

# Research on the Paths of Promoting the University Governance by Law—Take C University in Nanjing as an Example

Han Qifei

*Reform and Development Office, Nanjing University of Finance and Economics, Nanjing, Jiangsu, 210046, China*

**Abstract:** *As an important embodiment of the rule of law in the field of education, governing universities by law is an inevitable choice for universities to promote the rule of law in higher education. In the process of promoting university governance by law in the new era, it is inevitable to encounter some practical problems. For example, the current rules and regulations fail to effectively promote daily management; teachers and staff have insufficient understanding of university governance by law, and litigation cases in colleges and universities continue to increase. This paper takes C university in Nanjing as an example to explore and study how to promote the university governance by law, and starts from three aspects: "whole chain" operation system, "closed-loop" management system and "one-stop" education service system, so as to ensure that the university governance by law is integrated into the overall development of university work and ensure that the rule of law awareness and rule of law are integrated into the modernization of university governance system and that the mechanism for publicity and education on the rule of law as well as teachers' and students' awareness of the rule of law can be improved.*

**Keywords:** *Higher Education, University Governance by Law, Law-based Education*

## 1. Introduction

Comprehensive rule of law is a profound revolution in national governance and is related to the long-term stability of the Party and the country. As one of the specific goals of socialist rule of law construction, promoting university governance by law is to promote the reform and development of universities in the field of education with the rule of law thinking and rule of law. It is also essential to comprehensively improving the practical requirements of teaching according to law.

## 2. The importance of promoting university governance by law

### 2.1. Promoting university governance by law is the practical requirement of law in the field of education.

In the 1980s, as the country gradually advocated the requirement of "governance by law", the concept of "teaching by law" instantly gained popularity, and was finally included in the Outline of China's Education Reform and Development in 1993 as an important measure of education system reform. At this point, the legal framework of the education system, such as the Regulations of the People's Republic of China on Academic Degrees (1980), Teachers Law of the People's Republic of China (1993) and Education Law of the People's Republic of China (1995), has been initially completed<sup>[1]</sup>. Since the 21st century, with the gradual increase in the number of cases brought against colleges and universities which lost legal cases frequently, the "ivory tower" once regarded as a vacuum area began to be affected by the intervention of judicial management, affecting and changing the usual thinking and mode of governance of colleges and universities, and the rationality of rule of law gradually replaced arbitrary. The field of higher education has started a large-scale legislative action, but the surge of rules and regulations has not brought about the simultaneous improvement of the rule of law in colleges and universities, so how to correctly "govern universities by law" has become a key reform requirement for schools to reshape their governance structure.

## ***2.2. Promoting the university governance by law is an important starting point to promote the modernization of education governance system and governance capacity***

The concern of governing universities by law is about the internal and external governance structure of universities. From the perspective of horizontal structure, the internal governance structure includes the university Party Committee, administration, staff congress, academic committee, degree evaluation committee and other committees of the university; In terms of vertical structure, the internal governance structure includes party and administration departments, secondary teaching institutions, scientific research institutions, affiliated institutions, etc. From the perspective of governance content, it includes teachers, administrative staff, students and so on. The external governance environment can be extended to the interaction between universities and other administrative institutions, enterprises and institutions.

Since the millennium, due to the direct management mode of higher education by the education authorities, the internal management mode of colleges and universities has a serious tendency to become administrative and bureaucratic. It is very common in colleges and universities that the power of party committees and administration overtakes anything else, while the trend of marginalization of democratic rights and academic power has become increasingly prominent. For example, scientific research projects and teaching evaluations in colleges and universities are notified and evaluated by administrative departments through administrative lines, and most of the evaluations within colleges and universities are organized and screened by administrative departments, which leads to different levels of participation in academic power of relevant faculty and staff. How to exercise the corresponding rights according to law, clarify the power boundary, and enhance the status of scientific and democratic decision-making has become the fundamental purpose of promoting university governance by law.

## ***2.3. Promoting the university governance by law is an important guarantee for providing a satisfying education system for the public***

With the concept of governing the country by law deeply rooted in people's minds, education, as a cause affecting people's livelihood, has a great bearing on millions of people, and the university governance system already influenced by the "special power relationship theory" has been unable to meet people's new demand for higher education. Besides, there are more and more demands for fairness, openness, freedom and equality within colleges and universities, and more and more strong expressions of the rights and interests of teachers and students. The number of civil lawsuits, administrative lawsuits, appeals and other cases has increased by several times. This situation fully shows that the people's requirements for a satisfying higher education are constantly increasing and that it is still a long way to go to govern universities by law and provide a satisfying education for the public.

Law is written morality, and morality is the law of the heart. The effectiveness of law implementation depends on the support of morality, and the adherence to the norms of moral cultivation is also inseparable from the constraints of law. The fundamental task of colleges and universities is to cultivate morality through education, and the greatest expectation of the people for colleges and universities is the effectiveness of their cultivation of students. Governing universities by law can integrate the rule of law and moral education into the internal system and management concept of universities, and through the reform of the governance system, it can ensure the cultivation of the successors of the socialist cause who adhere to morality, uphold morality and stay good and upright<sup>[2]</sup>.

## **3. The realistic dilemma of promoting university governance by law**

### ***3.1. The existing system does not effectively work well for daily management***

The legal system is hierarchical, so is the system of educational laws and regulations. The core institutional framework of law-based governance in colleges and universities is as follows: the Implementation Outline for Comprehensively Promoting University Governance by Law issued by the Ministry of Education on November 22, 2012, the university charters independently formulated by colleges and universities, the university staff congress system, the academic committee charter and other university rules and regulations. At present, the level of university governance by law is still insufficient, and all colleges and universities have made up for the deficiency by formulating various

charters and rules. This idea of establishing rules and systems is understandable, but the departments and schools within universities are also doing the same things, and they have formulated their own management system, which is a bad tendency of "conveying documents by documents and implementing meetings by meetings". On the other hand, the increase of rules and regulations has led to overlapping management, and the situation of management departments competing for power and profit and buck-passing has become increasingly fierce. Some rules and regulations do not pay attention to the protection of teachers and students' rights and interests in actual management, but simply to avoid responsibilities, which is relatively simple and rude.

### ***3.2. Teachers, students and staff have insufficient understanding of university governance by law***

In the current management work of colleges and universities, there is a phenomenon that people have different levels of awareness of university governance by law. Some university leaders do not attach great importance to the work of governing the university by law, and always feel that university governance by law is a restriction on university management, or a means of control which invisibly brings an obstacle to the routine work, reduces the efficiency of the running of universities, and affects the development momentum of the school. Third, teachers and students believe that in the process of governing universities by law, some legal check and approval procedures and various new legal learning projects have seriously affected the originally free life and study. The "game" and "interaction" between the university's management rights and the rights of teachers and students also lead to several problems<sup>[3]</sup>. Teachers and students of colleges and universities have not yet a real and profound understanding of the law-based university governance, most teachers and students and employees still can't make full use of legal weapons to protect their legitimate rights and interests, and the publicity and education of the concept of law-based university governance is still the weak point of university management.

### ***3.3. Disputes in universities are on the rise***

Since the legal case of Tian Yong vs Beijing University of Science and Technology in 1998, there have been disputes between universities as individuals and the outside world, which started the precedent of judicial review of university management behaviors. Especially after the promulgation of the new Administrative Procedure Law in 2015, university rules and regulations have become normative documents which courts can conduct incidental review on, and judicial review cases have also begun to increase year by year. The number of cases related to university legal person governance, intellectual property protection, debt and creditor relations, and contract disputes is also increasing<sup>[4]</sup>. For example, as the base of knowledge innovation, dissemination and application, colleges and universities should be the party with intellectual property rights to be protected from infringement, but the reality is that colleges and universities frequently become the defendant in intellectual property cases. In addition, the problems of archives management of university staff and the problems left over from history after the expansion of university enrollment into the leapfrog development will lead to a series of litigation problems.

## **4. Promote the practice of governing the university by law**

Governing the university by law means strict system, effective norms, strong management, protecting rights and interests, in order to ensure the implementation of the higher education policy. C university in Nanjing has established and improved the working mechanism of university governance by law, strengthened the organization and leadership of the rule of law work and the construction of the team, formulated and implemented the university charter according to law and regulations, and provided a strong legal guarantee for the modernization of the university's governance system and governance capacity. C university focuses on the fundamental task of cultivating virtues and cultivating people, makes efforts based on the new development stage, implements the new development concept, and serves the construction of a new development pattern. The university has effectively used the rule of law thinking and method to improve the efficiency of university governance, deepened the reform, promoted the connotative development, and enhanced the scientific decision-making power and hard power of university governance.

***4.1. Establish a "whole chain" operation system to ensure that law-based university governance is integrated into the overall development of university work***

In order to establish the law-based university governance system, the Secretary of the Party Committee of C University in Nanjing is directly in charge of this work, the regular meeting of the Party Committee listens to the report on the law-based university governance work every week, the Standing Committee of the Party committee and the president's office regularly listen to the report on major governance tasks, timely study the relevant matters, and fully implement the guiding ideology of making decisions and implementing major matters according to law; C university implements the president responsibility system under the leadership of Party committees, strictly implements democratic centralism, strives to improve the "whole chain" operation system of "regular communication, pre-meeting research and judgment, scientific decision-making, and rigid implementation", holds the weekly regular committee meetings, regular administrative meetings, and secretary and president meetings, and further improves the rules of procedure of the Party-administration joint meetings, promotes the standardization, institutionalization and scientific decision-making of the party and administration leading bodies of colleges and departments; The university charter has been formulated and implemented in accordance with the law and regulations, and a school system with the charter as the core, scientific and standardized, clear hierarchy, and powerful operation has been built. Currently, C university has formulated 345 effective university-level rules and regulations.

***4.2. Improve the "closed-loop" management system to ensure that the rule of law thinking and methods are integrated into the modernization of the university governance system***

The legal risk prevention and control system, as the support and guarantee of the law management system, is mainly divided into three aspects: risk identification, risk prevention and risk control. Legal risk identification provides basic guarantee and guidance basis for risk prevention and control, identifies potential legal risk problems in advance, accurately analyzes and judges the causes and characteristics behind these problems, and develops targeted measures and plans. Legal risk prevention can prevent the occurrence of legal risk problems through effective measures, including strengthening legal education for teachers and students, improving the comprehensive management system, innovation and optimization of university work methods. Legal risk control is a disposal mechanism, which enables colleges and universities to fully understand the real demands of teachers and students, formulate emergency plans for legal risk problems caused by emergencies in the course of running an university, and propose an emergency disposal mechanism to effectively control and solve legal risk problems. Legal risk control can improve the legal risk prevention and control system of universities, regulate university-running behaviors according to law, solve hot, difficult and painful problems in the process of university reform and development with the rule of law thinking and the rule of law, and improve the efficiency of university governance.

***4.3. Build a "one-stop" education service system, effectively improve the rule of law publicity and education mechanism, and enhance the rule of law literacy of teachers and students***

To strengthen the publicity, study and education of the rule of law, on the one hand, we should improve the legal literacy of college teachers: C university in Nanjing has strengthened the training of rule of law theory by establishing a law study system for university leading cadres, and required the theoretical learning group of the school Party Committee, the theoretical learning group of secondary party organizations, and the Party members to study at least one learning activity with the theme of rule of law every semester to strengthen legal awareness and effectively improve the sensitivity of university administrators to educational legal phenomena. For ordinary teachers, C university demands that they should consciously strengthen various channels to enhance relevant legal awareness, consciously accept legal education, constantly explore the integration and entry point of legal knowledge and teaching content on the basis of improving their own legal literacy, timely integrate legal knowledge into teaching, do a good job in teaching ideological and political lessons, guide students to establish legal awareness, and cultivate noble civic literacy. For counselors and class teachers, C university demands that they should pay timely attention to students' ideological dynamics, deeply understand students' learning and living conditions, and grasp and solve students' reasonable demands in study and life in a timely manner with legal thinking and methods.

## 5. Conclusions

It is necessary to promote university governance by law from three aspects: "whole chain" operating system, "closed-loop" management system and "one-stop" education service system. Universities should use legal thinking and legal means to improve the legal capacity and achieve modernization of university governance.

## Acknowledgement

**Fund Project:** Higher Education and Reform and Development Research Project of Nanjing University of Finance and Economics, General project "Research on the Paths of Promoting the University Governance by Law" (GJGF202206)

## References

- [1] Jin Lantao, *Logical Review and Realistic Observation of Teaching and Governing Schools according to Law*, *Modern Education Management*, 2021, No. 1: 107-122.
- [2] Tian Penghui, "Collective Decision-making in Colleges and Universities: Institutional Defects and their Correction", *Modern Education Management*, 2021, No. 4:23-30.
- [3] Li Wei, *Research on Emergency Management Mechanism of University Emergencies from the Perspective of Governing the University according to Law*, *Journal of Huainan Normal University*, 2022, No. 4:18-22.
- [4] Liu Man, *The Promotion Path of the construction of the rule of Law Culture in Universities under the Vision of Governing Universities according to Law—Taking East China University of Political Science and Law as an Example*, *University Logistics Research*, 2022, No. 10: 48-50.