

Investigation on Filing of Regulatory Documents in China

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Received 23 March 2019; accepted 18 June 2019

Published online 26 August 2019

Abstract

The purpose of filing regulatory documents is to enable the filing review authority to grasp the development of the regulatory documents and facilitate their review and supervision. The constraint mechanism of the filing system lacks coerciveness and binding force, and it is difficult to “file every document”. Establishing a filing validation system can strengthen the filing review and constraint mechanism and promote the function of the filing review system.

Key words: Regulatory documents; Filing review; Constraint mechanism; Effective filing

Wang, S. M. (2019). Investigation on Filing of Regulatory Documents in China. *Canadian Social Science*, 15(8), 74-80. Available from: <http://www.cscanada.net/index.php/css/article/view/11243> DOI: <http://dx.doi.org/10.3968/11243>

1. RAISE THE QUESTION: THE QUESTION RAISED BY THE STANDING COMMITTEE OF THE NATIONAL PEOPLE’S CONGRESS

The report of the work review of the Standing Committee of the Chongqing Municipal People’s Congress in 2016 shows that in order to strengthen the filing of regulatory documents, the Standing Committee of the Chongqing Municipal People’s Congress regularly consulted the public information network and checked the development

of regulatory documents with the formulation authorities and found that filing was omitted. A total of 15 reminders through phone calls, door-to-door connections, etc. were made throughout the year. The practical situation of filing regulatory documents makes people wonder: Why does the National People’s Congress (NPC) Standing Committee ask the authorities to file these documents? What is the meaning of the filing? What to do If the organ is still not filing after the reminder? This article attempts to answer these questions by exploring the Chinese filing system.

2. HOW TO “FILE EVERY DOCUMENT”: AN INVESTIGATION OF THE CONSTRAINT MECHANISM ON FILING SYSTEM

2.1 Regulatory Document Filing Review System and Its Status

A regulatory document refers to a general document that is formulated by a national agency and involves repeated applications of civil rights obligations. It is a “law” in a broad sense, including legislative regulatory documents and non-legislative regulatory documents. “Filing” refers to the system regulation in which the main subject of regulatory documents has adopted or approved to report to the NPC Standing Committee for registration and archiving for review. A regulatory document is a concept that has different meanings under different scopes. The regulatory document referred in this article is formulated by the national organs under the NPC and is subject to the regulatory documents supervised by the NPC Standing Committee.

In 1979, *People’s Congress of the People’s Republic of China and the Local People’s Government Organization Law* (hereinafter referred to as the “Local Organization

Law”) explicitly required the “filing” of the regulatory documents at the legal level for the first time. The Chinese filing system began with the emergence of local legislative power and the grown out of a unified and hierarchical legislative system and the increase amount of regulatory documents.¹ The filing system is not a product of theoretical maturity. It is a simple and conservative means of supervision adopted by China to maintain the actual needs of legal system unification in the context of China’s reform and opening up and the introduction of regulatory documents. Judging from the emergence and development of the filing review system, China has first reviewed the regulatory documents and then filed them (Liu and Qian, 2017, p.46). “Filing and review are two independent procedures that do not have an inevitable connection.” “Only because of the practice of reviewing as a follow-up procedure in our country’s practice does the title of the filing review system have emerged.” (Chen, 2012, p.108) Both filing and review belong to the supervision power of NPC Standing Committee over regulatory documents. “The focus is on review, not on filing.” (Kong, 2013, p.11) The purpose of filing is to inform the filing subject and facilitate its review.

China’s review of regulatory documents includes government filing review, administrative review, judicial review, and NPC Standing Committee filing review. China currently implements the NPC system. The organs for the people to exercise national power are the NPC and local PCs.² Under the system of the PCs, the national administrative organs, judicial organs, inspecting organs, and supervisory organs are elected by the PCs and are responsible for the supervision of filing. “A country’s supervision mechanism for legislative acts and other regulatory documents is determined by the constitutional system of the country.” The representative office supremely decided that China is the legislative supervision centered on the NPC Standing Committee (Wang, 2008, p.17). Compared with other review subjects, the NPC Standing Committee is the most authoritative and the subject of review is more comprehensive. The NPC Standing Committee’s filing and review system is a constitutional supervision system. Its system function is to maintain the unity of the legal system and protect the legitimate rights and interests of citizens.

2.2 Investigation of the Filing Constraint Mechanism

¹ (2011). *Theory and practice of regulatory document filing and review system* (pp. 1-4). China Democracy and Legal Publishing House.

² During the period when the NPC is not in session, the NPC Standing Committee exercises the power of the PC. Since the NPC is generally held once a year, and the duration of the meeting is short, there are many major issues that need to be discussed and decided. Therefore, the supervision of the regulatory documents of the state organs by the PCs is reviewed and supervised by the NPC Standing Committee.

The Fourth Plenary Session of the 18th Central Committee of the Communist Party of China requested that all regulatory documents be included in the scope of filing for review. Then, in July 2015, the *Opinions on Establishing Linkage and Examination Mechanisms for the Establishment of Legislative, Regulations, and Regulatory Documents*, issued by the General Office of the Central Committee of the Communist Party of China, pointed out that “every document needs to be filed, every filing needs to be reviewed, and every mistake must be corrected.” The 19th Report of the Communist Party of China emphasized “promoting constitutional review work” and “promoting scientific legislation, democratic legislation, and legal legislation”, which put forward higher requirements for filing review. It can be seen that the Central Committee of the Communist Party of China has a very strict review of the filing of documents. Filing provided the basic conditions for review, and it is an important part of the implementation of this constitutional system. Therefore, how to achieve “filing every document” is the first problem that needs to be solved to improve the filing and review work. What are the constraint mechanisms for the filing system of the NPC Standing Committee? This will be examined below.³

2.2.1 Legal Liability If not Filing as Required

The Legislative Law of the People’s Republic of China (hereinafter referred to as the “Legislative Law”) and *Supervisory Law of the NPC Standing Committee of the People’s Republic of China* (hereinafter referred to as the “Supervision Law”) stipulate administrative regulations, local regulations, autonomous and single regulations, regulations, and judicial interpretation of the agency’s filing obligations. However, there is no legal liability for not filing as required. Article 29 of the *Supervision Law* authorizes the NPC Standing Committees of provinces, autonomous regions and municipalities directly under the Central Government to examine and revoke the inappropriateness of the PCs at the lower levels and the PC Standing Committees at or above the county level. The resolutions, decisions, and procedures for inappropriate decisions and orders issued by the government at the same level are specified. Although this regulation does not clearly stipulate the filing of regulatory documents, local PCs have formulated relevant local laws and regulations to stipulate the legal responsibility for not filing or not filing as required. These local regulations have the following stipulations on the legal responsibility for filing: First, there is no legal liability for not filing. Second, only

³ At present, most of the PCs in prefecture-level cities and above have formulated relevant regulations for the filing of regulatory documents. Due to the ability of data collection and the feasibility of research, this article is based on filing and review of the Chinese Constitution, Chinese Laws, and local legislations of 31 provinces, municipalities and autonomous regions except Hong Kong, Macao and Taiwan.

the legal responsibility of the filing authority is specified. The legal responsibilities for the reporting agencies are mainly “notification”, “correction within a time limit”, and “special report to the NPC Standing Committee”. For example, Article 20 of *Regulations on the Filing of the Regulatory Documents of the NPC Standing Committee of Yunnan Province* stipulates that if the regulatory document-making authority fails to submit the regulatory documents as required or the filing materials submitted are incomplete, the agency shall inform it to submit within a deadline or to submit a supplementary report. If it is not submitted within the time limit, the registration shall not be submitted and it shall be notified by the General Office (room) of the Standing Committee for a correction with a deadline. For another example, Article 19 of *Tianjin is the PC Standing Committee and the Standing Committee of the District People’s Congress and the Standing Committee of the County People’s Congress* stipulates that if the organ is not submitted for filing in accordance with the provisions of these measures for the examination and supervision of regulatory documents, , the organization that undertakes the review work shall notice the organs to submit the application within a time limit. If they fail to do so, the director’s meeting may request the formulation authority to submit a special report to the NPC Standing Committee. Third, it not only stipulates the legal responsibility of the filing agency but also stipulates the personal responsibility of the corresponding staff of the filing agency. There are two different specific situations in which local laws and regulations that stipulate the legal responsibility of the filing agency and stipulate personal responsibility. The first type, in the implementation method of the *Supervision Law*⁴, generally stipulates that the supervised organs and individuals including the filing authority should bear the responsibility, but there is no specific liability for failing, delay or incomplete filings. It is not very practical. For example, according to Articles 52 and 53 of *Hainan Province’s Measures for the Implementation of the Supervision Law of the Standing Committee of the People’s Congresses of the People’s Republic of China*, there is no way to determine the responsibility for failures of filing the under different situations. In the second case, the legal liability for filing is specified in the filing review regulations. Investigating these local laws and regulations, we can see that although they stipulate the legal responsibilities of the organs and individuals in accordance with the requirements in the legislation, but the provisions on personal responsibility are mainly “oral criticism” or “proposal for establishment agencies to give administrative sanctions.” For example,

if the 18th regulatory document-making authority fails to comply with the requirements of these regulations, the late-time filing or the incomplete filing shall submit the regulatory documents for filing. For the submitted documents do not meet the requirements, the filing review agency shall notify the organs to submit within the time limit. If it is not submitted within the time limit, the filing and reviewing organization shall submit a resolution proposal. The meeting of the directors of the Standing Committee decides to instruct the enacting organs to make explanations and correct them within a time limit, and to criticize and educate the relevant responsible personnel; if they refuse to submit regulatory documents that should be filed, the filing review agency shall submit a resolution proposal, and the decision shall be made during the Standing Committee meeting to order the organizing agency for corrections and a written inspection within a time limit. At the same time, it is recommended that the organizing authority should impose disciplinary action on the relevant responsible personnel.

2.2.2 Making Catalog for Reporting Regulatory Documents

In order to fully understand the reporting and filing situation of regulatory documents, the Standing Committee of 26 provinces, autonomous regions, and municipalities directly under the Central Government of Beijing, Tianjin, Hebei, and Shanxi have requested the reporting authority to regularly report the catalogue of regulatory documents formulated in the previous year. For example, Article 5 of the *Regulations on the Filing of Regulatory Documents for the Standing Committee of the Jiangsu Provincial Higher People’s Congress* stipulates that each reporting agency shall submit the catalogue of regulatory documents formulated in the previous year for reference before January 31 of the current year. *Measures for the Examination and Supervision of Regulatory Documents by the Tianjin Municipal People’s Congress and the Standing Committee of the District People’s Congress* stipulates that the organizing authority shall submit the catalogue of regulatory documents formulated in the previous year to the record for filing before the end of March each year.

3. DIFFICULTY ON “FILING EVERY REGULATORY DOCUMENT” : INSUFFICIENT CONSTRAINT FORCES

Through the previous investigation, there are two kinds of constraint mechanisms for filing. First is the legal liability, and the second is to require the filing authority to submit a catalogue of regulatory documents. In the available legal liability provisions, on the one hand, the regulations are very general, the operability is relatively poor, and it is very easy for it to become a formality because of the operational difficulties. On the other hand, the enforcement

⁴ Based on the authorization of Article 29 of the Supervision Law, some Provincial People’s Congress Standing Committees have formulated the implementation methods of the Supervision Law to stipulate the filing review procedures, while others have formulated special filing review regulations.

is not insufficient. Criticism or correction orders have no constraints on the filing authority, and the filing agency usually “recommends” criticisms or administrative sanctions on individuals who are responsible by the setting authority, which is not serious or practically restraining. The filing authority requires that the catalogue of regulatory documents be reported, which seems to be conducive to comprehensively grasping the formulation of regulatory documents, prompting the enacting organs to report in time. But it does not necessarily produce the necessary constraint force, which depends largely on the formulation of the consciousness. As mentioned above, the Standing Committee of the Chongqing Municipal People’s Congress has made it necessary to inquire about the development of the regulatory documents through the public information network in order to strengthen the filing work. Therefore, it can be said that if the organizing agency does not cooperate, it is actually difficult for the filing organ to grasp the formulation of the regulatory documents.

From the point of view of practice, there are indeed some cases of incomplete and late reporting. For example, since the establishment of municipality in Chongqing, from the end of 2015, 38 districts and counties have missed 202 regulatory documents;⁵ reports of the People’s Congress of Fujian Province has been found to be partially missing;⁶ in 2016, the filing rate of local regulations submitted to the Shanghai Municipal People’s Congress Standing Committee was 50%.⁷ From the filing information published on some official websites, it can be found that the filing time of some regulatory documents has far exceeded the due dates.

In summary, the filing mechanism is not mandatory and lacks of constraint, both in terms of textual provisions and filing practices.

4. CONSTRAINT COUNTERMEASURES ON FILING: ESTABLISHING A SYSTEM FOR FILING EFFECTIVENESS

In view of the above-mentioned mandatory shortage of the filing and constraint mechanism, the author believes that an effective filing system should be established to enhance the filing and constraint force.

⁵ See the report of the Review Committee of the Chongqing Municipal People’s Congress Standing Committee on the review of the 2016 regulatory documents, Chongqing NPC: Available from: <http://www.ccpc.cq.cn/home/index/more/id/209603.html> Last visit time: August 19, 2018.

⁶ Report on the Review of the Regulatory Documents for the 2014 Annual Review. Available from: <http://www.fjrd.gov.cn/ct/68-93646>, last visit date August 19, 2018.

⁷ Municipal People’s Congress Standing Committee Legal Work Committee, Report on the Review of the Registration of Regulatory Documents in 2016, Shanghai National People’s Congress. Available from: <http://www.spcc.sh.cn/n1939/n1944/n1946/n2029/u1ai145666.html>; 2017/4/ 21; Last visit date August 19, 2018.

4.1 The Filing System and Its Constraints

4.1.1 Effective Filing system

The effective filing system refers to the system in which the reporting authority of the regulatory document passes the filing review information platform and submits it to the examining authority in accordance with the unified format before it can take effect. The filing referred to here is electronic filing. As mentioned above, the current filing is usually through submission of a paper-based filing material to the filing authority within a certain period of time after the publication of the regulatory document. At the same time, it is electronically reported on the filing review platform. After the formal examination by the filing authority, the regulatory documents that meet the requirements shall be archived and registered.

For convenience, this article refers to the existing filing method as the traditional filing method. The traditional filing method focuses on backup, making it easier for the filing agency to grasp the development of the regulatory documents and provide material preparation for possible review. The traditional filing method does not affect the effectiveness of the regulatory documents. Compared with the traditional filing method, the effective filing requires the regulatory to be filed in order to become effective. If the traditional filing review only has the nature of legislative supervision, then the filing of the effective filing system is also a legislative procedure. The effective filing has the properties of being both a legislative procedure and a legislative supervision. Compared with the approval review system, the filing system is only a requirement as formality, and the substantive examination is not advanced. As a procedural requirement, the time for a regulatory document to be implemented still depends on the regulatory the authority, it will not cause any adverse effects even if it is an administrative regulatory document that emphasizes efficiency. Since the electronic filing is reported in a fixed format, it is more standardized and stable, and no paper report was required. Therefore, compared with the traditional filing method, it can improve efficiency and save social resources.

4.1.2 Advantages on Filing Constraint of the Effective Filing System

Under the traditional filing method, the filing authority is not clear about the number of regulatory documents have been enacted by the organizing authority and the number of regulatory documents that should be filed but not. If the reporting agency does not submit the filing, unless the regulatory documents violate the lawful rights and interests of the citizens, or because the conflicts between the regulatory documents lead to conflicts between the organs, the media disclosure or the citizens propose to review, the filing authority is difficult to find regulatory documents that should be reported but not. Even the filing rate announced by the NPC Standing

Committee at all levels is based only on the number of regulatory documents that should be filed. Because in addition to the aforementioned methods, the filing agency can only learn about the development of regulatory documents through the official website of the agency. The regulatory documents that the filing authority can learn through the official website are publicly-recognized documents in a certain sense, but for the regulatory documents that are not completely open to the public or are not disclosed on the official website but are actually implemented, the authorities have no way of knowing. The organizing agency does not actively disclose the regulatory documents on the official website. Even if it is public to a certain extent, even if the filing authority is able to find these regulatory documents that are not actively disclosed, the difficulty and workload are very large. For example, when the Standing Committee of the Chongqing Municipal People's Congress inquired about the disclosure of regulatory documents, it was found that the online publication rate of the regulatory documents of the District People's Congress Standing Committee was only 34%. Moreover, in case of failure to report on time, the Standing Committee of the Chongqing Municipal People's Congress arranges regular personnel to regularly inquire about the municipal government's public information network regulatory document database and the municipal government bulletin, the Chongqing court public service network, and the district and county People's Congress Standing Committee website.⁸ In fact, even so, it is difficult to fully discover and master the number of regulatory documents that have not been filed. After implementing the effective filing system, the administrative organ may not make an administrative act without a filed regulatory document. Otherwise, the administrative act shall be invalid. The administrative counterpart shall file an administrative lawsuit according to law, and the administrative organ shall bear the consequences of losing the case. The lack of responsibilities or the liability provisions of the traditional filing registration are almost incapable of putting any constraints on individuals. "Where there is no coercive force, there is no law."⁹ The fulfillment of the filing obligation depends on a kind of consciousness. After the establishment of the effective filing system, the administrative actions are invalid, and the executive authorities face tangible responsibility so that the regulatory document-making organs must file the documents and eliminate the "freedom" in filing regulatory documents.

In conclusion, the traditional filing system has no

mandatory constraining force. Approving the review system requires a large amount of review of resources and cannot meet the needs of administrative efficiency. The effective filing system can restrict the regulatory document-making organs in the true sense without adding too much review work. Therefore, it is necessary to establish an effective filing system.

4.2 Feasibility of Establishing the Effective Filing System

After the establishment of the effective filing system, since the regulatory documents must be filed in order to become effective, the formulation organs must be more cautious in the process of formulating the issuance of regulatory documents, and some regulatory documents that are clearly overpower and illegal can be effectively contained. However, on the other hand, since all the regulatory documents that should be filed completely enter the supervision and vision of the filing review authority; and through the modern network and information technology, the filing and review information platform collects the records, the information base, and the information disclosure function of the filing.¹⁰ The citizens can access the information on the regulatory documents conveniently and in a timely fashion. Once the regulatory documents are found to be infringing upon their legitimate rights and interests, the filing and review information platform can promptly submit review proposals to protect their legitimate rights and interests. Therefore, at the same time as establishing an effective filing system, it is necessary to strengthen the capacity for filing review and improve the feasibility of the effective filing system.

4.2.1 Strengthening the Capacity of the Filing Review Institutions

The NPC Standing Committee's review of institutional capacity building faces two problems: First, the capacity of the filing review institutions is insufficient. Second, some local filing agencies are separated from the review institutions, which increases the workload and difficulty of communication and coordination. As of the end of 2017, at the local level, the NPC Standing Committee of 31 provinces, autonomous regions, and municipalities directly under the Central Government has set up a special filing review agency with full-time staff, but only 160 of the 317 prefecture-level cities and autonomous prefectures have established specialized agencies and 140 of them are equipped with full-time staff. At the county level, the proportion of places with specialized agencies and full-time staff is less than 10% (Xin, 2019). Although many provinces have set up special record-reviewing

⁸ Chongqing Municipal People's Congress Standing Committee Record Review Working Committee, Report on the Review of the 2017 Annual Regulatory Document Filing Review, <http://www.ccpc.cq.cn/home/index/more/id/211472.html>. August 3, 2019

⁹ (1953). *Philosophy of Law* (T. Martin, Trans., p.305). Washington.

¹⁰ The filing review information platform can collect all the regulatory document information, and citizens can conveniently access relevant information and submit review suggestions through the filing review information platform. This will be discussed in detail later.

agencies, they only have 2-5 people as staff. For example, there are 2 people in Sichuan Province, 3 people in Jilin, Heilongjiang, and Guangxi, and 5 people in Gansu Province. Even so, some provinces' filing review agencies are short of staff and have other work responsibilities (Wang, 2018, p.134). With lack of staff and too much work responsibilities, and the lack of capacity of the filing review institutions restrict the in-depth development of the review work and reduce the social effects of the review work. The separation of the filing and review institutions has increased the workload and difficulty of filing for review. As mentioned above, the NPC Standing Committee and the Standing Committee of some provincial People's Congresses are not consistent with the review institutions. This increases the workload of the filing agency and the review agency, and also the difficulty of communication and coordination between the filing agency and the review agency, the filing agency and the review request and the review proposer, as well as the review agency and the review request and the review proposer. The filing review is a legal and professional job, and it is difficult for a specific review institution to assume the review duties. (Wu, 2015) In order to ensure the implementation of this work from the organization, it is necessary for the Standing Committee of the People's Congress at all levels to set up a special filing review agency to be responsible for filing registration, receiving review requests and reviewing suggestions, and giving feedback to the presenters, and to conduct preliminary review of the regulation documents. The establishment of a unified filing review agency can reduce the workload of the internal auditing and reviewing institutions of the NPC Standing Committee. On the other hand, it can reduce the difficulty of communication and coordination and the information needed for communication and improve the efficiency of filing and reviewing. In response to the problems mentioned above, it is necessary to establish a special filing review agency to integrate the filing review work and improve the efficiency and social effects of the filing review work.

Under the premise of strengthening the construction of the filing-review institution, the professionalization of the filing reporting team should be promoted. The number of regulatory documents is large and the content is wide-ranging. There is a higher requirement for the legal literacy and review ability of the filing review staff and the training on staff must be enhanced to build the high-quality filing reviewers and enhance the ability of the record review institutions through the capacity building of the filing review institutions.

4.2.2 Accelerate the Construction of the Filing Review Information Platform

With the help of modern network and information technology, "establishing a filing review information platform and promoting the digitization and

intellectualization of the filing review work will greatly enhance the work capacity of the filing review authority." (Feng, 2018, p.112)

Using the filing review information platform can let us not only achieve remote filing and save the resources, but also use "big data" and cloud computing to conduct "textual verification" and "contrast comparison" to conduct formality review of formal significance and improve the effectiveness of examination. With the usage of information technology, it is also possible to conduct network control on the time of filing review, unify the review format standards in various places, and achieve data sharing (Feng, 2018). Thus, the *National People's Congress Standing Committee 2018 Legislative Work Plan* proposed: "Accelerate the construction of a national unified filing review information platform, consolidate the work function of the information platform, and promote local people's congresses to extend the information platform to all legislative subjects." And as of August 2018, most of the 31 provinces, autonomous regions, and municipalities have established provincial-level filing review information platforms, most of which have been put into use, and have achieved the "four unifications" on standards, networks, content, and data proposed by the NPC. In the future, we should gradually form a filing review information system that covers provinces, cities, and counties, and improve the ability and effectiveness of scientific and technological capabilities.

4.2.3 Establish a Database on Filing Review Experts

As mentioned above, the number of regulatory documents is large and involves a wide range of issues. The required legal literacy and professional competence of the filing reviewers are relatively high. In addition, the *Legislation Law* revised in 2015 expanded the main subject of local legislative power, and 235 cities with districts have gradually become the subject of new legislation. Among them, the legislative staff of some new local legislative body have limited theoretical conservation, and the knowledge reserve and local legislative experience are insufficient (Qin, 2018). The establishment of a database of filing review experts and the participation of experts in the filing review can not only make up for the lack of filing review capability, but also improve the scientific and persuasiveness of the review and enhance the authority of the review. Some local People's Congress Standing Committees have taken the lead in setting up a filing review expert pool (group). For example, in 2015, Jiangsu Province established a filing review expert group, which is one of the provinces that established the filing review expert group earlier in the country, engaging the filing and review consulting experts from the legal system practice department and the law teaching and research unit. The filing review expert advisory group is the follow-up agency for the record review. The consulting staff is consulted and invited by the legal committee

to participate in the review and argumentation of the regulatory documents, broadening the horizons of the review work. In 2017, the Legal Work Committee of the Shanghai Standing Committee organized representatives and experts to participate in the filing review work according to the contents of the review documents. They explored the expert representatives who choose professional counterparts from the representatives and formed a representative force for expert filing review. This “open-door” review method improved the quality and level of the filing review work¹¹. The Standing Committee of the local People’s Congress has accumulated certain experience in the construction of the filing review experts and the participation of experts in the filing review. When conducting national unified legislation, it may be stipulated to establish a database of filing review experts within the jurisdiction of the province. We should set up a think tank of filing review experts composed of legal experts, lawyers, and industry experts. In the actual operation, one can refer to the method of drawing bidding evaluation experts to select experts from the professional conditions and direction to randomly select experts to participate in the filing review. Since the experts are randomly selected and have no interest in linking with the legislative subject, the establishment of a filing review expert think tank can provide strong intellectual support for the filing review and at the same time effectively prevent local protectionism in the formulation of regulatory documents.

4.2.4 Play the Role of the Court’s Auxiliary Review (Feng, 2018, p.111)

Compared with the filing review authority, the court has the information resource advantage and professional advantage in discovering the illegality and inconsistency of the regulatory documents in the process of applying the law to hear cases. Therefore, the auxiliary review function of the people’s courts should be fully exerted (p.111). The number of regulatory documents is large. Whether it is from the limited nature of the filing review resources or from the perspective of more effective use of the filing review resources, we can only perform active reviews on some of the regulatory documents submitted for filing. The cases examined by the courts are complicated and are closely related to the realization of citizens’ rights relief

and benefits. The courts have rich resources in finding illegal norms. At the same time, “the court has completed the verification and review of these legal documents incidentally in the process of applying the law to the case and determining the specific rights and obligations of the parties.” (p.111) Therefore, we only need to establish the corresponding reporting mechanism for reviews by the NPC Standing Committee when the court finds that the regulatory documents are illegal, and then we can combine the advantages of the filing review system with the professional and resource advantages of the court.

REFERENCES

- Chen, D. (2012). Research on the law enforcement review system of the NPC Standing Committee. *Political Science and Law*, (7), 108.
- Editing Group. (2011). *Theory and practice of regulatory document filing and review system* (pp. 1-4). China Democracy and Legal Publishing House.
- Feng, L. X. (2018). Institutions and capabilities: The dilemma and outlet of the filing review system. *Political Science and Law*, (12), 112.
- Kong, T. (2013). *Research on the administrative filing and examination system of administrative regulatory documents* (p.11). Master’s Thesis, China University of Political Science and Law.
- Liu, S., & Qian, Y. S. (2017). A review of the filing of legal regulatory documents. *Journal of Chinese Academy of Governance*, (6), 46.
- Qin, Q. H. (2018). How the People’s Congress Maintains Dominance in the Diversified Filing Review System. *Tribune of Political Science and Law*, (3), 34.
- Wang, K., & Liu, B. H. (2018). The status quo and problems: Research on local filing review system - taking 31 provincial levels as an example. *Journal of Jiangsu Administration Institute*, (3), 134.
- Wang, L. S. (2008). Regulatory document filing review system and suggestions for improvement—From the perspective of state power authority supervision. *Journal of Nanjing Tech University (Social Science Edition)*, (1), 17.
- Wu, S. K. (2015). Discussion on filing review of regulatory documents. *National People’s Congress*, (1), 37.
- Xin, C. Y. (2019). *Strengthening the filing review system and capacity building, improving the constitutional legal supervision mechanism*. Available from: <http://www.aisixiang.com/data/107469.html>. July 30.

¹¹ The NPC Standing Committee Will Review the Report on the Filing Review Work for the First Time. Available from: https://www.sohu.com/a/211322512_161795. December 12, 2018.