
Executive Summary from the Sino-Canadian Symposium on “Public Participation in the Legislative Process”

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Organizers: Research Office of the National People’s Congress of P.R. China
Parliamentary Centre of Canada
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On July 12 and 13, 2004, a symposium was organized in Beijing by the Research Office of the National People’s Congress of the People’s Republic of China and the Parliamentary Centre of Canada as part of the China-Canada Legislative Cooperation Project. The official theme of the symposium was identified as “public participation in the legislative process”. The symposium brought together about 25 experts from both countries. They represented a rich mix of academic, government and parliamentary institutions at the national, provincial and municipal levels, which all had had substantial exposure to public participation, from either theoretical or practical perspectives.

Discussions during the two-day seminar followed four designated streams, which included:

- Overview of public participation in P.R. China and Canada
- Theoretical models and mechanisms/practices for public consultation and citizen engagement
- Case study on public participation in provincial or local policy-making
- Emerging trends and prospects for public participation

Participants from both countries exchanged experiences and views on a wide range of topics related to these streams. Considerable attention focused on public consultation and, in particular, legislative hearings, but broader topics like political culture, rule of law, good governance, representation, accountability and so on also made their way into the discussion. Through the symposium, participants not only gained new perspectives and insights from their counterparts in the other country, but also learned inspiring practices and ideas from their colleagues in the same country. It was the general impression that an open, respectful, and constructive partnership was successfully cultivated among all participants regardless of their nationalities.

Four fundamental questions kept recurring in discussions throughout the symposium:

- What are the benefits of public participation?
- What are potential risks and costs of public participation?
- What are lessons learned from past experience?
- What are future priorities?

The following is a brief summary of key views, perspectives and consensuses arising in the course of discussions related to these questions.

BENEFITS OF PUBLIC PARTICIPATION

Check the power of individual legislators

Many participants were convinced that public participation had the potential of reducing the inherent weaknesses of parliamentary democracy, or what was called delegative democracy. They generally believed that a routinized and transparent process of consultation could enable citizens to oversee the work of elected officials between elections and deter them from abusing or misusing the public power endowed upon them. Public participation was regarded as a trend needed in the transition from parliamentary democracy to participatory democracy.

Promote democracy and efficiency in the legislative process

All participants agreed that public participation would help increase the representation of public interests in the legislative process. It was recognized that when different comments and views were made known to law-drafters, the democracy and rationality of legislation would generally improve. While being cautious about the risk of prolonging and complicating the decision making process, participants generally agreed with the argument that public participation first and foremost informed and empowered the public policy process. Meaningful participation could also lead to easier implementation and acceptance of new laws and policies.

Build connections between citizens and policy process

A recurring concern during the seminar was that declining participation rates in many countries would pose a threat to the sustainability of democracy. It was accepted that the citizens’ political disinterest stemmed from the perception of their weak influence over the policy process. This was considered to be particularly true in the case of youths. Participants agreed that public participation would help to inform, reassure and empower citizens in the policy process.

Protect vulnerable groups and promote political and social equality

Both Chinese and Canadian participants showed great interest in the protection of legitimate rights and interests of vulnerable groups in the legislative process. The promotion of social equality was deemed vital in the transition of the Chinese system to the Rule of Law. It was found that public consultations could and should give vulnerable groups a fair chance to make their grievances and petitions known in the legislative process. It was noted that practitioners of legislative hearings in Beijing, Zhejiang, Guangdong and other provinces already started to make impressive efforts to ensure the representation and involvement of vulnerable groups in the legislative process.

Inform and educate citizens

Canadian experience, particularly the cases of the Citizens’ Assembly of British Columbia and the City of Ottawa, featured extensive public education in the process of public consultation. Similar experiences were confirmed by the representatives of several Chinese provinces. It was argued that public participation would help increase citizens’ respect for the rule of law in general and their awareness of specific laws in particular. It was believed that better public education would eventually increase the chance of laws being widely observed and enforced.

COSTS AND RISKS

Lack of clear procedures and norms

Most Chinese participants, particularly practitioners, desired to create a set of clear guidelines and operating procedures that could regulate all legislative hearings. It was indicated that no guideline was made available at the national level and the few procedures at the local level were almost all created on *ad hoc* basis. There was also no statutory requirement and threshold for the initiation of legislative hearings. Many expressed the concern that the absence of standards and norms would result in inconsistency and incoherence in practices across regions and over time. Some cautioned against the difficulty and risk of creating a single standard for all, given large gaps in local contexts and levels of development across regions. A template of best practices should be prepared and shared by those responsible for legislation hearings.

Financial and human resource costs

Some Chinese participants were concerned about the cost for undertaking certain types of public consultation. For example, their experience indicated that legislative hearings would be too time- and money-consuming to be renewed on a frequent basis. There arose a suggestion that consultation should take less expensive forms, such as roundtable or forum, to reduce the overall cost. Some participants suggested that procedures for legislative hearings be simplified to save costs. A more widely accepted argument was that costs for public consultation should not be viewed as expenses but investments that would eventually bring tangible returns.

Conflict of competing views from the public

Participants were seeking a balanced approach to incorporating competing views emerging in the consultation process. Particularly, they wondered to which extent debates should be encouraged in hearings. Most participants believed that contention between witnesses should not be allowed to escalate to the level when it began to impede the unfettered expression of views. This belief was based on the assumption that the main objective of public consultation is to gather views but not to debate them.

Vested interests in avoiding and resisting critical comments

Some Chinese participants were concerned about the fact that law-drafting departments and staff tended to avoid exposure to critical comments. It was noted that law-drafters were generally reluctant to strike changes or follow up due to extra pressure and cost arising from the additional amount of work. Their interest in getting laws approved with a minimum level of revision might hinder the full integration of opposing public inputs. Canadian delegates suggested that this obstacle would be overcome if citizen engagement took place and legislative process was kept transparent from early stage of the process.

LESSONS LEARNED FROM PAST EXPERIENCE

Values and mindsets should be embedded into practice

There was a consensus that cultural values are fundamental to a political system. It was noted that the design of public consultation should respect and integrate values. Commonalities were drawn between Chinese and Western values, e.g. “trust” in the West and “harmony” in the East, that justified and supported citizen engagement.

Public consultation should take place early

Participants reached a conclusion that public consultation should take place at an earlier stage in the decision-making process. It was generally believed that early exposure to competing views would better inform the policy process, decrease adjustment costs and assure citizens of their influence on the final decisions. There was a general vigilance against the risk for engaging citizens for the sole purpose of justifying decisions already made rather than informing decisions.

Selection of topics: Are legislative hearings good for all topics?

Based on the experience of several Chinese provinces, there was a common recognition that the selection of an appropriate and relevant topic was vital to the success of legislative hearings. However, participants from both countries agreed that not all legislative issues were necessarily appropriate and worthwhile for hearings. Many articulated that those law bills that have major social impacts or public concerns are the best candidates for hearings.

Representation of witnesses (geographical and demographical)

Many participants underscored the importance of ensuring wide representation in the selection of witnesses. It was noted that efforts had been made in both Chinese and Canadian cases to engage citizens from varied backgrounds in the legislative process. For example, citizens from all walks of life and across different communities were invited to speak at hearings held by the Citizens’ Assembly and Zhejiang Provincial People’s Congress. These efforts ensured a balanced and full range of public inputs were reflected in the final decision. The Canadian practice is to allow all who wish to participate in a hearing with the opportunity to be involved.

Public information and education

Both Canadian and Chinese experience showed that citizens could participate meaningfully and willingly only if and when they were educated on the issues to be addressed and their participatory capacity is cultivated. Attempts made by the City of Ottawa and Guangdong Province in this area were exemplified in their presentations. Both cases saw an intensive public education campaign before and during the consultation process.

The role of media

The majority of participants recognized the decisively important role that the media should play in public participation, both in theory and practice. It was articulated that the media increase public awareness and ensure the transparency and accountability of the public participation process. This argument was confirmed by the experience of most participants from both countries. Independent media were portrayed as one of the basic mechanisms and the guardian of the modern democratic system. However, scholars from both countries stressed the importance of keeping the media politically neutral and unbiased and cautioned against the media’s pursuit of sensationalism.

Selection and training of the personnel sitting on hearing committees

The case of the Citizens’ Assembly in B.C. provided a model to improve committee members’ skill to the benefit of the consultation process. In that case, committee members had received extensive training on the subject matter of the consultation long before they assumed their official role. The background of committee members was diversified in each hearing during the process to improve the understanding of issues in other local communities. The approach was deemed vital to bridging the wide gap between their knowledge and skill sets and ensuring their overall competence.

Integrating technology into the process

There was a cross-panel consensus on the value of technology, particularly information technology, as an enabling tool to engage citizens. For example, consultation questionnaires were posted online to solicit public input in both Canada and China. Hearings in many Chinese provinces were web cast and reports publicized on the websites of provincial congresses. In many cases in which electronic instruments were used (e.g. the Canadian parliament’s online consultation on its policy for people for disabilities), a surge was shown in the level of participation. Some participants recommended cautions against over-reliance on electronic tools, noting that it should be used in conjunction with conventional means to ensure broad participation and comply with the same group of principles.

Create a friendly environment for witnesses

A number of participants underlined the importance of creating a friendly environment for hearings. It was noted that witnesses should be encouraged to voice their concerns or views freely if hearings were to achieve meaningful results. It was also advised that hearings be located in community centres or more casual venues so that citizens would not be intimidated.

FUTURE PRIORITIES

Statutory requirement of legislative hearings

It was found that both countries did not have statutory requirement for public consultation, although it was confirmed that in Canada, public consultation had become more of a norm. Most Chinese participants considered it a priority to set up a mandatory requirement for legislative hearings in order that they will no longer be subject to the arbitrary decision of individual officials.

Development of user-friendly rules and procedures

There was also a similar call from Chinese participants, especially provincial representatives, for the development of a set of user-friendly norms and procedures for legislative hearings. It was generally assumed that norms and standards could help improve consistency, coherence and efficiency in the practice of public consultation in different regions.

Develop a feedback and follow-up mechanism

There was a feeling that a feedback mechanism remained absent or weak in most Chinese provinces that had begun to undertake legislative hearings. Reports and records of legislative hearings on a number of occasions were distributed to witnesses and the general public, according to a few Chinese participants. However, inadequate justification was provided for those witnesses whose comments were not adopted by the decision-makers. A future priority, in the view of many, was to build a strong connection between hearings and final legislative outcomes.

Define the roles and responsibilities between government and parliament

Both Canadian and Chinese participants underlined the need to clarify the role of different institutions in the public consultation process. Many believed that both government and parliament had legitimate roles to play in conducting public consultations but the latter by its representative nature should be the main channel to absorb public input into the decision-making

process. While some advocated for clear definition of powers between government and parliament, most agreed that it is more important if both could collaborate in engaging citizens.