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我国信访制度研究

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内容摘要

信访是新中国成立之后形成的一种法律制度，其最初的目的在于密切党和政府同人民群众之间的关系，作为党和政府发扬政治民主的工具以及公民行使宪法规定的民主权利的途径而存在的。但在信访制度的发展过程中，由于这种制度在设计上所表现的某些传承历史的特征，在制度运行不久就被附加了权利救济的功能。纵观信访制度的发展历程，无论是人们的思维定势，还是其实际运行，信访都是作为一种特殊的行政救济手段，而且在现实生活中也确实发挥了行政复议、行政诉讼等救济途径所不可替代的作用。但是，作为一种辅助的行政救济制度，由于这种制度的“非正式”性，立法的滞后和不足，以及其与现实人们心理期待的差距，直接导致人们对信访认识上的误区，信访制度甚至被认为是“人治”的产物。当前我国社会处于转型时期，各种社会冲突和纠纷日趋突出，如何解决信访存在的制度性缺陷与人们对信访救济的现实依赖之间的矛盾，更是摆在我们面前的现实问题。因此本文通过对信访在各个不同阶段的特点、功能的分析，揭示信访制度存在问题、成因，同时对信访制度的立法现状进行分析，特别是对今年初国务院《信访条例》修改前后的一些内容变化进行比较，进而就如何进一步完善信访制度提供一些设想和建议，以期对我国信访制度的进一步改革有所裨益。

关键词：信访制度；权利救济；改革创新

ABSTRACT

Letter-visitation system build after establishment of new China, the original purpose is tie up the party, government and people' s relationship, it exist as the tool of party and government develop political democracy, as the approach of citizen exercise civil rights prescribed by constitution. But during the development of Letter-visitation system, function of relief added for some historical feature after it run shortly. Survey the development of Letter-visitation system, not only people' s regular thinking tendency, but also actual running, Letter-visitation acted as a special means of administration relief, and exert administration reconsider, administration litigation which can' t replace by administration relief in true-life. But as an assistant administration relief system, for the system' s 'informal' , lawmaking' s lag and deficiency, and the difference with what people expected leads to people' s misapprehend on Letter-visitation, Letter-visitation system even regarded as the result of government by men.

Now our country is on model change, all sorts of social conflicts and entanglement progressively, how to solve the conflict between defect of Letter-visitation system and the people' s rely on Letter-visitation relief, build green passage of citizen maintain right, is the problem which we should face. So this article aim at necessary tidy, ponder and analyse on characteristic, function of Letter-visitation at different phase, analyse the lawmaking actuality of Letter-visitation system, in particular compare the content of 'Ordinance of Letter-visitation' which amended by State Department at the beginning of this year with before, and provide some assumption and suggestion on how to improve Letter-visitation system, hope to help Letter-visitation system.

Keywords: Letter-visitation system, relief, innovation

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内容摘要

信访是新中国成立之后形成的一种法律制度，其最初的目的在于密切党和政府同人民群众之间的关系，作为党和政府发扬政治民主的工具以及公民行使宪法规定的民主权利的途径而存在的。但在信访制度的发展过程中，由于这种制度在设计上所表现的某些传承历史的特征，在制度运行不久就被附加了权利救济的功能。纵观信访制度的发展历程，无论是人们的思维定势，还是其实际运行，信访都是作为一种特殊的行政救济手段，而且在现实生活中也确实发挥了行政复议、行政诉讼等救济途径所不可替代的作用。但是，作为一种辅助的行政救济制度，由于这种制度的“非正式”性，立法的滞后和不足，以及其与现实人们心理期待的差距，直接导致人们对信访认识上的误区，信访制度甚至被认为是“人治”的产物。当前我国社会处于转型时期，各种社会矛盾纠纷和冲突日趋突出，如何解决信访存在的制度性缺陷与人们对信访救济的现实依赖之间的矛盾，更是摆在我们面前的现实问题。因此本文通过对信访在各个不同阶段的特点、功能的分析，揭示信访制度存在问题、成因，同时对信访制度的立法现状进行分析，特别是对今年初国务院《信访条例》修改前后的一些内容变化进行比较，进而就如何进一步完善信访制度提供一些设想和建议，以期对我国信访制度的进一步改革有所裨益。

关键词：信访制度；权利救济；改革创新

ABSTRACT

Letter-pleasing is a law system which has been formed after the establishment of the new China, its original purpose is to lie up the relationship between the party, the government and the people. It exists as the tool for the party and the government to carry forward democracy and as the way for the people to exert their democratic right that regulate by the Constitution. But during the development of the system, as it is showing some character that inherited from the history, so not long before it is operating, it is annexed the function of right relief. Survey the development of the letters-pleasing system, not also the people's fixed thoughtway, but also the actual operating, letters and calls is a peculiar way of administrative remedy, but in practice, it exerts the function that cannot be substituted by administrative reconsideration and administrative legislation. But as an assistant way for administrative remedy, its informality, the lag and lack of legislation, and the gap between it and the expectation of the people, all of this caused people misunderstand the letter-pleasing system, even though the system has been considered as the result of the rule by men. Now our society is at the moment of changing, all kinds of conflicts come out day by day, how to solve the conflict between the systematic limitation and the people's real rely of the letter-pleasing, this problem is a real problem we have to face. So this article analysis the character and the function of different phrases, post the problem and the cause of the system, at the same time analysis the legislative actuality, especially compare the fore-and-aft amending of the <letter-pleasing statute>, furthermore give some advice and assumption about how to perfect the system, and expect to help the innovation of our country's letter-pleasing system.

KEY WORDS: Letter-pleasing system; Right relief; Innovation

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