

Study on the Modern Transformation of Village Regulations and Non-governmental Agreements

From the Perspective of Rural Governance Ruled by Law

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Abstract—Village regulations and non-governmental agreements are public contracts in rural social governance, are local governance rules to maintain grassroots level stability, and are the basic code of conduct of residents in administrative villages. They, to a certain extent, make up the gap in state administration, alleviate the conflict between national laws and rural local rules, and are important carriers for orderly governance of villages under the rural political system. Under the current rural grassroots governance, village regulations and non-governmental agreements still have a long way to go in order to meet the requirements of modern rural governance and have not fully performed the governance function because: firstly, some individual terms in village regulations and non-governmental agreements run into conflicts with the national mainstream governance rules; secondly, the rights of villagers are not protected in the development of village regulations and non-governmental agreements; thirdly, resistance often makes village regulations or non-governmental agreements unenforceable. Village regulations and non-governmental agreements should, first of all, be regulated in order to achieve modern transformation by improving the basic quality of developers, strengthening the guidance of grassroots governments on the development of village regulations and non-governmental agreements, intensifying the filing and review management of village regulations and non-governmental agreements with township governments, and accelerating the integration of village regulations and non-governmental agreements with national laws.

Keywords—rural governance; rule of law; village regulations and non-governmental agreements; public contract; governance rules

I. INTRODUCTION

The 1982 Constitution and the Organic Law of Villager Committees promulgated in 1998 both confirm the legal status of the villager autonomy system in grassroots democratic governance. As a kind of public contract between villagers and rural governance norms, village regulations and non-governmental agreements, to a certain extent, make up the gap in state administration, alleviate the conflict between national laws and rural local rules, and are the most practical and most fundamental carriers for villager autonomy under the rural political system. The specific norms of village regulations and non-governmental agreements stem from local society, stay in line with rural customs, and are close to the life of people,

which makes them universally accepted by rural people. They play a more and more obvious role in modern rural governance. Because village regulations and non-governmental agreements are binding in villages and vary greatly in text, there is no uniform legislation to standardize them. They are not implemented by courtesy of state coercive force but the supervision of the villager committee, the conscience of villagers, and social evaluation. Their effectiveness is greatly reduced. Their performance efficiency can be strengthened and the rural governance by rule of law can be facilitated if the modern transformation of village regulations and non-governmental agreements is promoted, if their functions are rationally positioned, if their development procedures are standardized, and if their basic content is perfected.

II. RESEARCH QUESTION AND PERSPECTIVE

In history, village regulations and non-governmental agreements were symbols of rural internal governance and were developed and performed under the instructions of rural gentry and family elites. Local, original, and inheritable, they made up the gap of national laws not accessible to rural governance and maintained orderly governance in rural society. Under the context of comprehensively promoting the rule by law, modern village regulations and non-governmental agreements are still village governance norms effective only in villages, although their contents are changed as national laws extend to villages. Village regulations and non-governmental agreements are by nature not only public contracts of villagers, but also local governance norms within the national legal and policy framework. Their implementation relies on the common faith of villagers and is closely related to the process of integrating national laws into rural areas.

The existing researches on village regulations and non-governmental agreements are conducted mainly from the following three perspectives:

There are researches on the relationship between village regulations and non-governmental agreements and national laws from the perspective of “political state”. Liang Zhi-ping defined village regulations and non-governmental agreements as rules of conduct with local characteristics, thinking that “They are not the product of state authorization, no matter how much they are recognized by the state” [1]. Zhou Jia-ming and

Liu Zu-yun argued that village regulations and non-governmental agreements have the three basic elements of regulatory, normative and cultural cognition, and they positioned them as “informal” systems of rural governance which function through disciplinary supervision, value guidance, and communication/internalization to govern villagers [2]. Liu Du-cai held that non-governmental agreements are not distinguished from or contradictory to national laws and private contracts [3]. Wang Xiao-hui and Zhai Yin-li believed that as the rules created by a “private government” beyond the “public legal system”, village regulations and non-governmental agreements break the state monopoly of rights and laws and will undermine the unified order of national laws. They claimed that it would be a matter of time for village regulations and non-governmental agreements to vanish from the stage of history and warned that their functions should not be over expected [4]. Tian Cheng-you contended that village regulations and non-governmental agreements are the autonomy of will for collective members that should be recognized and protected as long as they do not violate national laws or harm public interest [5].

There are also researches on the value of village regulations and non-governmental agreements from the perspective of “rural society”. Based on the textual analysis of village regulations and non-governmental agreements in 27 villages in Qingyuan County, Zhejiang Province, Chi Jian-hua concluded two main contents: one is to follow and restate national laws, and the other is to inherit and carry forward the public order and good morals. The combination of these two contents not only guarantees the authority and coercion of national laws, but also inherits public order and good morals of the local society, confirms the customary code of conduct, and bridges national laws with rural public order and good morals. They are a good approach to promoting rural governance by rule of law [6]. Ma Jing thought that village regulations and non-governmental agreements are an important part of grassroots villager autonomy and can resolve conflicts between nationalities and maintain public order in rural governance [7]. Lai Xian-jin argued that as social norms, village regulations and non-governmental agreements are a new type of carrier for rural public affairs management that can promote the coupling and coordination between multiple subjects, various governance mechanisms, and different institutional tools [8]. Li Xu-dong and Qi Yi-xue believed that village regulations and non-governmental agreements have their legal and social value and functions and are reasonable as they reflect the spirit of national legislation in spite of the conflicts with national laws and that benign interaction between village regulations and non-governmental agreements and national laws should thus be promoted [9]. Li Yan-ling maintained that the contract-oriented village regulations and non-governmental agreements that have both local and modern characteristics perform the functions of integrating social orders, exerting rule of law, mediating disputes, and maintaining political order [10].

Finally, there are researches on the transformation and development of village regulations and non-governmental agreements from the perspective of “state-community”. These researches taken on two trends in the academics: Firstly, the village regulations and non-governmental agreements will be

gradually undermined until they vanish; secondly, they will converge with the official legal system of the state. Xie Hui believed that village regulations and non-governmental agreements are a means for the officials to manage villagers’ community by taking advantage of non-governmental forces and that they would end up with any of the following three results in social reform: the rural lifestyle would be shocked by the wave of urbanization; the rural economic operation would be affected by the market economy; the rural value choice would be diverted due to the de facto globalization. At present, the village regulations and non-governmental agreements in China will have to be changed, weakened or even recede with the needs of social change [11]. Zhang Ming-xin claimed that village regulations and non-governmental agreements reflect the local governments’ efforts to rebuild the village order. In the transition of rural governance, the village autonomy constitution, as the most complete version of village regulations and non-governmental agreements in the new era, will converge more with the national legal system, yet it will not be replaced for being exactly the same as national laws [12]. Zhou Tie-tao argued that two contemporary forms appear in the recovery of traditional village regulations and non-governmental agreements: one is the generalized formal text, and the other is the local versions of national laws. The governance function of village regulations and non-governmental agreements should be performed without crossing the legal “bottom line” [13]. Jiang Yu-fu thought that traditional village regulations and non-governmental agreements have been transformed into modern ones as the local society is transformed into a modern one [14]. Jiang Shu-fen maintained that local characteristics and autonomy are the traditional legacies of contemporary village regulations and non-governmental agreements and that modern village regulations and non-governmental agreements are adapting to national laws although their conflict affects the legalization process. The incentive mechanisms of village regulations and non-governmental agreements include state system changes, interest demands expression, responses from the Party committee and the government, multi-sector coordination, villagers’ effective participation, and village culture changes [15].

Based on the existing research findings, village regulations and non-governmental agreements effectively make up for the shortcomings and deficiencies of state governance in the traditional rural grassroots governance, regulate the demeanor of villagers, and ensure the stability and harmony of rural order. The authors believe that the basic strategy of comprehensively promoting the rule by law will be integrated into rural grassroots governance in the modernization process of state governance system and governance ability. It is an irreversible trend to comprehensively promote rule by law in rural governance. After the basic theoretical research about village regulations and non-governmental agreements is mature, more attention should be paid to their modern transformation and legalization road.

This transition to rule by law is built on two basic prerequisites: First, the “rural nature” of rural grassroots society cannot be eliminated in a short time. As Mr. Fei Xiaotong put it, “From the grassroots level, the Chinese society is

local” [16]. Having been formed for thousands of years, this local nature has profound cultural heritage and humanistic tradition and is the basis for the study of rural issues. Village regulations and non-governmental agreements are important carriers of such “local nature” or local culture. Second, under the context of comprehensively promoting the rule by law, the deduction of government-led legal construction model in rural areas will push rural grassroots governance towards democratization and legalization. How does the governing right of state intervene into the various statutes, traditions and customs of “local society”? For this reason, the transformation and development of village regulations and non-governmental agreements cannot be roughly concluded as “having to be changed, weakened or even recede with the needs of social change” or “not to be replaced for being exactly the same as national laws”. The modern transformation of village regulations and non-governmental agreements supported by state power should be explored from the perspective of “political state - rural grassroots society”.

III. FUNCTIONAL POSITION OF VILLAGE REGULATIONS AND NON-GOVERNMENTAL AGREEMENTS IN RURAL GOVERNANCE BY RULE OF LAW

A. *Village Regulations and Non-governmental Agreements Are Public Contracts in Rural Rule by Law*

Village regulations and non-governmental agreements are codes of conduct developed in response to some or one of the issues in rural governance based on laws, regulations and policies for local villagers to follow in order to strengthen villager autonomy, regulate the villagers’ behavior, and resolve grassroots contradictions. They stem from the local community and are the basic norms for villagers to follow when they carry out self-government activities.

In terms of nature, village regulations and non-governmental agreements are different from contracts between citizens and national laws. They are the norms for villager autonomy and have the nature of public contract. From the “public law” level, village regulations and non-governmental agreements are developed by all the villagers on the basis of extensive participation and are important contractual norms that villagers agree by transferring some of their rights to form public power and achieve autonomy. From the “private law” level, they are normative documents adopted by voting (and a discussion at the villagers’ meeting is an essential procedure) and are common systems confirmed by all the villagers in a common community through agreement. The compliance of villagers with village regulations and non-governmental agreements is also a kind of contractual obligation.

In terms of content, village regulations and non-governmental agreements are based on local, village and villagers’ situations and are closely connected with the local conditions to solve problems in the village. The measures are specific and practical, and detailed terms are formulated to inform the villagers of what they should and should not do accurately and clearly. They are easily understood and accepted by the masses.

In terms of implementation, village regulations and non-governmental agreements rely on rural self-management led by villagers’ self-governance agencies. Despite the lack of state power to ensure the implementation, village regulations and non-governmental agreements are binding on the villagers and are likely to be implemented effectively through mutual supervision and self-management of the villagers because they are by nature contracts between villagers arising from mutual agreement and have the consent of the vast majority.

B. *Village Regulations and Non-governmental Agreements Are Local Governance Rules to Maintain Grassroots Stability*

Village regulations and non-governmental agreements have existed since ancient times and can be traced back to the village agreements of the Lv family in Lantian County, Jingzhao Prefecture in the Song Dynasty. Qin Hui argued that the state power did not go beyond prefectures and counties from the mid of the Sui Dynasty to the Qing Dynasty and it was the gentry class that led the rural social governance [17]. As the rural governance was led by rural gentry instead of the imperial power, village regulations and non-governmental agreements became important tools for the gentry to control villages and maintain their orderly development. During different historic periods, village regulations and non-governmental agreements were either controlled by the gentry class under the acquiescence by the rulers or promulgated by the rulers in the form of state law (during the reign of Emperor Zhudi in the Ming Dynasty), and its governance function has never been weakened. After the founding of the PRC, people’s governments were built by the state in rural areas, and the conventional practice that “state power never went down to counties” in the traditional society was broken. The governance function of gentry class was replaced by state power. The people’s commune campaign in 1958 empowered people’s communes, which were rural political organizations, to manage everything. The highly-centralized power of communes in rural areas and the military management over their members deprived the social foundation for village regulations and non-governmental agreements. During the “Cultural Revolution” and the “Anti-Confucian Movement”, being regarded as a decadent and backward traditional culture, village regulations and non-governmental agreements were abandoned. After the reform and opening up, the rural household contract responsibility system was gradually established, and the government intervention in rural areas was gradually reduced. Farmers began to be freed from the government’s strong control. In 1983, the township government and village self-governance system was formally formed, and village regulations and non-governmental agreements played the due role in villager autonomy. More and more villages developed or modified village regulations and non-governmental agreements, making them the main local governance norms for rural grassroots self-management. In the subsequent development, especially in the context of the rule by law, village regulations and non-governmental agreements, now as the “quasi-laws” between national laws and moral norms, are no longer just pure moral norms but have gradually evolved into local versions of national laws. To realize orderly governance of modern villages, it is urgent to perfect the code

of conduct “that is based on beliefs, customs and public opinions, with the nature of contractual jurisprudence” [18]. In this way, the process of villager autonomy could be effectively promoted, and “management democracy” could be practiced in new socialist countryside.

C. Village Regulations and Non-governmental Agreements Are the Basic Codes of Conduct for Residents of Administrative Villages

The political basis of village regulations and non-governmental agreements is a kind of villager autonomy system established on the consultation basis [19]. In rural grassroots governance, village regulations and non-governmental agreements play an active role in solving grassroots contradictions, maintaining the order of rural production and operation, promoting the construction of spiritual civilization, transforming outmoded habits and customs, and maintaining rural order. Villagers’ compliance with them also strongly promotes rural harmony. In the less developed rural areas in Central China, less than 2% of rural residents aged over 60 receive up to junior high school education; less than 5% of rural residents aged between 40 and 60 and less than 23% of those aged between 18 and 40 receive senior high school education. Due to low educational level, farmers are rarely exposed to professional laws and regulations; instead, they learn little legal knowledge from life experience. Village regulations and non-governmental agreements are written by villagers with higher educational level based on different situations of each village and under the leadership of the villager committee. They are closely related with the actual situations of the villages while respecting local rural traditional customs and being close to the life of farmers. Highly targeted and easy to understand, they are more operational and effective in managing village affairs, regulating farmers’ behavior, and maintaining rural order. In addition, village regulations and non-governmental agreements play an important role in maintaining public order and good morals in rural areas through binding and disciplinary actions. Criminal acts can be punished by legal means, yet legal means will not work on outdated ideas, habits and customs. In this case, village regulations and non-governmental agreements play an incomparable role through their moral restraint mechanism. The construction of spiritual civilization is concrete and refined in village regulations and non-governmental agreements and is turned into specific code of conduct that fits the rural reality and rural characteristics. They are operated more easily by the villager committee. Since these village regulations and non-governmental agreements are recognized by villagers and are close to their lives and even their interests, they are more involved in the construction of spiritual civilization, which further promotes rural civilization strongly.

IV. MAIN OBSTACLES TO THE FUNCTION PERFORMANCE OF VILLAGE REGULATIONS AND NON-GOVERNMENTAL AGREEMENTS

Traditional Chinese rural areas were relatively closed, maintaining only low-level and low-speed development. In that context, customary rules or regulations developed from the production and life experience of villagers were sufficient to

maintain the basic order. Modern rural areas experience faster process of urbanization under the guidance of the state, during which the economic and social development is rapid; the transformation of rural society is accelerated; new contradictions emerge. Also affected by the weak legal awareness of villagers, defected development procedures, and inadequate attention from the relevant departments, the village regulations and non-governmental agreements in some places still struggle with many problems and do not yield the desired effects. Village regulations and non-governmental agreements still have a long way to go in order to meet the requirements of the modern rural governance and have not fully performed the governance function.

A. Some Individual Terms in Village Regulations and Non-governmental Agreements Run into Conflicts with the National Mainstream Governance Rules

Village regulations and non-governmental agreements impose economic penalties arbitrarily, which runs into conflict with national laws. Article 27 of the Organic Law of Villager Committees sets out the boundaries that prevent village regulations and non-governmental agreements from running into conflicts with the Constitution, laws, regulations and national policies and delineates the red line to stop them from infringing villagers’ personal rights, democratic rights and legal property rights. However, in practice many of the village regulations and non-governmental agreements are still tangled with the strong feudal tradition of the rule by man for imposing punishments in the name of autonomy. The authors learn that in recent years the government has standardized the basic form of village regulations and non-governmental agreements, and the judiciary departments of many local governments have developed unified versions. However, the arbitrary imposition of punishment still exists, and the fines, as long as not excessive, are usually tolerated by township governments. In fact, in remote mountainous areas, some individual villages still have “primitive” village regulations and non-governmental agreements. A mountainous village has about 13 articles in the village regulations, and all of the articles impose fines, except the 10th one that does not clarify the amount. This article states that “Those who destroy water conservancy construction shall be fined, depending on the circumstances.” According to the Administrative Penalties Law, village regulations and non-governmental agreements, as self-governing norms, do not have the authority to impose any administrative penalty; villager committees, as self-governing organizations of villagers, do not have the qualification to receive fines. These terms of penalties clearly supercede national laws and violate the property rights enjoyed by villagers under the Constitution. In addition, some village regulations and non-governmental agreements set up other punitive measures, such as volunteer work, limited contracting, reduced dividends, and disqualification for subsistence allowances and health insurance. Although village regulations and non-governmental agreements are formally developed or recognized by villagers, they may not be aware that their legitimate rights and interests have been damaged and allow their rights to be deprived, due to their poor legal knowledge and weak consciousness of rights. This undermines the justice of society and the unity of the rule by law.

Village regulations and non-governmental agreements can hinder production and operation when they are contrary to national policies. Rural land ownership belongs to the village or group collective. The implementation of household contract responsibility system separates ownership, contracting rights, and operating rights. The state encourages land circulation. Some places have village regulations and non-governmental agreements stating that the contractor shall not subcontract land or transfer the contracting contract, or the village committee or villager group may take back the land use right at any time. The village regulations of a village contain a term that: Private exchange of land is prohibited, and any violator of this term shall be ordered to relinquish his or her land and shall be fined for RMB 20. Contractors of barren land shall be charged RMB40 per mu and per season. In fact, farmers enjoy the right to circulate the land they contract while having the right to contract it. No village regulations or non-governmental agreements could break the law to restrict the legitimate rights of farmers. Some individual villages engage in agricultural industrialization under the guidance of the township governments. In order to realize the “guiding” targets of the governments, the villager committees develop ad hoc village regulations and non-governmental agreements that required villagers to plant medicinal herbs, rape and other cash crops, and those who fail to do so will not enjoy or have limited access to the benefits of national preferential agricultural policies. The restrictions on land subcontracting and the assignment of economic targets are clearly contrary to national policies and violate the farmers’ right to production and operation autonomy. In addition, some village regulations and non-governmental agreements retain certain charges, such as apportionment of payment and labor in rural road construction and environmental pollution charges in rural clean projects.

B. The Rights of Villagers Are not Protected in the Development of Village Regulations and Non-governmental Agreements

Concerning the developer of village regulations and non-governmental agreements, the Organic Law of Villager Committees simply stipulates that village regulations and non-governmental agreements may be developed or modified at villagers’ meetings in Article 27, and Article 25 empowers the villager representatives’ meetings to discuss and decide on the matters authorized by villagers’ meetings. However, this law does not specify the procedure for the formulation of village regulations. For the purpose of legislation, village regulations and non-governmental agreements, as the basic codes of conduct for all the villagers, should be developed at villagers’ meetings instead of being decided on villager representatives’ meetings through authorization. In practice, many villages formulate their regulations in a simple way: some modify the original versions, while others copy the regulations of nearby villages, without fully consulting the villagers or convening villagers’ meetings. Terms are drafted and reviewed by village cadres before chances arise for announcement. Due to the unregulated procedures, the low legal literacy of developers, and lack of consultation, the resulting village regulations or non-governmental agreements are incomplete and weak. In another case, the judiciary department or the civil affairs department provides a template and format for the villages to

fill in the blanks (as the specific information varies with villages and is not likely to be unified). Although this is done out of the goodwill to keep village regulations and non-governmental agreements in the legal track as much as possible, many villages do not complete the document based on their actual situation, making the final product become mere formality. None of the administrative villages visited by the authors ever held a villagers’ meeting, let alone a meeting for the sake of developing village regulations. Even though some villages discussed the development of village regulations at villager representatives’ meetings, such meetings were “adulterated”. In fact, the villager representatives in many villages consisted of only village cadres, Party members and leaders of villager groups. Villagers’ meetings did not play its role in the review and adoption of village regulations. Some of the village regulations came into force as long as they were written out and read at the “villager representatives’ meetings”. Then, they were distributed to villager groups, which posted and implemented them. No voting of villagers was ever involved.

If the stakeholders can express their interest demands through legitimate channels and procedures, they tend not to pursue their specific interests through passive or violent means [20]. Because village regulations and non-governmental agreements are decided by village cadres instead of being developed according to procedural provisions, they do not involve villagers and provide no protection for the autonomy rights of villagers. The villagers are bound to decline such village regulations and non-governmental agreements, and the governance function of these documents is naturally weakened.

C. Resistance often Makes Village Regulations or Non-governmental Agreements Unenforceable

There are many obstacles hindering the implementation of village regulations and non-governmental agreements and obscuring their effects. “Penalty offer” is still one of the basic components of these regulations [21]. Now in the countryside some local clan forces show signs of recovery. Relying on numerical strength, they may influence village decision-making and even control voting and election. Village regulations and non-governmental agreements that are developed without the participation and discussion of villagers are likely to encounter resistance during the implementation process. Even if they are enacted through legal procedures, resistance may appear as long as they affect the vital interests of a group of farmers. During the urbanization process in rural areas, some village cadres abuse their power to develop village regulations and non-governmental agreements out of will in order to promote the overall planning of the administrative villages and take advantage of some of the villager representatives who support the decisions of the villager committees by instructing them to vote at the villager representatives’ meetings. Village regulations and non-governmental agreements become “protective umbrellas” for these village cadres to make illegal decisions. They can infringe the property rights of villagers, affect the implementation of national laws and regulations in the vast rural areas, and destroy the socialist rule by law. This makes it

difficult to implement these village regulations and non-governmental agreements.

In practice, the most important feature of village regulations and non-governmental agreements is that they are based on local reality and stay in line with the local “traditional practices” or customs. Because some “local policies” and “local rules” have been well established among the people, they may be “preferred” or even enforced when they are included in village regulations and non-governmental agreements, even if they may be contrary to national laws and policies. For example, village regulations and non-governmental agreements involving collective land contracting or collective resource development may ignore the legal process to allow the village committee to terminate the contract at any time, which would directly damage the rights of individual villagers or external parties (businesses). Once a lawsuit is filed, the village committee is likely to lose. In this case, the rural social stability will be affected, and the village committee will lose prestige. Thus, the implementation of illegal village regulations and non-governmental agreements can have bad impact on society and hinder the legal construction in rural areas rather than function for the purpose of social governance.

The implementation of village regulations and non-governmental agreements may constitute damage to the rights of the weak. In acquaintance or semi-acquaintance society with profound ethic traditions, the “patriarchal” concept and the “rule by one man alone” style cannot be eliminated in the short term. Since village regulations and non-governmental agreements are largely based on the subjective wishes of the “rulers”, the disadvantages of “pragmatism” cannot be avoided. In some places, they become the means and tools for village cadres to facilitate decision-making. They, in this case, deprive and limit the rights of farmers and protect the interests of a small number of rural elites. Judging by appearance, village regulations and non-governmental agreements are common codes of conduct for all the villagers. In fact, in rural society with polarization between the rich and the poor, they are likely to damage the rights of the weak. In addition, they may discriminate different people in the implementation process, which, in fact, harms the principle that all men are equal before law.

V. THE PATH FOR MODERN TRANSFORMATION OF VILLAGE REGULATIONS AND NON-GOVERNMENTAL AGREEMENTS FROM THE PERSPECTIVE OF LEGALIZED RURAL GOVERNANCE

A. *Improve the Basic Quality of Developers*

The transition from rule by man and rule by law is a difficult process. The traditional feudal patriarchal system and the family management system are not democratic, allowing some village cadres to “decide everything by themselves”. Due to the existence of some local policies, local regulations and old village regulations and non-governmental agreements, coupled with the isolation of villages, village regulations and non-governmental agreements tend to follow traditional practices without embracing new methods and new content. Although there are many terms contrary to national laws and

policies, they are adopted and implemented because the villagers generally have weak legal awareness and do not know what the laws stipulate or what rights are given to them. For a small number of villagers who have some legal knowledge, they do not have the courage or ability to break traditions. Although they also realize that the local village regulations and non-governmental agreements violate the laws, it’s fine that they are adopted and followed.

In the development process of village regulations and non-governmental agreements, drafting members who have high moral cultivation and knowledge level, strong sense of responsibility, concern for rural development, the ability to uphold justice, and a thought for the people should be selected. Grassroots governments should strengthen the guidance and provide more training for the drafters to effectively enhance their democratic consciousness and legal and policy understanding, so that they truly become the “spokesmen” of the masses.

B. *Strengthen the Guidance of Grassroots Governments on the Development of Village Regulations and Non-governmental Agreements*

The *Organic Law of Villager Committees* empowers grassroots governments the authority and responsibility to formulate or modify village regulations and non-governmental agreements in rural areas. The village, ethnic minority village, and township people’s governments shall earnestly perform their duties. They should provide guidance to ensure village “regulations and agreements” to allow for actual situations of villages and comply with laws and policies on the premise of respecting the *Constitution*, laws, and policies. Grassroots governments should provide guidance on village regulations and non-governmental agreements in three main aspects. Firstly, in terms of necessity, village regulations and non-governmental agreements that involve only the rights of individual villagers or that involve only matters of individual villager groups are unnecessary. Regulations binding on the groups concerned may be formulated under the guidance of the village committee. Secondly, in terms of formulation procedures, clear procedures should be defined and should cover such matters as announcement and mobilization, and the organization, agenda and voting of villagers’ meetings or villager representatives’ meetings. The stakeholders should be given the chance to express their interest demands [22]. Thirdly, in terms of content, fine guidance should be provided, and the consequences from implementation and non-implementation should be considered for village regulations and non-governmental agreements that are hard to implement. Those not consistent with national and legal policies should be firmly removed, and those that violate the legitimate rights and interests of farmers should be strongly stopped. While providing actual guidance, grassroots governments should not treat all the penalty terms as the same. In short, regulations without penalty terms will not be universally observed. Although appropriate penalties are allowed in village regulations and non-governmental agreements, the nature of these penalties must be defined — the penalties are not directly authorized by national laws or based on legislation, but

“authorized by all the villagers through village regulations and non-governmental agreements” [23].

In the development and modification processes of village regulations and non-governmental agreements, the core leadership position of village Party organization must be earnestly maintained. The village Party branches should be fully familiar with the guidelines, principles and policies of the Party and national laws and regulations and should strengthen the leadership in the development of village regulations and non-governmental agreements. They should use their influence among the masses to urge the modification of unregulated or illegal village regulations and non-governmental agreements that infringe the legitimate rights of villagers. Grassroots people’s governments should effectively fulfill the function of “giving order to make corrections”.

C. Intensify the Filing and Review Management of Village Regulations and Non-governmental Agreements with Township Governments

The *Organic Law of Villager Committees* contains a term that requires filing of village regulations and non-governmental agreements with the village, ethnic minority village, and township governments. At present, the township people’s government generally delegates this authority to the judicial branch. The judiciary branch usually has only 2 to 3 members to popularize laws, mediate contradictions and disputes, and complete various social security control tasks assigned by government leaders and the county-level judicial bureau. They have little time and energy to file and review village regulations and non-governmental agreements, and some illegal ones successfully pass the rough review. Therefore, the construction of grassroots judicial branches should be strengthened, and staff should be selected on a merit basis. When conditions permit, dedicated staff should be deployed to manage the filing work in a standardized manner and perform rigorous review. In practice, two aspects require attention in the filing and review work. For one thing, the legitimacy of the development procedures should be subject to review. What needs to be reviewed in the basic procedures includes whether there are procedures for soliciting the views of villagers and for collective discussion and whether the village regulations and non-governmental agreements are reviewed and voted at the villager representatives’ meetings or villagers’ meetings. Those that are not supported by adequate procedures should be declined from filing and returned for a new round of review and voting. For another thing, the legitimacy of the contents of village regulations and non-governmental agreements should be reviewed. They are normative documents and should not be regarded as the basis for administrative penalty. Thus, village regulations and non-governmental agreements should not contain any terms of fines and other administrative penalties. According to this principle, some incentive measures based on the actual situations of villages can be taken for the purpose of providing positive guidance. For example, scholarships for excellent students, rewards for abandoning outdated traditional customs and all unnecessary formalities at hosting funerals, and rewards for doing boldly what is righteous can be provided to guide villagers to distinguish right from wrong and build up new ethos. In the filing and review, timely feedback on

unreasonable content should be given, and illegal provisions must be modified and subject to review again. Terms that seriously violate the guidelines, principles and policies of the Party and national laws and regulations must be completely removed.

D. Accelerate the Integration of Village Regulations and Non-governmental Agreements with National Laws

National laws and policies represent value guidance and bottom line to the rural grassroots society [24]. To have a new start in modern rural governance, the modern transformation of village regulations and non-governmental agreements must be accelerated, and the interaction and integration with national laws and regulations must be quickened [25]. On the one hand, village regulations and non-governmental agreements should be positioned as a supplement to national laws and policies. They should cover specific legal principles and local governance with local characteristics beyond laws and policies, while the parts clearly stipulated in laws should not be repeated, although they may be promoted as general rules in village regulations and non-governmental agreements. On the other hand, the formulation of village regulations and non-governmental agreements should strictly follow democratic procedures and fully protect the autonomy of farmers. They should not be decided by village committees or a small number of villagers only. Only those that embrace the broad participation of villagers and reflect the will of the vast majority of villagers can be consciously observed.

VI. CONCLUSION

In general, village regulations and non-governmental agreements are normative documents with the nature of civil contract and villager autonomy. They are important carriers to realize orderly governance of villages under the current rural governance system. They are different from national laws and policies, yet they are also localized norms of national formal system in rural areas and supplement it in local language so that it can be fully implemented in rural areas to secure stability and harmony of local society. When guided and regulated to be consistent with national laws and policies and integrate villager autonomy with state administration, village regulations and non-governmental agreements are normative documents are expected to play an important role in rural governance and achieve villager autonomy in real sense.

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