision-making process by analyzing the delegates of the hearing of Z city. The methodology of the paper is qualitative research. The tool of analysis is case study. The data is from documents, interviews and a questionnaire.

Key words: Public policy; Price hearing; Public interest; Delegates of hearing; Awareness among citizens

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INTRODUCTION

Public policy is formulated to deal with or resolve public issues or a public goal. It is established “policy” for “public” and the goal is to serve the public interest. Effective public participation is not only a measure of

orientation to the “public interest”, but also an important indemnity of democratic, scientific public policy. Currently in China, because the opportunity and means of citizens participate directly in public policy is limited, administrative hearings have become the main way to influence public policy.

The system of Administrative Hearing in China has been in place for a long time. In 1996 “the Law of Administrative Punishment” for the first time established the procedures for a hearing before the specific administrative acts. The system of hearing has broken new ground in the areas of administrative punishment in China; (1) In 1998 the “the Law of Price” established the requirement to hold a hearing before the implementation of abstract administrative act, thus demonstrating that the system of China’s administrative hearing came into the abstract field of administrative action; (2) In 2000 “the Law of Legislation” promoted the hearing system into the field of administrative legislation; (3) In July 2004, the “the Law of Administrative Licensing” became another major advance of the hearing system in China. This was the first time that legislation clearly prescribed that administrative agencies must hold a hearing resolve major issues of public interest. These three actions demonstrate that the hearing system has real meaning in China.

Hearings, especially the price hearing, has become the focus of public interest because of its effect on ordinary citizens. Society has proven to be very sensitive to price adjustments. Over the past decade, there were a thousand large or small price hearings in China. However, the public generally mistrusts the outcome of the administrative hearing because it differs materially from the results of online surveys. The contentious issues focus on how the delegates were determined. As is abundantly clear, it is pointless to discuss the results of the hearing if the delegates making the decisions were determined unjustly.

The purpose of this paper is to promote the universality

and validity of public participation in the decision-making process by analyzing the delegates who participated in the 2008 hearings in Z city.

1. THE ROLE OF THE DELEGATES OF THE HEARING

The delegates of the hearing, also called the public hearing person, mainly refers to the people who have been to participate in the procedure of deciding public policy.

The hearing representative system, as an important part of the hearing system, has many important functions. First, the system is a prerequisite to protect the fairness and democracy of public decision-making. The purpose of public policy is to allow stakeholders to participate in the administrative decision-making process, a procedure which changed the traditional one-way mode of operation of administrative power. The public is no longer the just the object of policy implementation, but is instead the Government's "partner". Second, the hearing representative system is an effective means of balancing parties interests through dialogue and consultation. With the development of the market economy, a variety of interest groups have come to coexist in China. In the

process of policy making, it is essential to have extensive dialogue and consultation. Through participation of delegates from all interest groups, public policy will approach a relatively ideal state of balance. Finally, the system will encourage public confidence in our government, save administrative implementation costs and improve administrative efficiency.

2. A CASE STUDY: THE PRICE HEARING IN Z CITY

Beginning on Sep, 2008, two price adjustment hearings were held in Z City: heating and natural gas. My research reveals significant information about the delegates.

2.1 The Statistic of Delegates of Hearing in Z City

2.1.1 The Statistics of Application

The price bureau collected the consumer representatives in public, the application numbers are very low. According to the Table 1, we can see that there were only 56 applications in the gas hearings and 61 applications in the heating hearing, from a population of nearly 10.8 million in Z City, thus the proportion is surprisingly low.

Table 1
Representative Registration

	Registration time	The number of delegates	The total number of applications	Proportion
Hearing of natural gas	16 -22, Oct 2008	13 Consumer 10 Attending	56	41%
Hearing of heating	21-26, Sep 2008	13 Consumer 10 Attending	61	37.7%

2.1.2 The Proportion of Registration

According to the survey, consumer representatives in the hearing is collected from the public who have voluntary registration, government representatives, the NPC, the

CPPCC, the CA and community experts are invited by the Price Bureau, the operator is determined by the department on behalf of Sent directly.

Table 2
Date of Participant

Category	Total	Government	Experts	Consumer	Operators	NPC, CPPCC, CA
Natural gas	23	3	2	13	2	3
Heating	25	3	2	13	4	3
Proportion		13%, 12%	8%	56.5%, 52%	8%; 17%	13%; 12%

2.1.3 Statistics of Occupational of Delegates

Table 3
Statistics of Occupational of Delegates

Category Number Rank	Government, NPC, CPPCC, CA			Operators		Consumer		
	Division	Section	Staff	Manager	Assistant Manager	Cadres	Staff	Other
Number	3	3	2	3	1	7	5	1
Proportion				Cadre status 76%				24%

According to the chart, the delegates of cadre status occupied 75% and general staff members of the public representatives only is 24%.

2.2 The Problem and Causes of in Selection of Delegates from Hearings

2.2.1 The Participation of Public is Very Low

The Hearing actually provide an equal dialogue and rational communication platform for the interests of all groups, especially as consumer groups can better protect their own interests through the hearing. However, from the twice price hearings of Z City, the voluntary participate in a low and lack the necessary enthusiasm. Moreover, the price related to the vital interests of each person, relationship to each family life, the public are so lukewarm response and it isn't difficult to image the case of other hearing.

2.2.2 Participants do not Represent all the Interest Groups

Price hearings are related to people's lives, so the interests of parties should be involved. Therefore, all relevant interest groups should have their own representatives to participate in the price hearing. As can be seen from Table 3, however, the representatives attending the hearing can not cover all interest groups. The ordinary workers is low proportion of the delegates, and the most vulnerable groups such as migrant workers, the unemployed have not their delegates, we can not hear from their Class voice.

2.2.3 Not Open the Identity of Delegate

The main reason is not open the identity of delegates that the results of the hearing were questioned by public. Both of price hearings of Z City didn't open the information to the public, which is the main reason to challenge the results of the public. Because in previous hearings, consumer delegates identity fraud, people often "is representative of" incidents, so the hearing can not get people's trust in nature.

2.2.4 The Criterion for Selecting Consumer Delegates is Fuzzy

In order to achieve the purpose of the hearing, the hearing delegates should have a certain qualifications. First, the hearing delegates must be experienced in decision-making behavior. Second, the hearing delegates must be the spokesman for the relevant interest groups and have the trust of the interest groups. Third, they should be enthusiastic in public welfare undertakings and willingly participate on their own initiative. Finally, they should have some capacity to participate effectively in the policy decision. For instance, hearing delegates should possess the ability to do research, analyze , etc.

2.2.5 The Role of the Price Bureau in Delegate Selection is Improper

Since the price department is the host of the hearing, it must remain neutral and should not participate in the selection of representatives. It was found in the research

that only delegates of the consumers and business operators are generated by voluntary enrollment, while the delegates of NPC, CPPCC and government, including experts, are in fact invited by the price department. It is hard for the public to believe that these delegates views are not influenced by price departments.

What is the reason for this phenomenon? I argue that there are five reasons. First, lack of the system cause that the hearing become a form. Administrative hearing on the provisions of the relevant system is too general, first of all, does not specify in detail on the selection of delegates which is easy led to the danger of abuse of power. Secondly, the delegates of the hearing has not been clearly defined, such a system allows organizers will determine the delegates proportions according to their own thinking and not to ensure the fairness of the results. Again, because of the lack of clear procedures for the hearing the organizers may decide the hearing process at random in practice and control of information. So the public has lost confidence in the result of hearing.

Second, because the results of the hearing has little effect on the final decision, the public lacks the motivation to become involved. With respect to the proposal of a hearing, the National Development and Reform Commission holds that: a variety of views on pricing are just a reference for the government's decision, and mainly to improve the government policy to make it more scientific and reasonable. This demonstrates that a price hearing is only a means to collect public opinion. Although it also approves the majority's conclusion, it is not necessarily associated with decision-making power. This is the most important reason for low participation.

Third, there is the generally accepted concept in public psychology of the "Free Rider". The theory of the "Free rider" was first proposed by the U.S. economist Mancur Olson in his book "The Logic of Collective Action Public Goods and the Theory of Groups" (1965). The basic meaning of the free rider phenomenon is that in some circumstances one may not pay the costs and yet reap the same benefit as do others. Since the adjustment of the price of public goods affects almost every public interest, many people are unwilling to bear the risks and costs (preferring to "free ride"), with the result that the number of people who would like to be involved are very few. If everyone can potentially be a "free rider" and the people who make the effort to push are not properly compensated, the result is that no one is willing to do it.

Forth, the lack of independent and authoritative intermediary organizations. Western countries experience proved that only an independent, detached, authoritative organization conduct the hearing in order to ensure the hearing impartiality and the relevant interest groups will not be manipulated. At present, the pricing hearings didn't held by the independent and authority of organizations, which be doomed that some of the current hearing can not truly speak for the ordinary people.

Fifth, under the influence of traditional behavior patterns in China, most Chinese prefer not to participate in politics. The tradition “officer is distinguished but people is humble” is ingrained in China for two thousand years, and it still exists today. People as “subjects” must obey the order but have no right to challenge government authority. The result is that Chinese people tend to participate in politics as little as possible. In a sense, citizen awareness of the need to participate actively in politics has not really formed in China.

3. CONCLUSIONS

By analyzing the delegates hearing of Zhengzhou, this paper presents the following recommendations based on research.

3.1 Make Public the Information About all of the Delegates and the Selection Process

Through this investigation, we found that applicants for delegates of consumers are solicited through the local newspaper and by television media. The process of production of consumer delegates is therefore basically open. But the big question of why the problem of public distrust of price hearings remains unanswered. My research suggests there are two reasons for this. The first is that the information isn't entirely open. For instance, the age, occupation and post of a delegate is not publicly available information. The second is that government has provided little public information about the hearing. When searching the term “hearing” on the Internet, 143,000 results were returned, but most were criticism of hearings by media and articles about the government's general failure to respond. As we all know, the media has a powerful influence on public opinion. The negative reports about hearings in the media are so numerous that the public has come to believe the truth of the message. Furthermore, it is a case that the identity of delegates was false in some individual districts. When these problems are exposed by the media, public opinion is affected by halo effects, and they come to question the authenticity of the delegates in all hearings. Our government needs to clarify the facts in the media.

In order to obtain the public trust and rebuild the community's confidence in the hearing process, first of all the government should open the selection process and essential information about delegates to the community. This information should include the delegate's name, occupation, and post etc. By making such information open to the public, public doubts can be eliminated. Next, use the media to expand positive publicity and guide public opinion. Media is not only the social supervision of weapons, it is also an important means to foster the image of government and influence public opinion. When it becomes known that a hearing is doubted and criticized by the community, the Government should be adept at using

the media to generate positive publicity, respond to the questions from the public, and guide mainstream media to win the confidence of society.

3.2 Raise the Qualification Requirements for Delegates

The delegates of a hearing are the is spokespersons of their interest groups. At the hearing, his (her) opinion must be the result of survey and study in order to correctly represent the views of his(her)social class. Such a hearing can really represent the results of public opinion and provide the empirical basis for the price decision. However, as we have seen from the actual operation of the hearing, the hearing delegates often have only limited qualifications. Despite the fact that some delegates have great enthusiasm there may be no corresponding ability to participate in the hearing. If the opinion of delegates is only based on their own interests and not the public interest, it is hard to achieve the purpose of this system.

Therefore, improving the eligibility of the delegates is a necessary condition to protect the process and achieve effective results. The government should further perfect the “Hearing Ordinance”, provide clear requirements of delegate qualifications to ensure effective representation and participation of public representatives.

3.3 Give the Results of a Hearing the Force of Law

In China, the hearings are not the only source of decision-making on price adjustment. Government pricing programs generally have to investigate price (costs), listen to the views of cost supervision and examination, expert evaluation, pricing hearings, and collective deliberation to make pricing decisions and resulting announcements. The hearing is just one part of the program and its main function is to solicit the views of consumers, operators and interested parties and to determine the price feasibility. The hearing does not make a decision whether to adjust a price or not nor the amount of the adjustment. It can be seen that the views of a hearing is not binding on deciding the final price. Since the opinion produced by the hearing has no influence, many among the public think it is fully a waste of resources to invest time and energy to participate in it. The result is that hearings will inevitably be ignored by the public. If government wants to restore public trust in the hearing, the hearing must be given legal effect on the price decision. For example if 1/2 or most of the delegates do not agree with raising the price, how should that affect the decisions? If the proposal of delegates are not adopted, the Government should have a certain response to them. Prices can be raised, but clearly and plainly, it must be done so that the public is willing to accept it.

3.4 Foster Awareness among Citizens and Non-Governmental Organizations

“Citizen” is a legal concept and it is also a political

concept. In the political sense, it means that citizens can participate in national public affairs independently, free to exercise their political rights and assume certain political obligations. The obligations of a citizen include both a civic right and an obligation of awareness. A sense of participation is an important part of the right civic consciousness. China has a long history of feudal era and traditional culture is deeply rooted in the consciousness of the people. Although there has been great progress in promoting awareness among citizens, at the level of political psychology, the traditional sense has not been completely removed. Examples of these traditional values include, first, indifference to an awareness of civil rights. They do not know how to exercise their political rights and lack a spirit of active participation in political activity and initiative. Second, the sense of civic responsibility is weak. The maintenance of public interest has not yet taken root in people's hearts. The complexity of modern society makes it difficult to rely on the government to define and safeguard the public interest. It is necessary to stimulate interest among citizens in public life regarding the initiative and civic dynamism. Under the guidance of government they may be led to better understand the public interest through dialogue between them. Our government should encourage citizens to participate in public life, strengthen civic awareness and moral education and foster public spirit among citizens. Only if the public actively participates in civic life will the public interest achieve the greatest degree of expression and democratic decision-making.

3.5 Change the Attitude of Administration Officials

In China, government officials occupy a dominant position in the allocation of resources and policy decisions. "By virtue of a mature professional knowledge, rich policy information and decision-making implementation of the system stability government officials constantly strengthen its role as the core of public governance". This strong attitude will have some negative effects on the process of citizen participation. First, government officials do not believe in the wisdom of the participants so they do not ordinarily provide the public opportunity. Second, in the process, officials will always be in a leading position, causing the antipathy of participants. Additionally, because of the "professional paranoia" of officials, strong participants will be encouraged to give up the right to participate; Finally, the weaker participants will lose the courage to express their proposals. Therefore, a very important problem is that officials approve and encourage

a high degree of citizen participation in public policy. As government officials, they should trust the wisdom and ability of the people, seek to share power with the public and educate and guide orderly public participation in civic responsibilities.

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