

## The Evolution and Reflection of the Concept of Urban Governance

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**Abstract:** The change and status quo of “street politics” in the street enforcement of urban management is a concentrated reflection of the concept of urban governance. Taking street enforcement of urban management as the breakthrough point, it can not only take a glimpse at the change of the concept of urban governance, but also provide reference for the optimization of the concept of urban governance. From multiple ways of law enforcement, joint law enforcement to comprehensive law enforcement, urban governance has shifted from disorder to order; from comprehensive law enforcement to civilized law enforcement and flexible law enforcement, urban governance has shifted from management to good governance. From the street enforcement of urban management’s excessive dependence on institutional rationality of laws to the compatibility of jurisprudence and reason, integrity of order and human rights, the concept of urban governance has changed from “technical governance” to “inclusive governance”, from order and political achievements at its core to people-centered concept. In the exploration concepts, systems and capacity modernization of urban governance, the government has always been on the road.

### 1. Introduction

As a “face-to-face” management and law enforcement activity that contacts with people most directly, the street enforcement of urban management plays an increasingly important role in urban governance. As a front-line soldier in dealing with problems of street vendors and traffickers, the street enforcement of urban management department undertakes the risks of decision-making errors of the “superiors”, struggle from the people at the bottom level and the media’s some unfair reporting. Nevertheless, the influence of the positive response of street enforcement of urban management to social needs is extremely obvious. Street law enforcement plays a great role in ensuring food safety, urban traffic and the safety of people and their property. In recent years, from the labeling of “violent law enforcement” and “abuse of power” in street enforcement of urban management to the objective and rational understanding of urban management street law enforcement and urban integrated management system; from the interests conflict between urban management and street vendors in street law enforcement to the mutual understanding between the two sides; from the multiple ways of law enforcement, joint law enforcement and the comprehensive management system to civilized law enforcement and flexible law enforcement, the transformation of “street politics” in law enforcement of urban management not only reflects the balance between the “jurisprudence” of institutional rationality and the “rationality” of human rights protection of vulnerable groups, but also reflects the transformation of urban management to urban governance, which is accompanied by the change and reshape of the urban governance theory.

### 2. From multiple ways of law enforcement, joint law enforcement to comprehensive law enforcement, urban governance has shifted from disorder to order

In the past law enforcement system of urban management, there were too many law enforcement teams and scattered law enforcement forces. The overlapping scope of law enforcement led to the serious phenomenon of selective enforcement of law and inadequate enforcement of law, resulting in inefficiency and serious disturbance to the people [1]. In order to solve complex problems or complete the “target” of superiors, it is inevitable that the joint enforcement of law should be

carried out. The effect of the joint enforcement of law can come and go quickly, so many problems rebound quickly after the enforcement. However, the joint enforcement of law is not a common law enforcement mechanism. The old problem like scattered law enforcement forces still exists. Therefore, the solve of the rebound of problems cause by law enforcement is still insufficient. It is obvious that joint law enforcement can not solve the main problems. Moreover, the joint enforcement of the law, on the contrary, has led to bureaucracy among law enforcement officials and opportunism among law enforcement objects, which can be described as “failing to steal chickens and lost some rice”. In addition, the responsibility assumed under the joint law enforcement becomes blurred because of the joint law enforcement teams. Individual law enforcement departments are unwilling to take responsibility for the illegal infringement caused by the joint law enforcement activities, and it is difficult to divide the responsibility among the law enforcement departments in reality. The “joint law enforcement team” can not become the main body of responsibility independently. In this case where the main body of responsibility is not clear, relief has become the extravagant hopes of the administrative counterpart [2].

Under this background, the relatively centralized exercise of administrative penalty power under the relatively centralized exercise of urban management law enforcement power has become the direction of reform. It is generally believed that in Article 16 of the 1996 Administrative Punishment Law of the People's Republic of China stipulates it is said that administrative penalty power of different departments can be granted centralized exercise by a single department through legal procedures is the direct legal basis for law enforcement. On the premise of clear legal basis, the comprehensive law enforcement of urban management was gradually expanded by Xuanwu District of Beijing as a pilot project. In 2002, the Decision on Further Promoting the Relatively Centralized Administrative Punishment Power was issued, and the comprehensive law enforcement system of urban management was fully spread throughout the country[3]. The Publish and implement of The promulgation and implementation of the Guiding Opinions on Further Promoting the Reform of Urban Law Enforcement System and Improving Urban Management in 2015 and the Urban Management Law Enforcement Measures in 2017 have pushed the legalization and standardization of urban management law enforcement work to a new height. It should be said that the establishment of the comprehensive law enforcement system of urban management not only reduces the ranks of law enforcement, but also clarifies the power and responsibility of law enforcement and centralizes the law enforcement forces, which optimizes the allocation of law enforcement resources, basically resolves the problems of multiple ways of law enforcement, duplicate law enforcement and the inefficiency of law enforcement caused by interests, and decentralization of law enforcement forces[4]. At the same time, the transfer and centralization of administrative law enforcement power are beneficial to the transferred departments and law enforcement departments. For the transferred departments, the separation of the powers of punishment enables these departments to concentrate on behaving the powers of management, and examination and approval<sup>[24]</sup>; while the comprehensive law enforcement departments of urban management can concentrate on enforcing the powers of punishment and supervision. The separation of these two different types of powers enables these departments to have clear powers and responsibilities and perform their respective duties, thus improving the effectiveness of law enforcement and administrative efficiency, which is also the specific requirement of modern national governance system and capacity of modernization.

Although the reform of comprehensive law enforcement system plays an important role in the process of urban governance, the delicate system design, diffuse normative system, clear law enforcement objectives and standardized law enforcement procedures have not completely solved the problem of traffickers. The violent resistance of vulnerable groups to the law due to their fearless attitude toward the government and the reasonable questions of the masses and the media always existed. Strict adherence to institutional norms is confronted with many conflicts in reality: the conflict between strict law enforcement and respect for human rights, the conflict between ruthless law enforcement and compassion and guilt for vulnerable groups in rational society. This traditional great-powered and compulsory means of law enforcement relies too much on

institutional rationality and embodies the centralization and arbitrariness of traditional urban management. With the further deepening of social transformation and reform, the continuous enhancement of people's subjective consciousness and the continuous development of democracy, service and consultative administration, many flexible law enforcement and civilized law enforcement explorations have been carried out in various places under the continuous questioning of how to make law enforcement both "compliant" and "reasonable".

### **3. From Conflict to Flexible Law Enforcement and Civilized Law Enforcement: Transition from Urban Management to Urban Governance**

Practice has proved that traditional compulsory administrative means and law enforcement activities in dealing with such "urban diseases" as traffickers have not only led to the problem unsolved, but also resulted in the loss of government's credibility because of the "sadness" that touched the sensitive nerve of moral dimension the social public. In the process of exploring, some local comprehensive law enforcement departments gradually adopt a more flexible administrative means which is different from traditional power administration. They try to ensure the basic human rights of vulnerable groups while enforcing the law impartially and achieving the effect of law enforcement. They try to make the "legal compliance" rule of law combine with the "reasonable" social compatibility.

Taking Beijing and Shanghai as examples, the practice of these two places makes the law enforcement activities full of "human emotions", that not only relies on punishment, but also combines education first, punishment afterwards and education with punishment. When facing the new provisions of legal documents or policy on setting up stalls, operating outside stores and other acts, or adding new responsible persons or increasing the obligations of counterparts, the city administrators first enforce the law by reminding them or notify them by law enforcement matters to realize policy propaganda instead of punishment. Of course, urban management personnel will set up files for those responsible for the violation, and punish them if the violation occurs again in the future. In addition to providing guidance before punishment instead of direct punishment, Beijing has also formulated a law enforcement method to replace punishment with education for minor violations, that is, for minor violations such as individual hanging goods, stacking articles on platforms and balconies, spitting everywhere and other behaviors. The city administrators only inform their code of conduct without punishment. On April 13, 2017, the Zhaoxiang Urban Management Squadron of Qingpu District, Shanghai, behavior well in the process of rectifying illegal strawberry stalls. Facing a large number of strawberry vendors who affected traffic order, the officers did not directly rush to ban and punish them "simply and crudely". Instead, they first carried out propaganda and education for each vendor, and then made corresponding punishment according to the specific circumstances of illegal circumstances[5]. As clearly stipulated in Article 5 of the Administrative Compulsory Law in 2012, when choosing the methods, no administrative compulsion is allowed if non-compulsory means can be used for realizing the political purpose. Article 26 of the Regulations on the Administration of Urban Law Enforcement promulgated in 2017 clearly stipulates the ways of admonition, education and guidance. These are the affirmation and encouragement of flexible law enforcement and civilized law enforcement. In addition, in 2017, the State Council promulgated the Measures for the Investigation and Treatment of Unlicensed and Unlicensed Business, which clearly stipulates that there is no need for permission to sell agricultural and by-products, daily commodities or provide labor services in the areas formulated by the government. This is a positive response from the central to the problem of undocumented business of traffickers. It reflects the central government's consideration on both the value pursuit of good urban order and respect and protection of human rights in urban governance.

With the deepening of social transformation and reform, the surface of the flexibility of law enforcement means, diversification of law enforcement methods and democratization of law enforcement methods, flexible law enforcement and civilized law enforcement is the resolution of conflicts between officials and citizens in street law enforcement and the transformation of the relationship between urban management departments and traffickers. Considering deeply, it is the

transition from rigid urban management or control with traditional high power, compulsion and arbitrariness to urban governance and better governance. From urban management to urban governance, from regulation to good governance, it means that the goal of urban governance has shifted from the pursuit of a single order to the emphasis on human rights and people's livelihood. It means that the legitimacy of urban governance has shifted from excessive dependence on institutional rationality to the acquisition of moral rationality in rational society. It means that the concept of urban governance has shifted from “technological governance” to the “Inclusive governance” of humanism, humanity, openness, inclusiveness and fairness.

#### **4. Reflection and Reshaping of Urban Governance Idea: From “Technological Governance” to “Inclusive Governance”**

Taking the Street law enforcement of urban management as the breakthrough point, from the conflict to the interaction between Street law enforcement of urban management and street vendors, from the rigidity and coercion of law enforcement means to the respect for human rights and recognition of diversity, from excessive dependence on institutional rationality to the emphasis on human rights governance and human rights response, practice has proved that the change and reconstruction of urban governance concepts are consistent with the needs of the modernization of national governance system and capacity. The government has been on the way from “technology governance” to “inclusive governance”.

1) Urban governance should adhere to people-centered. Urban governance should adhere to people-centered. The core of the city is people, and the evaluation criteria of urban governance and service work are people's satisfaction[6]. Although good urban order and clean environment are necessary conditions for the production and life of the public, urban construction and operation are not for order, because talent is the ultimate goal, and the guarantee for the right of subsistence and development of the urban middle and lower classes is the bottom requirement of the Constitution to respect and protect human rights [7]. From the point of view of dealing with traffickers, there should be no contradiction between maintaining urban order, dealing with traffickers and guaranteeing the basic human rights of the lucrative people. The existence of “street shops” not only subsist the basis for guaranteeing the traffickers' right, but also provide convenience for the production and life of urban residents. Therefore, the ultimate goal of dealing with traffickers should achieve a win-win situation rather than the sacrifice of one side for the interests of the other. Of course, abandoning the value orientation of putting urban order in the first place does not mean ignoring urban order. Instead, we should try our best to find harmless junctions between urban order and the subsistence right of the vulnerable people, actively create and use multiple management means and methods under the framework of administration according to law, and ultimately achieve a win-win situation between the two sides[8].

Accordingly, in urban governance, we should abandon the concept of “face” for the sake of the city, and rub the goal of urban order and the realization of human rights protection together. The urban order, which only relies on violence to drive out traffickers and hurting basic human rights such as the dignity of those vulnerable groups, has sacrificed the values like fair and just required behind the value of order, although it has the “face”. Moreover, in the process of maintaining urban order and governing urban humanistic environment, formalistic administrative decision, “false” assessment indicators and law enforcement requirements that violate the urban development not only ignored people's basic human rights, but also insult in the bad figure of urban management departments, which are liable to cause conflicts and create contradictions. At the same time, frequent conflicts also lead to impatience and desperation of government decision-making, enforcement of the law requires in the pursuit of order, thus forming a vicious circle [9]. Therefore, in the whole process of urban planning, construction and governance, in order to achieve scientific and refined aspects and avoid the pursuit of “face” or political achievements for quick success and instant benefit, respect and protection of human rights should be the core pursuit of urban governance, while giving consideration to urban order. The construction and maintenance of the environment should achieve a balance between order and human rights.

2) Respect the People's Subjective Position in Urban Governance. Urban governance should all adhere to reliance on the people, strengthen “common governance”, and respect the people's dominant position in urban governance[10]. Cities are not only the cities of administrative organs or law enforcement departments, but also the cities of all the public, including the above-mentioned organs with governing duties and responsibilities. The pursuit of good urban order and environment, the shaping of urban environment to guarantee the public's right to subsistence and development and to promote social well-being are not only the duties of administrative organs, but also the rights and duties of the public. Paragraph 2, Article 3, of the Constitution of China has stipulated that citizen's participation in urban governance activities of social affairs is the proper obligation. In urban governance, only by giving full play to the role of multi-subject rather than single subject, avoiding the contradiction and conflict between the public and the administrative organs that should be the governing community, actively safeguarding the rights and responsibilities of the public entrusted by the Constitution and the law to participate in social affairs, and guaranteeing the public's right to participate in urban governance, the right to know and the right to supervise can cities realized harmonious unification of legal and social effects of governance. It is also an inevitable requirement of promoting[11] social governance, realizing cooperative administration and promoting administrative democratization. For example, the urban management department of Haidian District in Beijing cooperates with the neighborhood committees in providing vegetable farmers with assistance and support such as business premises and “guide cards” (similar to licenses) to sell vegetables in the community, thus realizing the active cooperation and co-governance between the administrative organs and junior autonomous organizations and other social organizations in urban management. In addition, China's traffic coordinator system is actually the practice of the concept of co-governance, but due to many personal reasons such as the way of law enforcement, quality of traffic coordinators, and social reasons such as the public and the government's first thought of antagonism to a certain extent, people generally doubt the legitimacy of traffic coordinators and the management effect of urban traffic order. In fact, in a country or region with better urban governance, it is worth learning from the practice of encouraging and regulating the public to participate in the process of urban governance by volunteers or other means. For example, in Japan and Hong Kong, a large number of urban management affairs involving the production and life of the public, such as the maintenance of traffic order, the guarantee of community security, the tracing and suppression of illegal acts, etc. are all completed by a large number of volunteers or in cooperation with relevant departments. [12]

3) Urban Governance should Adhere to “Inclusive Governance”. Focusing on the problem of traffickers in urban governance again, on the basis of respecting human rights, recognizing differences and emphasizing rationality, urban managers should adopt a more open, inclusive and shared attitude. Sometimes they rely too much on the “cold” system and only pay attention to “compliance” while ignoring the “reasonable” concept is actually “technology governance”. It has a wide range of domestic and international practice basis to continue to realize the change of the concept of urban governance from “technology governance” to “inclusive governance”, and has achieved great results, such as flea market in Notting Hill, Brazilian vendor festival in the United States, flower market in Xinzhu, agricultural products stalls in Haidian District of Beijing, convenience stalls in some districts of Shanghai, and so on. It is worth learning from the practice of New York, that is, the government set up the “Street Market Coordination and Management Office” to establish nearly 400 street fairs in five districts by providing maintenance, supporting and assisting material resources, establishing and improving access mechanism, and supervising and inspecting daily operations, so that travellers are transformed into fixed stalls whose business behavior is encouraged, helped and standardized. The effect is very good. [13] The essence of “New York Experience” is the change of government's urban governance concept from “ban” to “lead”. That is to say, the idea of eliminating traffickers by intercepting, punishment and containment has been transformed into the idea of giving more consideration to traffickers' right to survival and development, that is, guiding and assisting traffickers in an institutionalized, legalized and humanized way. Standardizing the business behavior of traffickers has realized the effects of

maintaining the good order of the city, guaranteeing the rights of traffickers and traffickers, and enriching the catering and recreational life of urban residents. The practices in many parts of China are also worth learning, such as Shanghai and Beijing. Shanghai plans to build some convenience stalls in some districts, allowing vendors to operate business at fixed locations and at fixed times, thus providing opportunities for travelling traders to support their families without affecting traffic order, as well as providing diversified services for the citizens.

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