

Review

State Governance Through Oversight: A Review of the Recording and Review System in China

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Abstract

China's Recording and Review system has emerged as a central mechanism of constitutional supervision and has attracted increasing scholarly attention over the past decade. Although constitutional review has been extensively studied in comparative constitutional law, research on China's R&R system remains fragmented and lacks a systematic synthesis. This article presents a systematic review of the legal literature on the Recording and Review system. Organized around three stages of the Recording and Review system, the review synthesizes the principal doctrinal debates, identifies areas of scholarly consensus and disagreement, and highlights unresolved theoretical questions. It shows that existing scholarship has primarily focused on the institutional foundations and constitutional legitimacy of the Recording and Review system, while issues relating to review methods, review standards, and corrective mechanisms remain comparatively underexplored. By providing an analytically structured assessment of the existing literature, this review contributes to a deeper understanding of China's legislature-centered model of constitutional supervision and establishes an agenda for future theoretical and empirical research.

Keywords: recording and review; recording; review; correction; future directions

1. Introduction

How a state maintains legislative coherence and protects constitutional rights in the absence of a mature judicial review mechanism or a justiciable constitution remains an important question in comparative constitutional law. In most constitutional democracies, courts serve as the principal guardians of the constitutional order. Approximately 83% of the world's constitutions provide for some form of judicial review, making the constitution an enforceable standard against which legislation and other legal norms may be assessed [1]. China also witnessed vigorous debates during the 1980s over the possible establishment of a domestic judicial review mechanism. These discussions, however, gradually lost momentum as scholars came to recognize that, under the constitutional framework of the National People's Congress (NPC), the judiciary possesses neither constitutional interpretative authority nor supervisory competence over the Constitution. Consequently, earlier proposals for judicial review were later described as "off-topic" [2] or even "mistaken" [3].

Against this institutional background, the framers of the 1982 Constitution established a distinctive mechanism of constitutional supervision—the Recording and Review (R&R) system. Unlike judicial review, R&R operates as a legislative mechanism of constitutional oversight rather than a judicial one. Its constitutional foundation lies in Article 62 of



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the 1982 Constitution, which authorizes the NPC to supervise the implementation of the Constitution [4]. More detailed procedural rules are provided in Articles 98–116 of the Legislation Law of the People’s Republic of China (hereinafter the “Legislation Law”). Under this institutional framework, regulations, judicial interpretations, and other normative documents are submitted to designated review authorities for recording and subsequent review. In practice, this responsibility is exercised primarily by the Standing Committee of the National People’s Congress (NPCSC) and its Legislative Affairs Commission (LAC), which examine whether lower-level normative documents are consistent with the Constitution and superior legislation. Rather than relying on judicial invalidation, the R&R system preserves constitutional consistency through legislative supervision, administrative coordination, and institutional correction.

Although long established, the R&R system remained largely dormant until October 2014, when the Fourth Plenary Session of the 18th CPC Central Committee issued the call to “strengthen the system and capacity building of R&R” [5]. Since then, R&R has entered a new phase of institutional development, accompanied by the enactment and implementation of relevant legal norms at various levels. Notably, in 2023, the Legislation Law was amended for the second time since 2015, with substantial modifications and additions to R&R-related provisions. The 2023 amendment represents an important stage in the institutional maturation of the R&R system and has further stimulated scholarly interest in its constitutional significance.

The growing institutional importance of the R&R system has also stimulated increasing scholarly interest in its relationship with judicial review in constitutional democracies. Existing scholarship has moved beyond describing the institutional framework of R&R and has increasingly situated it within broader comparative debates on constitutional review. Rather than treating R&R as an entirely unique institutional arrangement, scholars have sought to evaluate its functions through comparison with established models of constitutional adjudication. One influential line of scholarship argues that R&R bears important similarities to weak-form judicial review, a model of constitutional review commonly associated with several Commonwealth jurisdictions [6]. Although R&R does not authorize courts to invalidate legislation, both systems are characterized by relatively non-confrontational forms of constitutional supervision. In particular, the effectiveness of R&R depends largely on institutional consultation between the LAC and the authority that issued the challenged normative document. Amendment or repeal is therefore achieved primarily through political coordination and administrative dialogue rather than compulsory judicial orders. Viewed from this perspective, R&R represents an alternative institutional pathway for maintaining constitutional consistency. Examining its operation therefore not only improves our understanding of China’s legislature-centered model of constitutional supervision but also enriches comparative discussions of constitutional review beyond conventional judicial models.

Therefore, a systematic understanding of how the R&R system operates is of increasing theoretical and practical importance. Although scholarly interest in the R&R system has expanded considerably in recent years, the existing literature remains fragmented and has yet to provide a comprehensive account of the institution as a whole. Most studies concentrate on foundational issues, such as the allocation of review authority, the institutional design of the review process, and the constitutional justification for the exercise of review powers [7]. Constitutional interpretation has likewise attracted sustained attention, particularly because it illuminates how the LAC conducts constitutional reasoning and relates to the broader question of constitutional interpretative authority [8,9]. By contrast, more specialized issues, including procedural design, the legal effects of review opinions, and the retroactive consequences of corrective measures, have generally been examined

in isolation rather than within an integrated analytical framework. As a result, existing scholarship provides valuable insights into individual aspects of the R&R system but offers relatively limited guidance on how its constituent elements interact within a coherent institutional structure. More recently, the significance of R&R has also attracted growing attention beyond legal scholarship, with sociologists, public officials, and journalists increasingly examining its broader institutional and societal implications.

Despite the valuable insights contributed by legal researchers, the lack of systematic review in this field may limit our further understanding of the R&R system and its functional role in modern society. Therefore, it is important to identify areas of consensus and unresolved questions, and to explore promising directions for future research.

This article presents a qualitative systematic review of the existing scholarly literature on China's R&R system. The review does not claim to be exhaustive in a quantitative sense but rather aims to provide a comprehensive and analytically structured mapping of the key debates, points of consensus, and unresolved questions that have emerged in the Chinese-language legal scholarship over the past two decades. The literature covered in this review was identified through a combination of keyword searches in major Chinese academic databases (e.g., CNKI, Wanfang, and CQVIP) and manual tracking of citations in leading constitutional law journals. The primary search terms included “备案审查” (recording and review), “合宪性审查” (constitutionality review), “合法性审查” (legality review), “规范性文件” (normative documents), and “全国人大常委会” (NPCSC). The temporal scope was set from 2000 to 2025, with particular attention to the period after 2014, when the R&R system entered its current phase of active development. Only peer-reviewed articles and officially published monographs were included; unpublished theses, working papers, and non-academic commentaries were excluded.

From an initial pool of more than 300 publications, we selected studies that met three criteria. Specifically, the selected studies (a) directly addressed the institutional design or operation of the R&R system, (b) engaged in theoretical debate rather than merely describing legal provisions, and (c) had received a certain degree of scholarly recognition, as reflected in CNKI citation counts or repeated citation in the literature. The selected literature was then categorized according to the three-phase structure of the R&R process—recording, review, and correction—with the review phase further subdivided into methods, threshold doctrines, and standards. This categorization follows the institutional logic of the R&R system itself, ensuring that the review is both descriptively faithful to the subject matter and analytically useful for identifying doctrinal debates. For each category, the review proceeds by (i) identifying the main positions advanced in the literature, (ii) mapping points of convergence and divergence among scholars, and (iii) highlighting areas where the debate remains unresolved. Rather than simply summarizing each source in isolation, the review organizes the literature around the central questions that animate each stage of the R&R process—for example, who should review, by what methods, against which standards, and with what legal effects.

Accordingly, the research question guiding this review is as follows: what are the main debates, points of consensus, and unresolved questions in the Chinese-language legal scholarship on the R&R system? Rather than offering a normative evaluation of institutional performance or testing causal claims, this review seeks to map the existing literature in a structured and analytically coherent manner, identify theoretical gaps, and suggest promising avenues for future inquiry.

This article adopts the Three Principles of “Every Document Shall Be Recorded, Every Recorded Document Shall Be Reviewed, and Every Error Shall Be Corrected” as its structural framework. These principles, put forward by the General Office of the Central

Committee of the Communist Party of China (CPCCC) in July 2015, reveal the three core components of the R&R system: recording, review, and correction.

The remainder of the article is organized as follows: Part II examines the relationship between constitutional review and the R&R system. Part III discusses the recording stage and the institutional issues arising from the allocation of recording authority. Part IV analyzes the review stage, focusing on review methods, threshold doctrines, and review standards. Part V turns to the correction stage and examines debates concerning the legal effects and retroactivity of review outcomes. Part VI identifies gaps in the existing literature and proposes directions for future research. Part VII concludes this study.

2. Constitutional Review and R&R

Before discussing the R&R system, it is necessary to clarify several related concepts, among which constitutional review requires particular attention. Constitutional review originally emerged as a mechanism within comparative law, serving as a reference for the development of the rule of law in various countries. With the progressive advancement of China's rule of law, constitutional review has gradually undergone localization, deeply integrated itself into the Chinese legal system, and increasingly developed its own distinctive characteristics. On this basis, the R&R system has been established and, as one of the most important constitutional supervision tools in China, it has progressively moved toward normalization and institutionalization.

2.1. Constitutional Review in China and Its Institutional Arrangement

The R&R system was “re-activated” [10] against the backdrop of strong emphasis of President Xi Jinping on the rule of law in China [11]. Prior to the resurgence of R&R, however, constitutional review had been a central topic of discussion among scholars and practitioners for several decades. A persistent question has been whether constitutional review exists in China and, if so, in what form. This uncertainty stems from the absence of a specialized institution, such as a constitutional court, capable of reviewing whether existing legal norms contravene higher-level norms or infringe fundamental rights, and of ordering their amendment or repeal. Despite this institutional difference, early scholars sought to outline China's constitutional review framework by drawing on comparative constitutional law.

Generally, constitutional review systems in different countries are divided into *ex ante* and *ex post* review [12,13]. Chinese scholars have largely followed this dichotomy, the standard of which typically depends on whether the legal norm has taken effect [6,14,15].

Regarding the *ex ante*/*ex post* model, while *ex post* review has rarely been questioned, some scholars have expressed doubts about the value of *ex ante* review, even suggesting its abolition in favor of exclusive reliance on *ex post* review [16]. Critics argue that *ex ante* review may lead to undue interference by the NPC in other state organs and should be transformed into a voluntary consultation mechanism [17]. Along similar lines, others contend that the review of legislative drafts is not equivalent to constitutional review [18]. Some scholars go further, proposing that such pre-enforcement review should be termed “constitutional control” rather than “constitutional review” [19–21]. Despite these debates and doubts, *ex ante* review remains widely practiced. In addition to *ex ante* and *ex post* review, some scholars have proposed a third category: *in-process* review. *In-process* review refers to the examination of legislative drafts by the enacting authorities themselves, who may seek instructions from the NPCSC if problems arise [22,23]. This tripartite classification (*ex ante*, *in-process*, and *ex post*) can be seen as a refinement of the original dichotomy, as both *ex ante* and *in-process* review occur before a legal norm formally takes effect.

On this basis, scholars have further proposed more specific typologies of constitutional review according to different triggers. Some argue that China's constitutional re-

view can be divided into four modes: legislative review, R&R, citizen supervision, and administrative litigation [24]. Others prefer a threefold typology: ex post review, ex officio review, and legislative review [25]. A third approach combines review upon request and ex officio review while adding incidental review [26].

Beyond classification by review stage, constitutional review in China can also be categorized by subject and object. Regarding the subject of review, scholars view China's constitutional review system as comprising both state-level and party-level components [27]. Others identify four types of review subjects: organs of state power, administrative organs, judicial organs, and party organizations [28]. As for the object of review, in addition to laws and other legal norms, the existing literature suggests that the official conduct of state authority leaders should also be subject to review. However, this latter form of review is more politically oriented, casual, and informal, distinct from the constitutional review of legal norms [29,30].

2.2. *The Relationship Between Constitutional Review and R&R*

While scholarly discussions on the relationship between constitutional review and R&R have yet to reach a consensus on the specific modalities of ex ante review, the characterization of R&R as a form of ex post review has rarely been questioned. Nevertheless, divergent views persist regarding the nature of their relationship—in particular, whether R&R merely constitutes a subset of constitutional review.

One perspective holds that the R&R system, operated by multiple actors including NPC, party committees, and government organs, is fundamentally a system of legality review, within which constitutional review is subsumed as a subordinate concept. Among the various types of review conducted by different entities, only the review by the NPCSC involves constitutional review, resulting in a hybrid mechanism in which legality review predominates [31]. Similarly, some scholars argue that R&R formally “embeds” elements of constitutional review, and that the constitutional review conducted by the national legal system constitutes the core of the R&R framework [32].

Some other scholars distinguish the R&R from the legality review and insist the latter is one of the important contents of the R&R, as a review standard together with the constitutional review. In this sense, the legality review should be used first as a filtering mechanism of the constitutional review. But conversely, R&R is, but not only, one approach to start the constitutional review. Therefore, these two review systems simultaneously contain each other [33].

Another perspective suggests that R&R effectively serves as a pathfinder for constitutional review, as it helps to identify and uncover potential constitutional issues [34,35]. Some scholars further point out that R&R can detect possible constitutional issues in the course of review and, through articulation mechanisms, enhance the information-gathering capacity of constitutional review bodies. However, poor coordination between the two mechanisms may hinder the substantive initiation of constitutional review, thereby preventing the formation of a systematic rule-of-law supervision system [36]. To address this issue, it has been proposed that a mechanism for referring constitutionality issues from R&R be established, enabling R&R to serve as a source of cases and impetus for constitutional review, thereby achieving alignment, coordination, and mutual development between the two systems [37].

3. **The Recording Process of R&R**

The principle that “Every Document Shall Be Recorded” serves as the foundation of the R&R system and is the most fully realized among the Three Principles. In 2014, the Fourth Plenary Session of the 18th Central Committee of the Communist Party of China

proposed to include all normative documents within the scope of R&R [38]. Since then, achieving full coverage of normative documents for R&R has become an important goal of the review work. Thanks to the advancement of the rule of law and the development of electronic recording systems, the recording component of R&R system has made significant progress over the past decade. It has now formed a self-contained system covering a wide range of documents, ranging from administrative regulations to judicial interpretations. However, it should be noted that the relative maturity of this component in practice does not conceal the structural controversies that still exist at the theoretical level. Issues such as the basis for defining the scope of recording, the allocation of rights and responsibilities among multiple entities, and the articulation mechanism between recording and review remain to be further clarified. This part will discuss these issues in detail.

3.1. Multiple R&R Subjects and the Unbalanced Power Allocation

As noted, pursuant to Articles 67 and 100 of the Constitution, Chapter 5 of the Legislation Law, Chapter 5 of the Supervision Law of the Standing Committees of the People's Congresses at All Levels (hereinafter "the Supervision Law"), and other relevant provisions, the R&R system has gradually taken shape as an institutional framework. Under this framework, five major R&R organs, namely the NPC, the Party committee, the government, the military commission, and the courts, carry out "full coverage" R&R work within their respective scopes of authority, characterized by a division of labor and sequential responsibilities.

However, this rule has been persistently questioned. On the one hand, the number of normative documents awaiting review is so large that meeting the requirements of this rule is difficult in practice. Since the beginning of this century, the number of sub statutory legislations has reached a considerable scale and has been rising rapidly in recent years, especially after the amendment of the Legislation Law in 2015. The newly amended Article 72 authorizes all "districted cities" (rather than the previous "comparatively larger cities") to formulate local regulations. This has greatly expanded legislative power and naturally led to an explosion in the number of statutes [39]. At the same time, the past decade has witnessed China's transformation from a stage of comprehensively filling legal gaps, where quantity was the top priority, to a stage where the focus of legislation has shifted from quantity to quality [40]. Consequently, those previously extensive but rough documents, which contain a huge amount of sub statutory legislation, have in turn placed heavy pressure on current review activities. Moreover, the lack of a comprehensive database and a mature review mechanism make it even more difficult for the LAC to handle all documents. Given this predicament, reviewing all recorded documents is more like a hopeful expectation.

On the other hand, the legal norms regulating the R&R system are fragmented and inconsistent, resulting in loose linkages and disjointed operations among different review bodies [41]. Even though each review authority performs its own duties within its own scope of authority, normative documents that fall outside their respective R&R scope are not subject to review. Moreover, given that different institutional entities operate independently and lack effective coordination, the specific review mechanisms of each system remain scattered and chaotic, making it difficult to unify review standards. This undermines the quality of R&R work [42].

A deeper issue lies in the unbalanced power allocation under the Legislation Law. Some documents must be recorded with multiple authorities, but not all recording authorities have review power. Documents recorded by unauthorized bodies thus have to be transferred to a competent reviewer—so-called "transferring." In this context, the recording work seems to operate within an invisible limitation, and concerns about the necessity of this type of recording have gradually emerged [43–46]. Nevertheless, some pro-

ponents offer a result-oriented explanation, emphasizing that the true meaning of “Every Recorded Document Shall Be Reviewed” is that all recorded documents should indeed be reviewed. If all recorded documents can be reviewed, then whether the distribution of power is balanced becomes inessential. The key lies in the documents, not the authorities. These scholars seek solutions from a functionalist perspective, but this does not settle the dispute. Whether the rule is reasonable, and in what context it is reasonable, remains a heated topic.

Taking the recording activity of the State Council as an example, according to Article 98 and Article 99 of the Legislation Law, the State Council is responsible for recording local regulations, but local regulations can only be reviewed by the NPCSC. Therefore, questionable documents recorded by the State Council can only be transferred to the NPCSC for further comprehensive review. This has generated scholarly controversy over the question of whether the State Council enjoys review competence. Some believe that the State Council is entitled to review power because its status as a recording authority justifies its reviewing behavior, which is also reflected in practice. After receiving documents, the State Council is supposed to conduct a preliminary examination to confirm their formal and substantive validity, which is actually a crucial part of the recording process. Subsequently, documents with potential problems will be transferred to the NPCSC for further review. This practice model is established by the Regulation on the Recording of Regulations and Rules (hereinafter “Regulation”). According to Articles 9 and 12 of the Regulation, the State Council is not only qualified to participate in the review process but also plays a guiding role.

Whether this amounts to a legally conferred review power, however, remains a matter of interpretation. Skeptical scholars point out that the key issue is to define the actual normative connotation of review power. When discussing whether the State Council possesses review power, what people are really concerned about is the scope of its authority, and different scopes may lead to opposite conclusions. Regarding whether review power includes correction power, i.e., the power to amend or revoke documents, there are generally two views. Some scholars insist that a clear distinction should be made between these two powers. Review power is independent of the correction process and only contributes to review activities, during which authorities may put forward opinions for correction if necessary. In this limited sense, it is widely acknowledged that the State Council is entitled to be a review subject and to review documents because it possesses complete power [47]. However, other scholars believe that correction power is closely related to review power. Some even argue that correction power is an absolutely integral and core part of review power. From their perspective, the qualification to amend or revoke documents is the key to distinguishing review activity from review power. The former merely involves reviewing documents to identify potential problems, while the latter supports review authorities in completing almost all aspects of the R&R process except recording, including reviewing and identifying problems, offering solutions, negotiating with enacting authorities, seeking information on implementation, and directly amending or revoking documents. In this context, it is difficult to say that the State Council possesses complete review power, because neither the Legislation Law nor the Regulation authorizes it to make corrections. What the State Council carries out as a recording subject can only be regarded as review activity [43,46].

Based on the foregoing analysis, the debate over whether “review” under the principle of “Every Recorded Document Shall Be Reviewed” entails full review power or merely review activity can be reframed rather than definitively resolved. One plausible interpretation, suggested by some scholars, treats the Three Principles as working requirements rather than normative requirements, according to which “review” may be understood in the sense of review activity. However, even if this interpretation resolves the semantic

question, it does not address a deeper structural predicament of the R&R system, namely, the institutional separation between the power of recording and the power of review. In our view, this separation is structural rather than merely operational. The crux lies not in the multiplicity of recording subjects as such but in the institutional disjunction between the power of recording and the power of correction. This disjunction is itself a consequence of that multiplicity. On this basis, we suggest that the solution lies in unifying the chain of “recording, review, and correction” within a coherent institutional framework, though we acknowledge that the precise design of such unification requires further institutional elaboration.

3.2. *Are National Laws the Objective of R&R?*

Among all related issues, the most central question concerns the scope of recording, namely, which types of normative documents should be submitted for recording. As noted earlier, although a relatively comprehensive framework for the recording of normative documents has been established, certain types of documents, such as national laws, remain outside the current scope of recording.

Whether national laws should be included within the scope of R&R remains a contested issue in the academic literature. The current legal framework does not explicitly designate laws as objects of R&R, yet many scholars advocate for such an expansion.

Some scholars, based on systematic interpretation, argue that Article 62, Item 12 of the Constitution should be read in light of the Preamble and Article 5, and that the interpretation of the Legislation Law should be consistent with the Constitution. On this view, the objects of R&R should include laws enacted by the NPC and NPCSC [48]. Other scholars, while not excluding the possibility that the NPC might in the future review the constitutionality of laws passed by its Standing Committee, suggest that such instances would be very rare [16,21,49].

From a comparative law perspective, including laws within the scope of R&R finds considerable theoretical support. The trend in many legal systems is toward subjecting legislation to constitutional review. In Germany, for example, Article 20 (3) of the Basic Law provides that the legislature is bound by the constitutional legal order, implying that all normative legal acts, including parliamentary statutes, are subject to constitutional review [50]. Federal laws in all their forms may be subjected to abstract normative review [51].

4. The Reviewing Process of R&R

Although the recording process is widely regarded as the prerequisite for all subsequent activities, the vitality and institutional significance of the R&R system are primarily manifested in the review stage. Scholarly discussions of this stage generally center on three core issues, namely the reviewing authorities, the procedural framework, and the substantive standards applied in the course of review, each corresponding to a progressively deeper level of analysis. These three issues will be examined in turn in the sections that follow.

4.1. *Review Methods of R&R*

From a comparative law perspective, constitutional review has traditionally been categorized along several dimensions: temporally (ex ante/ex post), by case linkage (abstract/concrete), and institutionally (centralized/ decentralized) [13]. Most studies have accordingly characterized R&R as a paradigmatic “ex post–abstract–decentralized” model: initiated after the legal norm has taken effect, targeting the normative document itself, and carried out by multiple actors including the NPCSC. While this classification facilitates the-

oretical integration, some scholars argue that it fails to fully capture the institutional innovations of R&R. Consequently, the “active–passive” dichotomy has emerged as the most analytically powerful indigenous framework. Passive review is initiated upon requests from citizens, organizations, or state organs, resembling foreign mechanisms predicated on litigation or petitions. Active review, by contrast, is initiated *ex officio* by the reviewing authority. Specifically, this yields the following four types of review modalities.

Before turning to the detailed discussion of each review method, Table 1 provides a consolidated overview of the five methods, namely *ex officio*, application-initiated, specialized, transferal, and joint review. It summarizes their respective triggers, legal bases, and key features. This table is intended to orient the reader and to facilitate cross-method comparison.

Table 1. Summary of review methods in the R&R system.

Review Method	Trigger	Legal Basis	Key Feature
Ex officio review	Proactive initiation by review body	Working Measures Art. 19 Legislation Law Art. 111 Decision	Broad coverage; no external application needed
Application-initiated review	Suggestions from citizens/organizations; requests from state organs	Working Measures Arts. 21–22 Legislation Law Art. 110 Decision	Binary distinction between “requests” and “suggestions”
Specialized review	Major reforms, policy adjustments, public concerns	Working Measures Art. 25 Legislation Law Art. 111 Decision	Focused, concentrated examination in specific fields
Transferal review	Document falls outside reviewing body’s purview	Working Measures Art. 24, 26 Legislation Law Art. 115 Decision	Procedural linkage mechanism
Joint review	Common issues across multiple organs’ R&R scope	Decision	Multi-participatory; integration of review powers

The following subsections examine each of these methods in greater detail, beginning with *ex officio* review.

4.1.1. Ex Officio Review

Ex officio review refers to the proactive review of normative documents by review bodies exercising their statutory powers and duties. Regarding the functional positioning and capacity boundaries of *ex officio* review, the academic community has formed a dialogue that is both complementary and mutually questioning. Some scholars argue that *ex officio* review has unique value: it can be initiated without external application, has broad coverage, and allows for the early identification of problems [52]. However, other scholars have raised doubts, pointing out that the R&R work of people’s congresses is facing the dilemma of being “overloaded,” and stating bluntly that “complete *ex officio* review is unrealistic in practice, while relying solely on passive review would deviate too far from the very purpose of R&R” [53]. Some scholars contend that there exists a “paradox of self-review”, the NPCSC cannot review laws enacted by itself, which has become a direct obstacle to the smooth progress of constitutionality review [54]. In response to the above criticisms, scholars who advocate for strengthening *ex officio* review have not entirely denied its limitations but have instead attempted to respond from the perspective of institutional optimization. Some suggest that the limitations of abstract review should be acknowledged but can be compensated for by strengthening the integration of multiple review methods [52].

4.1.2. Application-Initiated Review

Application-initiated review, like judicial review, is triggered by the request or claim of citizens or other parties. Under Article 110 of the Legislation Law and Articles 21 and 22 of the Working Measures for the Recording and Review of Regulations and Judicial Interpretations (hereinafter “Working Measures”), such review may be initiated not only by suggestions from citizens, organizations, and other entities but also by requests from statutory state organs such as the State Council and the Central Military Commission. In practice, citizens’ suggestions predominate among review suggestions. Some scholars note that although suggestions from social organizations, enterprises, public institutions, and state authorities are relatively rare, they nevertheless play an important role in passive review [55]. According to the annual report, a state authority submitted a constitutional review suggestion for the first time in 2020, which directly contributed to resolving the issue of instructional language in certain minority schools.

The institutional core of application-initiated review lies in the binary distinction between “requests” and “suggestions” for review. However, this design has encountered, in practice, a paradox of a dormant strong mechanism and an active weak mechanism, namely, while review suggestions have been relatively active, no review request has ever been filed. Scholars have offered multidimensional explanations for the dormancy of the power to request review. Some point out that statutory bodies face three dilemmas when filing review requests: concerns over their own legislative quality, the political sensitivity of exercising supervisory power, and the implicit implication of inadequate legislative oversight by the NPCSC [56]. Others characterize this phenomenon as a conspiracy of harmony, in which each requesting subject adopts an overly restrained stance, causing the expected mutual supervision to fail [57]. In response, some scholars advocate establishing a R&R system with citizens’ suggestions as its fulcrum [58]. To this end, scholars suggest further simplifying submission procedures and establishing robust mechanisms for receipt, review, and feedback, thereby reducing the time costs for citizens submitting review suggestions [41]. Some scholars even propose empowering citizens who are parties to specific cases to put forward review recommendations, with the case suspended during the review process [35].

Regarding how to activate the power to request review, scholars have proposed various solutions. Drawing on German experience, some advocate establishing a progressive referral mechanism along the lines of “trial court—Supreme People’s Court—NPCSC,” whereby lower courts submit constitutional concerns to the Supreme People’s Court, which then decides whether to file a review request [59]. As to the choice of breakthrough point, some scholars argue for taking the Supreme People’s Court as the entry point for activating the power to request review, given that review requests filed by judicial organs carry the least political sensitivity and adversarial character [35,57,59–62]. In fact, this idea has received official recognition. The newly issued Decision on Improving and Strengthening the Recording and Review System (hereinafter “the Decision”) in 2023 mentions the establishment of a hierarchical reporting mechanism for courts.

Regarding the functional orientation of review suggestions, there is tension between two approaches in the literature. Some scholars emphasize that citizens’ right to submit suggestions is a right of social supervision rather than a right to remedy, functioning to promote legal integration through external oversight rather than providing direct rights relief [63]. In contrast, others point out that the functional orientation of the R&R system has evolved from maintaining the unity of the national legal system to protecting the legitimate rights and interests of citizens and legal persons, arguing that the protection of citizens’ rights should become the substantive value goal of R&R. Some scholars criticize

R&R for placing greater emphasis on the unity of objective legal order while showing a lack of attention to the protection of citizens' rights [58,64].

The explosive growth in the number of review suggestions has made screening mechanisms a practical challenge. Statistics show that since the 13th NPC, the NPCSC has received a total of 17,769 review suggestions from citizens and organizations [55]. In response, some scholars advocate separating recording from review, i.e., decoupling the recording function from review practice to concentrate review resources on the specific review of citizens' suggestions, while establishing subject-matter criteria requiring that citizens' suggestions focus on the substantive infringement of rights provided for in the Constitution [63]. Other scholars propose, from the perspective of scope of submission, ensuring the high quality of review suggestions through a scientifically rationalized scope of review, arguing that citizens' suggestions should be problem-oriented and combined with specific cases [58]. Still others advocate establishing a linkage mechanism between review suggestions and the retrial procedure, whereby parties may apply for retrial based on review suggestions that lead to the amendment or repeal of normative documents, thereby enabling R&R to serve an indirect individual relief function [64].

4.1.3. Specialized Review

Under Article 111 of the Legislative Law as amended in 2023, specialized review is a focused, concentrated examination conducted by the Specialized Committees of the NPC and the working bodies of NPCSC over normative documents in a particular field concerning major reforms, policy adjustments, significant amendments to higher-level laws, public interests, or issues of widespread social concern. Such review may also be initiated when common issues are identified during R&R. Despite the growing body of research on R&R, specialized review has long remained at the academic periphery, with dedicated findings being scarce. Specialized review is conducive to promoting R&R to serve the overall interests of the Party and the country, strengthening the NPC's dominance of R&R, and improving the efficiency and quality of R&R [65].

Regarding conceptual positioning, there exists a divergence between the dependency theory and the independence theory in the academic literature. Some scholars argue that specialized review originates from *ex officio* review and constitutes a focused form of *ex officio* review [52]. In contrast, other scholars classify specialized review alongside *ex officio* review, application-initiated review, and transferal review [66]. Similarly, some researchers treat specialized cleaning as an independent type parallel to comprehensive cleaning and item-specific cleaning, thereby essentially granting specialized review an independent status [67]. The essence of this debate lies in differing classification criteria and bears upon whether specialized review should follow the existing rules of *ex officio* review or require the construction of an independent institutional framework.

In terms of functional orientation, the academic community generally recognizes the dual functions of political responsiveness and systematic coordination. Some scholars point out that specialized review aims to implement the major decisions and plans of the CPCCC, the enactment and implementation of important laws, and to respond to public concerns [52]. Other scholars suggest that specialized review, together with concentrated cleaning, constitutes a procedural chain of problem identification and problem resolution [66]. However, there is debate regarding the irreplaceability of its functions. Proponents argue that specialized review fills the gaps left by *ex officio* review, which struggles to address systemic issues in specific fields, and by review upon application, which can only identify problems in a piecemeal manner. Skeptics, on the other hand, contend that its independence is more a pragmatic compromise under the constraint of limited review resources.

4.1.4. Transferal Review and the Cohesion & Coordination Mechanism

Transferal review occurs when a R&R body, upon finding that a normative document may conflict with higher-level laws, refers the matter to the competent authority for review. This mechanism has received limited scholarly attention.

Regarding its conceptual nature, a divide exists between the working mechanism theory and the legal institution theory. The former views transferal review as essentially a working mechanism rather than a strict legal procedure [68], while the latter argues that it has evolved into an independent type of review procedure [69]. These perspectives highlight the coexistence of legal norms and working mechanisms within the R&R system.

On its core function, there is tension between the procedural instrument theory and the substantive supervision theory. The former sees transferal review as a mechanism to resolve jurisdictional issues, enabling each reviewing body to refer documents outside its purview to the competent authority, thereby preventing review suggestions from being shelved due to improper submission [53]. The latter emphasizes substantive functions, distinguishing between procedural linkage and substantive linkage, the latter involving the unification of review standards and coordination of handling opinions, which constitutes the core of linkage mechanisms [69]. The key issue is whether transfer and review should be regarded as two separate procedures. Alternatively, the receiving body may take into account the professional assessment made by the transferring body.

Regarding subject structure and operational patterns, scholarly views diverge between the NPC-dominated theory and the multi-stakeholder coordination theory. Analysis of annual reports from 2017 to 2022 reveals an NPC-centered pattern, with the LAC serving as the hub of transfer activities, while other R&R subjects show much lower participation [68,69]. Conversely, from the perspective of intra-party regulation review, the dual-track review framework suggests that Transferal review integrates the authority-based legality review of the General Office of the CPCCC with the delegated legality review of the LAC and the Ministry of Justice, forming a parallel governance network of multi-stakeholder coordination [70]. These two perspectives can be reconciled under the proposition of coordination under NPC leadership.

On whether transfer initiation should be binding, there is a debate between the discretionary theory and the mandatory transfer theory. Under current norms, initiation is highly discretionary—the relevant provisions state that the Legislative Affairs Commission may rather than shall transfer. In 2022, only 43.7% of review suggestions falling outside its scope were transferred. This discretion helps prevent overwhelming receiving bodies and allows filtering of repetitive or unfounded suggestions [69]. Conversely, advocates for mandatory transfer argue that transfer should be required for party-government joint issuances, documents subject to multiple recording authorities, and suggestions outside the receiving body's scope. Otherwise, selective discretion may effectively shelve some suggestions, undermining submitters' rights [35,69]. This debate reflects the tension between efficiency (resource allocation) and justice (procedural rights protection). A potential compromise is to apply differentiated rules: mandatory transfer for suggestions from state organs, while retaining discretion for those from citizens and organizations, coupled with an obligation to state reasons for non-transfer.

The linkage mechanism is closely related to transfer for review, and together they form an integral part of the R&R system. Scholars generally agree that this mechanism not only helps improve the practical quality of R&R and uphold the unity of the rule of law [71] but also strengthens the organizational connection between the R&R authorities for intra-party regulations and those for national laws [72], while facilitating the effective alignment of review standards [73]. Furthermore, some studies focus on the mechanism's role in en-

sureing the coherence between intra-party regulations and national laws, as well as its application in the constitutional review of joint party-government documents [61,70,74–76].

At the level of institutional design, scholars have conducted detailed normative analyses and practical examinations of specific mechanisms such as the joint meeting system, transfer for review, solicitation of opinions, and consultation and coordination, emphasizing the need to clarify the subjects of coordination, review standards, and initiation procedures, while enhancing the rigidity and operability of the mechanism [70,74,77].

At the same time, some studies point out that the linkage mechanism currently faces practical challenges, including a strong mechanism dormant, weak mechanism active phenomenon, inconsistent review standards, poor information sharing, and insufficient rigidity. These issues call for systematic and normalized construction through high-level legislation or intra-party regulations [68,69].

4.1.5. Joint Review

The joint review mechanism is the newly developed 5th type of review method established by the Decision. Under this mechanism, review working bodies may jointly study and consult on important issues when necessary and may convene joint review meetings when deemed appropriate.

Regarding its normative connotation, some scholars argue that its application must satisfy two conditions simultaneously: it must involve the scope of duties of other organs' R&R work, and there must exist common issues [78]. The former condition determines that joint review is a multi-participatory review mechanism involving substantive participation by multiple actors. The latter condition mainly refers to matters involving the Central Committee's policy decisions and major reforms that may potentially violate political requirements, legal compliance, or appropriateness standards [78]. Other scholars caution against an overly narrow interpretation, noting that Article 10 of the Decision is merely illustrative [79].

In terms of its systemic positioning, some scholars argue that joint review should be positioned as a reinforcing mechanism to be employed when other review methods prove insufficient, adhering to a restrained stance of no appearance unless necessary [78]. These scholars further distinguish between the joint review meeting as a working method and the joint review mechanism as an institutional arrangement that achieves the integration of review powers across different organs [78]. Other scholars, from the perspective of structural attributes, summarize six characteristics of joint review, emphasizing that its essence lies in the integration of review powers, which requires both the formal element of procedural integration and the substantive element of power integration as two necessary conditions [80].

By comparison, the first four review methods primarily focus on expanding the scope of "Every Document Shall Be Recorded", whereas joint review pays more attention to the quality and effectiveness of review, aiming to deepen organic collaboration among various actors [79]. Some scholars argue that joint review achieves the integration of time and space in review activities and fills the functional gaps left by transfer review and Specialized review [80].

Regarding the objects of application, joint review should apply to normative documents such as regulations, rules, and judicial interpretations. Decisions and orders of general binding force, if common issues exist, should also be subject to joint review [78]. In practice, the forms of joint review include basic types, extended types, and interventional types [79].

In terms of procedural operation, some scholars propose five stages: initiation, preliminary study, notifying the enacting authority, soliciting opinions and conducting inves-

tigation and research, and jointly formulating review opinions and suggestions [78]. Regarding the initiating body, the Decision designates the working bodies of the NPCSC as the initiators of joint review, reflecting the NPCSC dominant position [81]. The Constitution and Law Committee (CLC) is also recognized as having the authority to initiate joint review [79]. Joint review suggestions submitted by relevant departments have become an important pathway for initiating joint review in practice [79].

Regarding whether the special committees and working bodies of the NPC constitute independent actors in joint review, there are differing views. The affirmative position argues that they are legally endowed with the qualification as review subjects and are certainly independent actors in joint review [79]. From the perspective of integration of review powers, other scholars point out that the participating actors in joint review may further include the enacting authorities, competent departments, or power-relevant departments [81].

4.2. Review Thresholds Doctrines of R&R

The threshold doctrine is the first component of the review process, serving as a filtering mechanism that helps review bodies screen out inappropriate claims at the outset. In essence, threshold doctrines constitute the formal elements that a claim or request must possess. Based on the abstract-concrete review dichotomy, threshold doctrines take two forms. In concrete review, justiciability, including standing, ripeness, mootness, and political question, must be considered first. In abstract review, courts primarily examine controversiality and filing [82].

Threshold doctrines are equally important for R&R. With the development of submission platforms and repeated calls to activate review recommendations, the number of requests is likely to explode, placing an increasing burden on review authorities without a screening mechanism [56]. Thus, constructing a set of threshold doctrines for R&R is both urgent and fruitful, as it would enhance the efficiency and fairness of the process.

Compared with the two types mentioned above, the threshold doctrines for R&R are simpler, involving fewer elements, because review authorities in abstract R&R examine documents in isolation, unconnected to any specific case.

In recent years, experts including the LAC itself have proposed various frameworks for this mechanism. Although these proposals differ in several respects, they can be broadly summarized into two categories: formal and substantive conditions. Formal conditions require that requests be submitted to authorized bodies, that applicants be qualified, and that requests follow the prescribed format. Substantive conditions require that the documents in question present unresolved potential issues.

From a comparative perspective, some scholars advocate for six specific criteria: relevance of interests, relevance of fundamental rights, the applicant's status as a bearer of fundamental rights, determination of harm to fundamental rights, subject of the application, and exhaustion of remedies [83]. Other scholars, drawing on judicial review practices, propose two principles for the formal review stage: the principle of priority of legality review and the principle of limiting the qualifications of subjects who may initiate constitutional review [84]. Still others define a set of threshold doctrines comprising controversial and subject elements. Similar to the LAC's approach, this model also emphasizes both formal and substantive aspects, distilling four elements: subject, object, justification, and written form [48]. Moreover, because the threshold doctrine functions as a preliminary review stage preceding substantive review, the outcomes must be communicated to applicants as necessary feedback, informing them of the reasons for any rejection [85].

Beyond passive review, active review, particularly specialized review, has its own grounds for initiation. As stipulated in the newly added Article 111 of the Legislation

Law, the specialized committees and working bodies of the NPCSC, as well as the R&R working body of the State Council (i.e., the Ministry of Justice), may conduct Specialized review “as needed,” which refers to its threshold doctrines. According to Article 25 of the Working Measure, regulations and judicial interpretations that involve major reforms and policy adjustments, important legal amendments, vital public interests, or matters of widespread public concern may be subject to specialized review.

4.3. Review Standards (Contents) of R&R

The specific connotations of review standards in comparative law vary considerably across jurisdictions. Among the most influential models of constitutional review standards worldwide, the scrutiny density theory in U.S. judicial review and the principle of proportionality employed by the German Federal Constitutional Court stand out as particularly representative. U.S. judicial review adopts the scrutiny density theory, which can be further divided into three levels: strict scrutiny, intermediate scrutiny, and rational basis review [86,87]. In contrast, the German Federal Constitutional Court adheres to the principle of proportionality, whose traditional three-tier structure comprises the suitability principle (*Geeignetheit*), the necessity principle (*Erforderlichkeit*), and proportionality *stricto sensu* (*Verhältnismäßigkeit im engeren Sinne*) [88,89]; some scholars have proposed adding the principle of legitimate purpose to this framework [90].

The standards of review adopted in different jurisdictions are shaped by their distinct constitutional traditions and institutional designs [91]. Scholars have proposed multiple understandings of what constitutes an appropriate review standard for China and how such standards should be understood. Some scholars argue that review benchmarks are procedural or substantive criteria adopted based on the relationship of checks and balances among state powers, emphasizing the relational adjustment function of review standards [92]. Other scholars contend that review benchmarks constitute another form of norm that operates independently of substantive norms while possessing the function of shaping the content of such norms [93]. Influenced by the review practices of the United States and Germany, Chinese scholars have drawn on these experiences in constructing review standards for R&R.

Drawing on U.S. practice, some scholars have proposed a three-tier progressive model of “summary review—medium review—strict review” [94]. Other scholars argue that the outcomes of judicial review standards often take an all-or-nothing form, which tends to exacerbate ideological antagonism and render review highly politicized, whereas the principle of proportionality—exemplified by Germany—is more compatible with China’s specific national conditions [95]. In this view, such review techniques themselves constitute the connotation of review standards. However, some scholars contend that this technique remains insufficiently developed [96].

Some scholars advocate integrating multiple review standards based on the typology of state power and fundamental rights [97].

Other scholars maintain that the essence of review benchmarks lies in the value application of norms in specific fields [98]. Still other scholars, from the perspective of systematizing the R&R system, have offered a narrow definition of review standards that distinguishes them from review contents. They argue that review standards should take the principle of proportionality as their core and be integrated with review intensity, whereas what previous scholarship has referred to as review standards—including constitutionality review and appropriateness review—actually falls within the domain of review contents [99]. This position has, in fact, received official endorsement: the 2023 Decision adopted the term review contents. Nevertheless, in light of prior scholarly research and the fact that official documents once used the term review standards for a certain period, this article contin-

ues to employ the latter term. In accordance with the relevant provisions of the Working Measures, the review standards for R&R can be formally divided into four types: the legality review standard, the constitutionality review standard, the appropriateness review standard, and the political standard.

Before examining each standard in detail, Table 2 provides a consolidated overview of the four review standards, namely legality, constitutionality, appropriateness, and political. It summarizes their respective legal bases and core content. This table is intended to orient the reader and to provide a reference point for the discussion that follows.

Table 2. Summary of review standards in the R&R system.

Review Standard	Legal Basis	Core Content
Legality standard	Working Measures Art. 38 Legislation Law Arts. 107–108, 110 Decision	Whether normative documents contradict higher-level norms (laws, regulations) other than the Constitution
Constitutionality standard	Working Measures Art. 36 Legislation Law Arts. 107–108, 110 Decision	Whether normative documents conform to constitutional provisions, principles, and spirit
Appropriateness standard	Working Measures Art. 39 Legislation Law Art. 107–108 Decision	Whether normative documents are “manifestly inappropriate” in substance
Political standard	Working Measures Art. 37 Decision	Whether documents align with Party Central Committee’s policy directions and principles

4.3.1. The Sequence Debate: Legality Review Versus Constitutionality Review

Regarding the applicable sequence of constitutionality review and legality review, three basic positions have emerged in the academic community: the priority of legality review, the priority of constitutionality review, and the parallel approach.

The priority of legality review is advocated by most scholars. Some scholars argue that legality review serves as a filtering mechanism for constitutionality review, and that it is only necessary to proceed to constitutionality review when disputes remain after legality review has been exhausted [84,100]. Other scholars, drawing on the German doctrine of exhaustion of legal remedies from a comparative perspective, advocate exhausting legality review before proceeding to constitutionality review, arguing that this helps alleviate the workload pressure on NPCSC and ensures the functional positioning of constitutionality review as a last resort [101]. Still other scholars, from the perspective of institutional feasibility, contend that legality review has accumulated rich practical experience and can provide a foundational and precedent reference for the improvement of the constitutionality review system [102].

The priority of constitutionality review is advanced by representative scholars with different considerations. Some scholars propose that the CLC should conduct constitutionality review first, followed by legality review conducted by the LAC, with the two coordinating to form a review report [77]. Other scholars, from the perspective of local people’s congresses’ standing committees, suggest absorbing and leading legality review through constitutionality review, with the underlying concern that if legality review were given priority, constitutionality review might be overshadowed, and cases where the reviewed object is legal but unconstitutional could be overlooked [103].

The parallel approach fundamentally challenges the premise of hierarchical review. Some scholars point out that legality review before constitutionality review is a variant of the exhaustion of legal remedies doctrine, imbued with the remnants of judicial-

centered constitutional supervision and incompatible with the constitutional supervision system of the supreme state authority. Legality review and constitutionality review each have independent value and there is no sequential order between them, as NPCSC, under Article 67 of the Constitution, possesses the power to conduct both constitutionality and legality review of regulations simultaneously, without any need for legality before constitutionality [104].

Among the competing positions on the sequence of review, we favor prioritizing legality review over constitutionality review. Constitutionality review entails higher institutional costs under the NPCSC's limited review capacity, while legality review can function as a screening mechanism that filters out issues resolvable at the statutory level.

4.3.2. The Legality Standard

Regarding the connotation of legality review standards, divergent understandings ranging from narrow to broad conceptions exist within the academic community. The narrow view confines legality review to the determination of whether normative documents contradict higher-level norms other than the constitution, such as laws and administrative regulations. Some scholars argue that the "law" in legality review refers to laws, regulations, rules, and normative documents, and emphasize that legality review should be strictly distinguished from constitutionality review [104]. Other scholars, from the perspective of normative theory, propose that the precise object of legality review is not the legality of normative documents but rather the legality of pragmatic norms, which encompasses both the legality of semantic normative elements and the legality of norm-making behavioral elements [105].

In the field of intra-party regulations, the conceptual definition of legality review becomes even more complex. Some scholars point out that the "law" in the legality review of intra-party regulations should refer to state law, excluding intra-party regulations and the Party's normative documents, and that a distinction between legality and compliance should be made at the institutional level [106]. Other scholars contend that legality and compliance review serves as a mechanism for balancing the tension between Party autonomy and the modernization of state governance, and that structural deficiencies exist in terms of review subjects, standard content, discretionary space, and the effectiveness of review outcomes [107].

Regarding the specific composition of legality review standards, scholars have conducted typological analyses from various dimensions. Some scholars summarize the legality standard as a three-part structure, i.e., competence legality, content legality, and procedural legality, while noting that conceptual confusion pervades the current normative system and review practice, as expressions such as "contradict," "inconsistent with," "fail to comply with," and "lack of higher-level legal basis" are used interchangeably without a unified set of criteria for determination [108].

Other scholars further distinguish the objects of legality review into two basic types: individual-type unlawful norms and conflictual unlawful norms. The former refers to individual norms that do not conform to legislative norms and should be subject to sanctions, including norms enacted in violation of higher-level legal provisions, beyond authority, or contrary to statutory procedures. The latter refers to the apparently lawful but inferior norm in a conflicting pair of norms that should be subject to sanctions. These two types of unlawful norms differ substantially in conceptual structure, causes of formation, benchmarks for evaluation, and methods of determination. Correspondingly, the review of normative legality should be differentiated into two levels: validity review and compatibility review [109]. Regarding the sequence of review, this scholar advocates holistic review be-

fore partial review, validity review of norms before compatibility review of norms, and abstract formal review before concrete substantive review [110].

Other scholars propose a three-part framework from the perspective of content legality: open content legality, closed content legality, and semi-open content legality, applicable respectively to the domain of extreme injustice, the domain of legislative reservation, and the domain where higher-level legal bases are unclear [111].

4.3.3. The Constitutionality Review Standard

The standard of constitutionality review, namely, the criterion for determining whether a normative text conforms to the constitution, is one of the most central standards in R&R, and has generated the richest body of academic discussion.

First, regarding the concept of constitution-relatedness. Constitution-relatedness is a unique concept within the R&R system. Around its functional role, three competing models have emerged in the literature: safety valve, filter, and diverter.

Under the priority of constitutionality review, constitution-relatedness judgment is positioned as a safety valve that triggers constitutionality review; under the priority of legality review, it is positioned as a filter that screens out legality review [84].

Some scholars have criticized both positions: in the former, the function of constitution-relatedness review is redundant, as constitutionality review would be initiated regardless of whether such a judgment is made; in the latter, if law is understood as the concretization of the constitution, the sequential order of legality review, constitution-relatedness judgment, and constitutionality review would lead to the absorption of constitutionality review by legality review, as issues of constitutional controversy would also fall within the domain of legal controversy, making review authorities more inclined to avoid constitutional judgments.

On the basis of this critique, these scholars propose that constitution-relatedness should serve as a diverter: under a parallel relationship between constitutionality review and legality review, constitution-relatedness judgment functions as a procedural preparation for the formal initiation of the two types of review—if a normative document is constitution-related, constitutionality review is initiated; if not, legality review is initiated [112]. At the level of operationalization, some scholars have further concretized the substantive criteria for constitution-relatedness judgment, distinguishing between a positive determination tier and a negative exclusion tier [113]. Other scholars have taken a broader perspective, noting that the intension and extension of constitution-related issues are both broader than those of constitutional issues, and that constitution-related issues possess their own independence [114].

Second, regarding the forms of constitutional citation in constitutionality review. The form of constitutional citation, while seemingly a technical detail, bears on the normativity and transparency of constitutionality review. As China's judicial review system, R&R has developed distinctive modes of constitutional citation. Research indicates that, among cases involving constitutional issues, those that explicitly cite specific constitutional provisions are in fact a minority [115].

In response, some scholars have proposed normative requirements from a methodological perspective, arguing that constitutionality review should adhere to the principle of prohibiting escape to abstract legal norms. In the domain of fundamental rights review, specific fundamental rights norms should be cited first; only when further argumentation remains necessary may general human rights provisions be cited as a supplement or independently [116].

However, other scholars, drawing on the theory of legal facts, point to a tension between this normative requirement and actual review practice. These scholars distinguish

between interpretive constitutional elaboration and declaratory constitutional elaboration in the constitution-related reasoning of R&R: the former possesses the substantive elements of constitutional interpretation, while the latter stems from the practical need to respond to concerns over constitution-related issues. Declaratory elaboration, however, may, in practice, suffer from improper conflation with legality benchmarks and a lack of substantive connection between the constitutional content cited and the focal points of review [117]. Thus, the normative ought and the actual practice of review remain in need of further coordination.

Third, regarding the role of constitutional spirit as a standard for constitutionality review. The Decision lists constitutional provisions, constitutional principles, and constitutional spirit as parallel standards for constitutionality review. Whether the independent status of constitutional spirit has substantive significance is a matter of scholarly disagreement.

Some scholars provide a systematic justification for the independent application of constitutional spirit, arguing that it has independent application space under two circumstances: first, when the relevant legislation lacks clear constitutional provisions or principles to serve as review standards; second, when applying existing constitutional provisions and principles fails to yield a definite review conclusion. When all three are applied together, constitutional spirit stands in a triple relationship of supplementation, coordination, and calibration with constitutional provisions and principles, with the calibration relationship pointing to the independent application of constitutional spirit—namely, when the conclusion reached by applying constitutional provisions and principles may conflict with genuine constitutional values, constitutional spirit is needed to test the outcome [118].

Other scholars adopt a more cautious stance, noting that constitutional spirit is easier to recognize than to define. From a normative perspective, the content denoted by constitutional spirit has a certain normative basis in positive constitutional law and is analytically extractable in a normative sense; however, if it becomes too abstract, its feasibility and necessity as a concrete review standard will be significantly diminished [119]. Other scholars offer an analytical approach from the perspective of distinguishing between constitutional issues and constitution-related issues, arguing that Article 5 of the Legislation Law differentiates the forms of constitutional existence into constitutional provisions, constitutional principles, and constitutional spirit, thereby providing a relatively clear scope of review matters for constitutionality review. The constitutional issues corresponding to constitutional principles and constitutional spirit are subject to considerable uncertainty, but some scholars suggest that this uncertainty can be limited by reference to constitution-related issues [114].

From an empirical perspective, cases published in 2023 and 2024 tend to apply constitutional provisions, principles, and spirit comprehensively, reflecting an order-oriented view of constitutional implementation that emphasizes holism. Accordingly, constitutional provisions, principles, and spirit should be applied either jointly or independently through functional complementarity and dynamic adjustment in specific contexts [96].

The core of the disagreement lies in whether constitutional spirit is a normative form independent of constitutional provisions and principles, or merely a value overflow of the latter. If the former, constitutional spirit should have a relatively determinate normative content and operable application rules; if the latter, listing it as an independent standard risk conceptual redundancy.

Fourth, regarding the presumption of constitutionality in China's R&R system. The presumption of constitutionality is an important methodological principle in constitutionality review, but its applicability to the review system dominated by China's supreme state authority remains contested.

Some scholars adopt a negative stance, arguing that the presumption of constitutionality is a product of the separation-of-powers system, requiring the judiciary to exercise deference toward the legislature, whereas constitutional supervision under the People's Congress system is a form of self-supervision, leaving no room for its application. Moreover, the presumption of constitutionality is primarily suited to an adversarial model of review, whereas China's legislature-dominated review model does not require party debate and thus cannot accommodate such a presumption.

In contrast, other scholars adopt an affirmative stance, reconceptualizing the presumption of constitutionality as a mechanism for adjusting the difficulty of proving unconstitutionality rather than as an interpretive method or a rule of evidence. From logical, foundational, and pragmatic perspectives, they argue for its applicability: logically, a presumption of constitutionality in the sense of law implementation necessarily exists, as the process from enactment to review is temporally continuous, and the mere entry into review proceedings cannot be taken to extinguish the presumption of validity; foundationally, the horizontal division of labor among state organs and the vertical respect of the central government for local governments both provide grounds for NPCSC to exercise deference in review; pragmatically, abandoning the presumption of constitutionality would erode the value consensus of avoiding unconstitutionality findings, reduce review efficiency, and narrow the space for institutional improvement [120].

On this basis, these scholars further propose a three-step test for determining whether to apply the presumption of constitutionality: first, examine whether the reviewed object is manifestly unconstitutional (based on a layperson's facial reading or the risks reflected in the manner of initiation); second, examine whether there is a legality review conclusion or an *ultra vires* finding; and third, exercise discretion based on the severity of the violation, seeking a balance between review efficiency and quality [120].

4.3.4. The Appropriateness Review Standard

The appropriateness review standard has been normatively established as a distinct type of review under Article 39 of the 2019 Working Measures [121]. Beyond this positive-law foundation, however, its doctrinal content and operational criteria remain subjects of active scholarly debate. Some scholars have offered a critical reflection: using changes in legislative facts as an appropriateness review standard risks exceeding NPCSC's boundary of authority and should instead be treated as one of the circumstances falling under the constitutionality and legality review standards [122]. Other scholars have suggested renaming the appropriateness standard as the rationality standard to avoid confusion with the concept of inappropriateness in law [123]. A further point of scholarly disagreement concerns on the relationship between appropriateness, legality, and constitutionality. Especially, managing the relationship between appropriateness review and legality review is the most challenging issue in practice. Although the two should be clearly distinguished in theory, they often overlap and become conflated in practice. Some scholars have observed that Article 30 of the Supervision Law lists situations such as exceeding statutory authority and contradicting laws and regulations as instances of inappropriateness, reflecting an inclusive relationship. In contrast, Article 96 of the Legislation Law juxtaposes the inappropriateness of provisions of rules with exceeding authority and contravening higher-level legal provisions, reflecting a coordinate relationship. This inconsistency at the normative level has led to confusion in application [121].

In general, the broadest conception holds that appropriateness encompasses both legality and rationality, collectively termed legitimacy. The 1982 Constitution distinguishes between contradiction and inappropriateness, with the latter having a broader scope than the former, providing a normative basis for this position [124,125]. The broad conception

maintains that appropriateness does not include legality but refers primarily to substantive rationality. As defined in the Legislation Law, inappropriateness is juxtaposed with contradiction to the constitution and contradiction to laws and regulations, representing a condition that is unreasonable or unfair on the basis of being constitutional and legal [122]. The narrow conception understands appropriateness merely as a sub-principle of proportionality, namely that the means must be conducive to achieving the purpose [126].

Regarding the sequence of review, some scholars advocate a hierarchical order of legality review first, followed by constitutionality review, and finally appropriateness review, with appropriateness review serving to supplement the former two [127]. Other scholars contend that appropriateness review examines whether the legislative discretion exercised in lower-level norms is appropriate within the margin of discretion delineated by higher-level norms, whereas legality review has higher-level legal rules as a benchmark, making appropriateness review considerably more subjective [125]. However, some scholars have raised objections, arguing that using changes in legislative facts as a standard for appropriateness review overlooks the fact that constitutional and legal norms are the very bases for review conclusions. This approach may lead to the negative consequence that once a legal norm is deemed constitutional and legal, it remains so forever, and the review results may prove difficult to enforce [122].

Other scholars, drawing on Item 5 of Article 13 of the Regulation, propose a structured two-step approach to appropriateness review: the first step examines whether the measures prescribed by the rules serve the legislative purpose; the second step examines whether they correspond to actual circumstances. These scholars further point out that legality review and appropriateness review give rise to different legal effects: normative documents invalidated on grounds of illegality should be deemed void *ab initio*, whereas those invalidated on grounds of inappropriateness should be deemed void only from the time of declaration of invalidity [128]. This distinction carries significant implications for review practice.

Article 39 of the Working Measures imposes a prerequisite of manifest inappropriateness for appropriateness review, yet what constitutes manifest has become a practical difficulty. Some scholars propose adopting the reasonable person standard as the benchmark for determination, noting that, in practice, the review authority shifts between the reasonable person standard and the professional rationality standard, resorting to the latter when professional issues such as the establishment of legal liability are involved [129]. Other scholars have found that the application of various balancing benchmarks varies: the benchmark of manifestly contravening public order and good morals adopts a relatively lenient balancing scale; the benchmark of manifest mismatch between means and purpose adopts a comprehensive balancing approach; and the circumstance of being no longer suitable for continued implementation due to major changes in actual conditions requires distinguishing between changes in policy and changes in law [130]. Still other scholars construct a two-dimensional framework for determining appropriateness review, drawing on the theory of review intensity for value judgments and employing syllogistic reasoning for logical judgments [121].

The stance that the review authority should adopt in appropriateness review directly bears on the boundaries of the exercise of review power. Some scholars, from the perspective of central-local relations, argue that NPCSC should adopt a self-restrained stance when conducting appropriateness review of local regulations, respecting the democratic legitimacy of local people's congresses and their standing committees as well as local knowledge. Appropriateness review should adhere to four bottom lines: implementing central policies in a diluted manner, engaging in local protectionism, providing grounds for excessive government intervention in the micro-economy, and unduly diminishing citizens'

rights or imposing additional obligations on citizens. Only in such exceptional circumstances should the review authority intervene [125]. Other scholars have introduced the theory of typified intensity of review based on legislative facts, distinguishing three levels of intensity: manifestness review (the least stringent, criticizing only manifest errors), supportability review (moderate, examining whether the decision-maker's judgment is reasonable and supportable), and intensive content review (stringent, requiring a necessary and narrowly tailored nexus between means and ends) [131]. On this basis, some scholars further propose establishing a three-tier system of lenient, moderate, and strict review intensity, and point out that stricter review standards should be applied to special provisions that implement major reform decisions of the Party Central Committee or involve fundamental rights and obligations of citizens [132].

4.3.5. The Political Standard

The political standard was formally introduced as a distinct review criterion under the 2023 Decision alongside the legality, constitutionality, and adequacy standards. Unlike these other standards, however, its normative content and operational criteria have not yet been systematically elaborated in either the legislation or the scholarly literature. Most existing discussions appear in the context of intra-party regulation review, and few studies have systematically examined its normative content, operational criteria, or relationship with the other review standards.

Some scholars propose that the connotations of the political standard include adhering to the party's leadership and ensuring the correct direction, implementing democratic centralism and following the mass line, and persisting in combining party spirit, public nature, and people's nature. In addition, the operational steps applicable to political review standards include three steps: clarifying, concrete, and institutionalizing [133]. Meanwhile, others suggest that the connotations of the political standard include whether to adhere to the party's leadership; whether it follows the Party's purpose, principles, objectives, and theoretical foundation; and whether it meets the expectations and requirements of the Party Central Committee for the construction of internal Party regulations [134]. As for the density of scrutiny, some scholars claim that strict review benchmarks should be adopted [135]. Some opposite opinions question the theoretical basis for principles and policies of the party and the state to be the standards of R&R [17]. Meanwhile, some scholars claim that none of the existing knowledge stock can solve the problems such as "what is the real reason for the presumed justification of the practice of using the Party Central Committee's principles and policies as the standard of review under China's constitutional framework" [136].

In short, the newly developed political standard has previously only been discussed in the internal party regulator's R&R, and has not been smoothly integrated into the practical work and theoretical framework of R&R. A fuller treatment of this topic must await further doctrinal development and practical experience.

5. The Correction Process of R&R

The correction process is the last but also the core stage of the R&R system because it is a decisive factor for the complete fulfillment of the whole constitutional review. One review activity cannot be deemed as accomplished until the decision made by the review authority has been carried out in good quality, which indicates that the problematic document has ultimately been amended or repealed. Therefore, ensuring the review decision's implementation has become a comparatively essential task in the R&R practice. Meanwhile, this stage also reveals the Chinese characteristic of R&R with its functioning

mechanism. The following discussion examines how the correction process operates, the nature and retroactivity of review outcomes, and related issues.

5.1. *The Nature of the Effect of R&R Outcomes: Legal Effect or De Facto Effect?*

As a matter of positive law, the Legislation Law and the Working Measures do not explicitly address the binding force of R&R opinions. This silence has given rise to significant divergence in the academic community regarding whether the outcomes of R&R possess legal effect—a debate that is particularly pronounced with respect to the binding force of R&R opinions on judicial adjudication.

Some scholars adopt a negative or restrictive stance. They point out that, by their nature, communications and written review opinions are internal documents between the R&R authority and the enacting authority, binding only upon the parties involved [137]. Empirical research shows that, among 31 judicial decisions reviewed, courts cited R&R opinions in only 12 cases, and in all such instances, the opinions served as reasoning for the judgment rather than as a basis for adjudication. The study further argues that courts' citation of R&R opinions is largely based on the de facto authority derived from the special legal status of the Legislative Affairs Commission, rather than any normative obligation [138]. Other scholars further distinguish the differential effects of review outcomes by reviewing body: reviews conducted through negotiation by the special committees of the NPC and the Legislative Affairs Commission have only a flexible binding force, which is a de facto effect rather than a de jure one; only when review is enforced by the NPCSC does it possess a rigid binding force [139].

In contrast, other scholars adopt an affirmative or strengthening stance, arguing that communications and written review opinions should have general binding force, as they are backed by legally mandated compulsory corrective procedures [140] and are grounded in a legal demand for compliance rather than a factual consideration [141]. At the judicial level, some scholars propose the concept of “reference binding force”: although communications and review opinions lack the general binding force of corrective or annulment decisions, other enacting authorities should refer to them when encountering the same issue and may apply them by analogy when encountering similar issues. This model draws on the design of the effectiveness of guiding cases issued by the Supreme People's Court, falling somewhere between application and reference [137]. Other scholars, from the perspective of rights remedies, argue that the result of the enacting authority amending or annulling a normative document following a review opinion is essentially a quasi-manifestation of the will of the R&R authority, and that people's courts should apply it by analogy to R&R decisions [142].

Still other scholars propose a middle-ground view, holding that review opinions have procedural binding force: although the enacting authority retains discretion over whether to correct errors in accordance with the review opinion, it must comply with procedural obligations such as timely reporting of its response [143].

In response to what some scholars characterize as the passive attitude of courts in practice, these scholars have identified three factors constraining citation: the non-comprehensive review and flexible correction methods adopted by R&R authorities, which make it difficult for review opinions to provide clear guidance for the application of law in individual cases; the limited publicity of R&R opinions, which renders courts unable to cite them or leads to erroneous citation; and the lack of normative binding force of R&R opinions on court adjudication [138]. Other scholars, from a broader perspective, point out that constitutionality review authorities, in order to avoid direct confrontation with the enacting authorities, refrain from making negative constitutionality determinations

on normative documents, and this attitude also influences courts' stance toward review opinions [30].

5.2. Flexible Corrections Versus Institutional Rigidity in R&R

Regarding the feature of R&R correction mechanisms that is predominantly flexible while rigid measures remain available but seldom used, there is a tension in the academic assessment of its legitimacy.

Some scholars affirm the legitimacy and rationality of flexible corrections. From the dimensions of institutional structure and the constitutional status of review authorities, some scholars analyze that the interaction between political logic and legal logic within the authority of R&R constitutes an internal cause, while the relativity of NPCSC's supreme status vis-à-vis other state organs constitutes an external cause. The presence of flexible elements is not entirely unreasonable; in the early stages of the system, empowering the system through political authority and maintaining a degree of flexibility helps enacting authorities absorb opinions and expands space for oversight work [144]. Other scholars point out that the consensus-based correction model, centered on communication and negotiation, reflects the political concept of division of labor and cooperation among various departments under the leadership of the Party, effectively mitigating potential disagreements arising from multiple reviews, and represents a distinctive feature and contribution of China's constitutional system [145]. Other scholars, drawing on the theory of annulment norms, argue that the annulment effect of R&R manifests more as a constraint on subsequent procedures or the procedures of other institutions rather than as a direct formation of content [146].

Other scholars reflect critically on the practical effectiveness of flexible corrections and advocate for enhanced rigidity. Some scholars point out that, in practice, the phenomenon of one batch corrected, another batch emerges persists; for example, the issue of household registration restrictions for taxi drivers remained in some localities even after two rounds of concentrated corrections by the LAC, reflecting the weak binding force of flexible means [137]. Other scholars note that communications and written review opinions suffer from inherent deficiencies in normative effect, primarily because the review institutions lack fully independent legal status, and their determinations more closely resemble research opinions and are confined to the relationship between the reviewer and the reviewed [140]. Other scholars criticize the communication and negotiation system for its high costs, inconsistent standards, strong arbitrariness, and low transparency, likening it to a procedural vacuum [147].

In response to these difficulties, some scholars have proposed a typified improvement plan: political review should be conducted prudently and may gradually be replaced by means such as inquiries and hearing reports; appropriateness review should respect the division of powers and adopt flexible correction methods in a typified manner based on different objects; constitutionality and legality review, by contrast, should enhance the quality of reasoning, clarify normative judgments, and exercise the power of constitutional and legal interpretation as appropriate to strengthen institutional authority [144].

In our view, the central dilemma is that the flexibility facilitating consensus and institutional stability may simultaneously weaken the rule-of-law function of the R&R system. Persistent non-compliance suggests that flexible correction mechanisms do not always generate sufficient compliance incentives, revealing an inherent tension between political coordination and legal supervision. Addressing this tension requires more than procedural refinement; it calls for a clearer delineation of the respective roles of political negotiation and legal adjudication within China's constitutional supervision framework. While flexibility has important institutional advantages, it also comes at the cost of reduced transparency,

weaker binding force, and diminished rights protection. Achieving an appropriate balance between flexibility and rigidity therefore remains a central challenge for the future development of the R&R system.

5.3. *The Retroactivity of R&R Decisions*

Regarding the retroactivity of R&R outcomes, namely, the effect of corrected or annulled normative documents on past conduct and judicial decisions, this is the most intensely contested area in the academic literature.

The majority view advocates for the principle of non-retroactivity. Some scholars argue from the perspective of legal stability that annulment decisions should take effect from the date of annulment rather than from the inception of the norm. Drawing on the principle of non-retroactivity in Article 93 of the Legislation Law, they propose a position of non-retroactivity as the rule, with favorable retroactivity as the exception [148]. Other scholars maintain that legal stability should be the primary value factor, and that review decisions should in principle have no retroactive effect [139]. Still other scholars advance the theory of *ex nunc* invalidity, pointing out that legal stability ultimately materializes through *res judicata* in judicial decisions and finality in administrative acts. What the retroactivity of R&R decisions would alter is precisely administrative acts and judicial decisions that have already acquired binding force and *res judicata*, and the resulting disruption to legal stability far exceeds that caused by retroactive legislation [140].

Exceptions are primarily concentrated in the criminal domain and cases involving serious violations of fundamental rights. Some scholars note that German law provides an exception for criminal judgments: if a penalty is based on an unconstitutional criminal provision, no one should be forced to bear such a stigma [148]. Other scholars propose a more nuanced analytical framework: pending cases that gave rise to the review should be granted retroactive effect (as an incentive to file review suggestions); cases currently under adjudication should also be granted retroactive effect (otherwise, unfairness in equal adjudication would result); for final adjudicated cases, a specific enumeration plus a principled proviso approach should be adopted, and criminal cases that are finally adjudicated should be retroactive, while other cases may be retroactive under the exception of protecting the rights and interests of citizens, legal persons, and other organizations [142]. Other scholars have constructed three types, breach of *res judicata*, genuine retroactivity, and non-genuine retroactivity, each matched with different review benchmarks: breach of *res judicata* requires a dual benchmark of significance plus urgency; genuine retroactivity requires a significance benchmark; non-genuine retroactivity requires only a demonstration of a predominant public interest [149].

Multiple scholars have criticized the absence of provisions on retroactivity in current legislation. Some scholars point out that the Decision still does not address retroactivity, creating institutional obstacles to the remedy of party rights—after filing a review suggestion, a party may encounter the predicament of the statute of limitations for retrial (six months in civil procedure) expiring during the R&R process [150]. Other scholars suggest that while legislators consider the relevant research to be not yet mature and require more practical cases for support, this legislative lacuna has already affected the effectiveness of R&R [149].

On the contested issue of retroactivity, we take the position that non-retroactivity should be the general rule, with exceptions confined to clearly justified circumstances. This approach, we suggest, strikes an appropriate balance between the competing values of legal certainty and effective rights protection, while also providing a principled basis for future legislative refinement.

6. Future Research Directions

While the literature review presented above has shown the general frame of R&R which basically includes three major sections, i.e., recording, review, and correction, there are still many areas that are unexplored. However, it is just this type of study that is of great relevance to the R&R authorities faced with complex practical problems. The following part discusses some of the possibly fruitful directions for future research.

6.1. Scope of Review Objects

First, whether national laws should be included within the scope of R&R requires further investigation from the perspectives of normative basis, theoretical logic, and institutional feasibility. While maintaining the premise of self-review by the NPC and NPCSC, how to design a full-process review procedure encompassing both *ex ante* and *ex post* stages—including the criteria for distinguishing between formal and substantive statements, the division of responsibilities between the CLC and the LAC, and the suspension and transfer mechanisms for major constitutionality concerns—remains to be further clarified.

Second, the R&R of Party-government joint documents face difficulties in defining their nature, unclear review standards, and a lack of adequate supervision procedures. Future research should explore whether such documents should be subject to the intra-party regulation review system or the state law review system, or whether an independent joint review mechanism should be established, as well as how to achieve effective coordination between intra-party regulation review and state law review and how to avoid inconsistent standards and poor coordination under a multi-track review structure.

Third, the legislative bases, democratic density, and formulation procedures of different types of normative documents vary significantly, necessitating the establishment of differentiated review intensity benchmarks. Future research may further explore how to set hierarchical review standards based on the degree of democratic legitimacy of the enacting body and the nature of the legislative matter, as well as how to apply the bill classification procedure to optimize the allocation of review resources.

6.2. Review Standards

First, constitutionality review standards have taken the triple form of constitutional provisions—constitutional principles—constitutional spirit, yet the logical relationships and order of application among these three remain to be clarified. Future research needs to determine whether the constitutional spirit is an independent normative form or a value overflow, how to concretize and operationalize it through constitutional interpretation, and how to shift from general citation to explicit citation in constitutional referencing, thereby truly implementing the methodological requirement of prohibiting escape to abstract legal norms.

Second, regarding the applicable sequence of legality review and constitutionality review, three positions—the priority of legality review, the priority of constitutionality review, and the parallel approach—remain in contention. Future research should, based on a critical synthesis of various perspectives, explore review order rules compatible with the constitutional supervision system of China's supreme state authority and construct procedural mechanisms for a smooth transition from legality review to constitutionality review. The diverter function of constitution-relatedness judgment and its two-tier analytical framework of positive determination–negative exclusion also require further empirical testing.

Third, the appropriateness review standard has evolved from the abstract requirement of manifest inappropriateness into a methodological system centered on the principle

of proportionality. Future research needs to further address the criteria for distinguishing between manifest inappropriateness and general inappropriateness, the contexts in which the reasonable person standard and the professional rationality standard apply, the boundaries between appropriateness review and legality/constitutionality review, and whether the four-tier structure of the proportionality principle should be applied in full or selectively in R&R.

Fourth, the political standard is the most distinctive Chinese review standard, yet its normative connotation, application conditions, and review intensity lack systematic research. Future research should address the relationship between the political standard and the constitutionality, legality, and appropriateness standards, its place in the review order, how to avoid the over-application or under-application of political review, and also clarify its justification within the constitutional framework.

6.3. *Correction Mechanisms*

First, the current correction mechanism in R&R is characterized by flexibility as the mainstay, with rigid measures available but rarely used, and flexible approaches face the dilemma of weak binding force, as evidenced by the phenomenon of one batch corrected, another batch emerges. Future research should explore typified improvement plans for correction methods: different types of review (i.e., political, appropriateness, constitutionality, and legality) should be matched with differentiated correction methods. At the same time, it is necessary to clarify the hierarchy of legal effects of different correction methods—such as communication opinions, written review opinions, supervisory letters, and annulment decisions—as well as the conditions for transitioning from flexible binding force to rigid binding force.

Second, the retroactivity of R&R decisions—the effect of corrected or annulled normative documents on past conduct and judicial decisions—is the most intensely contested area. Most scholars advocate for the principle of non-retroactivity, with exceptions primarily in criminal cases and cases involving serious violations of fundamental rights. Future research should further explore how to balance the stability of the legal order with the protection of citizens' fundamental rights, the specific conditions and procedures for breaching *res judicata* in finally adjudicated cases, the scope of application of favorable retroactivity, and how to fill the legislative gap on retroactivity left by the Decision on Improving and Strengthening the R&R System.

Third, whether R&R opinions can bind courts in individual case adjudication is a practical focal point of the effectiveness issue. Empirical research shows that courts cite R&R opinions at a relatively low rate and only as reasoning for judgments rather than as a basis for adjudication. Future research needs to determine what effect R&R opinions should have on courts—normative binding force, *de facto* binding force, or a reference binding force somewhere in between—as well as how to establish institutional mechanisms for the articulation between R&R and judicial litigation, so that the results of corrections can be effectively transmitted to individual case adjudication.

Fourth, how to correct errors in R&R decisions themselves is an issue that has not yet been fully studied. Future research should explore which body, through what procedures, should correct erroneous R&R conclusions; whether a remedy mechanism analogous to retrial needs to be established; and how to balance the need for correction with the requirements of legal stability. The threefold framework of dispositive force, constitutive effect, and sanctioning force for R&R decisions preliminarily [146] also requires further elaboration and empirical testing.

7. Conclusions

As one of the most important constitutional supervision mechanisms in China, the R&R system has gained increasing influence, particularly following the 2023 amendment to the Legislation Law. In light of this, the present article provides a comprehensive review of the research exploring the three major components of the R&R system. By systematically examining the R&R system, this article identifies gaps in the existing literature and proposes possible directions for future research. In doing so, it aims to provide constitutional law scholars with a meaningful point of departure from which they can make significant theoretical contributions to the field. A deeper understanding of the operational logic of R&R will, in turn, guide R&R practice, resolve practical difficulties, and enhance the quality of constitutional supervision.

The R&R system serves not only as a legal instrument for maintaining the unity of the legal system but also, as the literature suggests, as an institutional mechanism with broader implications for state governance. Scholars have argued that its error-correcting function—identifying, reviewing, and rectifying normative inconsistencies—contributes to legal coherence and predictability, which are foundational conditions for sound governance. The prevailing practice of flexible corrections, centered on communication and consultation, together with the principle of non-retroactivity as the general rule regarding the effect of R&R decisions, collectively embodies an approach that seeks to balance error correction with legal stability. Whether and to what extent this balance translates into tangible governance outcomes remains an open question that awaits further empirical investigation.

Looking ahead, as the scope of review objects expands from regulations and judicial interpretations to a broader range of normative documents, as review standards evolve from typification to systematization, and as correction mechanisms shift from flexibility toward a balanced integration of flexible and rigid measures, the R&R system will play an increasingly fundamental and strategic role in comprehensively advancing the rule of law. Only through sustained theoretical innovation and institutional refinement can R&R truly become a solid bulwark of constitutional supervision, a vital pillar supporting the modernization of the state governance system and governance capacity, and a steady force advancing steadily and far on the grand journey of building a rule-of-law China.

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