

# The Democratic Dilemma in Community Autonomy and its Solution

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## Abstract

Under the background of the information society, public participation in urban community autonomy has increased significantly, but the practical difficulties of grassroots democracy have become increasingly prominent. The current urban community autonomy mainly faces the following democratic dilemmas: the participation rights of floating population are difficult to protect, the boundary between owner autonomy and resident autonomy is unclear, and the democratic supervision mechanism is not perfect. Effective response measures should be taken to ensure the sound operation of grassroots democracy.

## Keywords

Community autonomy, owner autonomy, resident autonomy, one household one vote, one person one vote.

## 1. Introduction

In China, communities are gradually becoming an important unit for the state to promote grassroots governance after the unit system. Community autonomy is the nerve ending of grassroots governance, directly related to the happiness of the people and the stability and order of the country. There are two types of autonomy mechanisms in urban community autonomy: resident autonomy and owner autonomy. The rights and legal basis of these two autonomous mechanisms are different, the path of democratic participation and the rules for counting votes are also different. According to the "Opinions of the Ministry of Civil Affairs on Promoting Community Construction in the Country", the basic principle of urban community construction is to expand democracy and resident autonomy, implement democratic elections, democratic decision-making, democratic management, and democratic supervision in the community, then gradually realize self-management, self-education, self-service and self-supervision of community residents [1]. Community autonomy has been implemented for many years in China, but the modernization of community autonomy lags behind the level of urban economic development. The arrival of the information age has brought new opportunities and challenges to the development of community autonomy. Driven by smart technology, public participation in urban community autonomy has increased significantly, but the practical dilemma of grassroots democracy has also become prominent.

## 2. Democratic Dilemma in Community Autonomy

### 2.1. Participation Rights of Floating Population Difficult to Protect

The "Organization Law of Urban Residents Committees" stipulates that: "The chairman, deputy directors and members of the residents committee shall be elected by all the residents in the area where they live or by representatives of each household." However, the interpretation of

the "local area of residence" is usually based on the local implementation rules for direct elections, and the basis is inconsistent. This has led to different standards for the identification of "residents" in practice. In the work of resident registration, the principle is generally to register at the place of residence. For those who are not registered in the community but have purchased or rented a house in the community for a certain period of time, they can apply for voter registration in their current place of residence after obtaining the voter qualification certificate of the place of household registration, and be included in the list of residents with the consent of the community resident representative meeting. In practice, the level of legal documents on the specific criteria for the identification of "residents" is relatively low, and there are certain differences in the content of the implementation rules of various regions. In addition, the confirmation process for "residents" status needs to be initiated upon application. These factors ultimately leads to many floating populations failure to exercise the right to participate in the community where they live.

## **2.2. Unclear Boundaries between Owner Autonomy and Resident Autonomy**

For a long time, due to low interest relevance, community residents have insufficient endogenous motivation for autonomy. The status of "owner" based on the interests of community property rights is more recognized by community members than the status of "resident". In practice, community workers often hand over the matters undertaken by the residents committee to the owner committee to organize and complete, and the owner autonomy is gradually integrated with the resident autonomy [2]. With the advancement of community construction, the affairs undertaken by the community have greatly increased. As an autonomous organization extending downwards from the residents committee, the owners' committee also undertakes many community public affairs. This method ignores the essential difference between owner autonomy and resident autonomy. First of all, the legal basis for homeowner autonomy and resident autonomy is different. The legal basis for resident autonomy is the "Organization Law of Urban Residents Committee", and the legal basis for owner autonomy is mainly the "Property Law" and "Property Management Regulations." Secondly, the right basis of owner autonomy is different from that of residents. The right basis of resident autonomy is citizenship. In owner autonomy, the basis for the exercise of owner rights is property rights. Finally, the voting calculation method of owner autonomy and resident autonomy is different. The method of counting votes in resident autonomy is "one person one vote" or "one household one vote". In the autonomy of the owners, the owners' assembly exercises its power to follow the rule of "double counting" of area and number of people. In the practice of autonomy, homeowner autonomy extends to the area of resident autonomy, and courtyard autonomy, which extends downwards from resident autonomy, also involves property management. The courtyard committee and the owners committee are not clear about the specific division of community public affairs based on civil rights and community public affairs based on property rights, which has caused confusion in the application of laws and regulations.

## **2.3. Lack of Democratic Supervision Mechanism**

The democratic mechanisms of community autonomy include democratic elections, democratic decision-making, democratic management and democratic supervision. In the current relevant laws and regulations, apart from the relatively complete procedural provisions on democratic elections, there are no clear provisions on the content and methods of democratic decision-making, democratic management, and democratic supervision. The main reason is that the development of the rule of law has been uneven for a long time, the grass-roots rule of law has been marginalized, and laws and regulations are absent and low in rank. Most of the existing content is principled and lacks specific regulations on supervision power. Nowadays, in the construction of urban communities, there are many participants in the community business

circle, including real estate developers, property service providers, community operators, service providers, equipment providers, system integrators, telecom operators, etc. The community must fully integrate the resources provided by these participants to serve the residents. In the integration process, community public affairs involving the common interests of residents should be democratic decision-making, democratic management and democratic supervision by all community residents. However, the current laws and regulations have not established corresponding decision-making, management and supervision mechanisms to ensure the realization of residents' autonomy. The lack of democratic participation and supervision mechanisms has caused community residents to be unable to take part in many community public affairs that should participate in decision-making, management, and supervision. The actual scope of residents' participation is very limited.

### **3. Ways to Solve the Dilemma**

#### **3.1. Ensuring Equal Participation Rights of Community Residents**

The massive flow of urban population will inevitably lead to the separation of people and household registration. One is that the household registration is in the community but the people are not in the community; the other is that people live in the community but the household registration is not in the community. The actual living situation is the only criterion for determining whether a citizen is a resident of a certain community, and it is also the criterion for whether he has the right to participate in community autonomy. With the advent of the digital age, the problem of inconsistent identification standards for residents in practice is expected to be resolved through data sharing. The legislature can make uniform regulations on the period of residence. For example, it is stipulated that citizens who are qualified as voters in the place of residence can be included in the list of residents after they have lived in the area for more than one year. The intelligent management system can automatically count and calculate relevant information, and those who meet the requirements can be automatically included in the list of residents without applying, which can effectively avoid the vacuum zone of resident identification.

In the information age, residents' exercise of autonomy should be based on direct participation. For a long time, in order to reduce the cost of autonomy, communities tend to adopt indirect participation methods such as voting by household representative or voting by representatives of residents' groups to make democratic decisions. For household representative voting, the difference between "one person one vote" and "one household one vote" may cause the "vote" and "value" to be inconsistent. The real risk to the voting of representatives in the resident group election is that the effectiveness of the representatives is greatly reduced, which deviates from the original intention of direct democracy. The intelligent voting system in the information age is sufficient to support residents to directly participate in democratic decision-making, and to ensure "one person one vote" and "one vote one value". At present, some provinces and cities in our country have promoted direct elections in the election of grassroots autonomous organizations, which not only guarantees the effectiveness of democracy, but also reduces the risk of election bribery.

#### **3.2. Clarifying the Difference between Owner Autonomy and Resident Autonomy**

The intersection and integration of resident autonomy and owner autonomy requires clarification of the difference between the two and the scope of application of laws and regulations. First of all, it is necessary to clarify the difference between resident autonomy and owner autonomy, and clarify the differences in the legal basis, rights basis, and method of counting votes. When the owner committee is acting on behalf of the residents committee or

the courtyard committee is acting on behalf of the industry main committee, it can clarify the applicable laws and regulations. Secondly, the specific scope and division criteria of community public affairs based on citizenship rights and community public affairs based on property rights should be clarified. The current legislation does not clearly define the scope of community public affairs. Because communities and residential communities overlap in physical space, autonomous entities can easily confuse the boundaries between community public affairs and community public affairs, and it is difficult to judge how to apply laws and regulations. The efficient and convenient community intelligent service platform of the information society minimizes the dependence of owners on the services of property companies, and courtyard autonomy has become a new force in community governance. However, there is no legal basis for the election and operation of courtyard committees, and "micro-autonomy" needs to be regulated.

### 3.3. Improving the Democratic Supervision Mechanism

Improving the supervision mechanism of community autonomy is the key to ensuring grassroots democracy. Regardless of whether a government organization or a grassroots self-governing organization, its members are first of all human beings rather than gods. "People are mainly self-interested, egoist, and instrumental when they take action; they decide what action to take based on their personal welfare gains." [3] The current system's internal supervision and external supervision of community autonomy are still in principle clauses, which are not feasible. Take the avoidance system as an example. At present, only some local laws and regulations provide for the withdrawal system among residents committee members. For example, the "Hubei Provincial Resident Committee Election Measures" stipulates that residents committee members and their close relatives shall not be members of the supervisory committee. [4] The "Chengdu Community Residents Committee Direct Election Regulations" stipulates that in accordance with the principle of avoidance, if the immediate family members of the community residents' election committee members are nominated as official candidates and decide to participate in the election, their positions shall be terminated automatically. [5] However, there are no legal regulations as to whether the close relatives of residents committee members need to evade when they get involved in community services or work in affiliated companies. In March 2018, the "Supervision Law of the People's Republic of China" included "personnel engaged in management in grassroots mass autonomous organizations" into the scope of supervision. However, the Supervision Law only stipulates that "personnel engaged in management in grassroots mass autonomous organizations" are the objects of supervision of the supervisory organ. The main body, content, procedures and methods of supervision still need to be refined and improved.

## 4. Conclusion

The reconstruction of contemporary grassroots social order must be based on the integration of traditional social order rules and modern social order norms on the one hand, and on the other hand the principle of order must be established on the basis of social autonomy under the framework of the rule of law [6]. The rule of law is the guarantee of community autonomy. Regardless of the advancement and downward extension of community autonomy, or the convergence and integration of owner autonomy and resident autonomy, it should be carried out within the framework of the law. Legislation on community autonomy should directly face the plight of grassroots democracy and provide support for the sound operation of grassroots democracy.

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