

# Rights Relief for College Students: Connotation, Dilemma and Path Choice

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**Abstract:** In recent years, with the continuous development of the rule of law in our country, the issue of rights relief for college students has attracted more and more attention from all walks of life. In order to specifically discuss the issue of rights relief for college students, it is necessary to define the concept of rights relief for college students. At the same time, it analyzes the reasons why China's college students' rights relief is facing imperfect laws and regulations, college administrators and students' weak awareness of rights relief, content limitations, and single approaches. Therefore, it is necessary to choose the path from several aspects, such as improving laws and regulations, improving the concept of rule of law, optimizing and adjusting the scope of content, and establishing diversified channels.

**Keywords:** Rights Relief; Rights Relief for College Students; Dilemma; Path Choice

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## 1. Introduction

As an important subject of the development of China's higher education, the relief of college students' rights is particularly important. However, in the specific operation process, there are still problems that cannot be ignored. The following is a brief overview of the connotation of the rights relief of college students in our country, and expounds on the plight and path selection of the rights relief of college students in our country, so as to promote the scientific, rational and legalization of the rights relief of college students in China.

## 2. The connotation of college students' rights relief

In recent years, as an important means and method of guaranteeing rights, college students' rights relief has not only become an important topic in the field of higher education in China, but also an important measure reflecting the rule of law in China's

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in the constraint conditions of the quantitative research model has strong subjectivity, and the expected return varies from person to person, which will affect the accuracy of the pricing mechanism to a certain extent.

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### References

- [1] See Delia Lipsik, UNESCO translation: Copyright and ProXIMITY, China Translation and Publishing Corporation, 2000, p.80.
- [2] See William M. Landers, Richard A. Posner, Translated by Jin Haijun: The Economic Structure of Intellectual Property Law, Beijing University Press, 2005, p.137.
- [3] See Wu Handong, Cao Xinming, Wang yi, Hu kaizhong, the study of copyright system in western countries, China university of political science and law press, 1998, p.136.
- [4] See anling fei, a course on copyright law, intellectual property press, 2003, p. 62.
- [5] See Qiu Ning, "Between Legal and Illegal -- Analysis of Copyright of Unlicensed Dedication Works", Law Journal, No.4, 2012.
- [6] See Xiong Qi, Legitimacy Structure and Institutional Substitution of Copyright Statutory License, Intellectual Property, No.6, 2011.
- [7] See Zhang Man, On the Legitimacy of Legal Copyright Licensing, Intellectual Property, 2013; (1).
- [8] See Tian guoqiang economic mechanism theory: information efficiency and incentive mechanism design, load volume 2, 2003 of the economist (quarterly).

education and schools. So, what is the right relief for college students? According to the interpretation of "Cihai", "rescue" means aid and rescue; even if "relief" means relief, help, benefit, and mutual benefit<sup>[1]</sup>. The Oxford Dictionary of Law states: "Remedy is to correct, rectify, or correct an improper act that has occurred or has caused harm, harm, loss or damage. Remedy and rights constitute a contradiction. Remedy is a kind of correction or mitigation. This right will, to the extent possible, correct the consequences caused by the violation of obligations by other parties in the legal relationship<sup>[2]</sup>." There are narrow and broad understandings of the rights relief of college students. In a narrow sense, the right relief of college students can also be called post relief, which refers to a remedial measure taken when the rights of college students suffer some kind of infringement and corresponding compensation or compensation is obtained to protect the lawful rights and interests of college students. The broad sense of rights relief for college students not only refers to the after-event relief, but also includes the corresponding defensive measures taken before the infringement of college students.

According to China's rights relief channels, the rights relief channels of college students can be divided into two categories: one is litigation relief channels; the other is non-litigation relief channels. The former can be divided into civil litigation remedies, administrative litigation remedies and criminal litigation remedies; among them, civil litigation remedies are mainly based on students' civil torts, such as infringement of students' name rights, property rights, and privacy rights. Administrative litigation relief is mainly based on students' administrative infringements, such as the refusal of universities to issue bachelor's degree certificates and degree awards. Criminal litigation relief mainly focuses on illegal behaviors of students, such as illegal injuries suffered by students' right to health and life; compared with the former, the latter's non-litigation remedy is mainly based on internal appeal relief in colleges and universities. The reason is that the appeal cost is relatively low. Low and high efficiency. When college students suffer some kind of infringement, first, college students seek help from the relevant departments of colleges and universities. The second is that college students submit to the Appeal Committee that they have suffered certain infringements and be reviewed accordingly.

### **3. The dilemma faced by China's college students' rights relief**

#### **3.1 The law and regulation system of college students' rights relief is not perfect**

In recent years, the rights relief of college students has played an increasingly important role in the development of the management of schools and education according to law in China. Although China has promulgated a series of related laws and regulations on the rights relief of college students, it can only be said that the basic principles of college student rights relief have been determined.

First of all, the "Education Law of the People's Republic of China" and the "Higher Education Law of the People's Republic of China" have not yet provided clear explanations and explanations on the rights and relief system issues related to education disputes, such as the management authority of universities, the legal relief system, procedural guarantee, etc., make it lack of operability in actual operation.

Secondly, the formulation of the "Regulations on the Management of Students in General Colleges and Universities" has a macro-guidance and has not yet formed an effective systematic operation mechanism. In terms of the content of the "Regulations", when students' rights and interests are infringed, they can submit materials to the school appeal committee. The entire process and mechanism design for appeals is not yet complete and has a certain degree of ambiguity. In addition, the "Regulations" clearly stipulate the institution for student appeals, but many universities have not yet established student appeal committees. Therefore, judging from the above-mentioned education laws and regulations, its provisions are not only general, with many regulatory loopholes, and lack of operating procedures, but also affect the smooth implementation of the relief rights of Chinese college students.

#### **3.2 University administrators and students have weak awareness of rights relief**

The biggest obstacle to the relief of rights in universities in our country is the relatively weak awareness of the rule of law. From the perspective of university administrators, university administrators do not strictly distinguish the legal relationship between the two in the management of students. Higher education institutions can form educational administrative management relationships based on administrative entities and students, or based on civil entities and students. lawsuit relationship<sup>[3]</sup>. In the establishment of corresponding rules and regulations in universities, university administrators only require students to abide by them unconditionally, but they have never made correct thinking about whether their own administrative power is legally and reasonably used, and whether the rights of students have been violated. In addition, the construction of law popularization in colleges and universities is not yet complete, and there is even no specific educational legal knowledge on the rights and relief of college students. Therefore, university administrators are one of the main reasons for the lack of legal knowledge of the rights and relief of university students.

#### **3.3 The ways of relieving rights of college students are single**

The way of relieving the rights of college students is not only an important guarantee for the development of my country's higher education, but also a strong backing for the normal progress of college student rights relief. In recent years, judging from the current education laws and regulations in my country, internal appeals, administrative reconsiderations and administrative litigation are the main ways of remedying the rights of Chinese college students. At present, when the rights of college students are infringed or the college administrators handle it improperly, the remedy of the rights of students is only limited to the complaints within the school, and it is difficult to achieve other remedies. As far as internal appeals are concerned, the main reason why college students take internal appeals is that students do not need to pay high financial resources and time for rights relief, and the relief efficiency is relatively high.

## 4. The path choice of relief for the rights of college students

### 4.1 Improving the laws and regulations of college students' rights relief

On the one hand, it is necessary not only to accelerate the legislative process of higher education in our country to improve the construction of student rights relief, but also to effectively formulate supporting education laws and regulations under the premise of ensuring the unity of the national<sup>[4]</sup> legal system, such as the School Law ", "Education Administrative Organization Law" and "Measures for the Management of Student Appeals Handling", etc., only by integrating the university management system with the national education laws and regulations, can the conflict between university regulations and national education laws be minimized, and the legality of students can be maintained rights and interests.

On the other hand, strengthen the legislative quality of rights relief, strengthen the legislative interpretation of rights relief, and improve the operability of rights relief for college students and the accuracy and introduction of educational legal language. In other words, it is necessary to clarify the legal definition and operational norms of the rights (forces) between colleges and students, pay attention to the procedural justice of student complaints, and establish a sound student complaint committee structure, so that the right relief of college students in my country is scientific In the end, it will realize the situation that there are rules to follow and laws to follow in the rights relief of college students.

### 4.2 Enhancing the legal conception of rights relief for university administrators and students

To fundamentally improve the awareness of rights relief, it is necessary to improve the concept of the rule of law of the university administrators and students. On the one hand, it is necessary to enhance the legal awareness of university administrators. University administrators should not only reconsider the rationalization and legalization of the use of their administrative power, but also pay attention to the equal subject relationship with university students. For example, the university's rules and regulations and implementation rules can be formulated in detail. In addition, colleges and universities should always strengthen the concept of rights relief for students, and promote the concept of governance according to law and awareness of rights, such as opening education rights relief courses, preaching on the remedies when educational rights are infringed, and the choice of education rights relief methods, etc. Fundamentally create a good education legal environment.

On the other hand, improve students' own legal literacy. Establish one's own understanding, attitude and cognition of rights, and then change their concepts. When colleges and universities improperly deal with certain infringements of students, students should be good at using legal weapons and legal knowledge to protect their own legitimate rights and interests, so that they can bravely defend their rights, and such protection and defense are not for the universities themselves. A challenge, but to further improve China's college student rights relief system, and accelerate the process of legalization and democratization of China's colleges and universities.

### 4.3 Establish diversified ways for the relief of college students' rights

Establishing diversified ways of relieving rights for college students is the key to the development of my country's higher education. On the one hand, an independent school education dispute mediation institution can be established, which can be used as the main way to resolve disputes and rights relief beyond student litigation. In this institution, the members of the mediation committee can be composed of teachers and student representatives, well-known education legal advisers, representatives of university administrators, education experts, etc. It is a neutral institution, free from interference by individuals and administrative agencies, so that it can fully reflect the fairness and impartiality of the rights and remedies. On the other hand, it builds an educational arbitration system. The so-called educational arbitration system refers to<sup>[5]</sup>: conflicts and disputes that occur in the education process of schools, teachers or students, which shall be handled by the education arbitration committee established in accordance with the law, and the education arbitration committee will handle the legal disputes and make decisions that are binding on both parties. The establishment of this right remedy has a certain degree of flexibility and simplicity. The reason is that it is independent of civil arbitration and administrative arbitration. When it involves the secret of college student rights relief Sexual disputes or disputes that do not want to be handled publicly can be effectively resolved through educational arbitration. In addition, in terms of the content of rights relief, the scope of cases is wider than the scope of litigation. When students' legitimate rights and interests are infringed, they can make a reasonable choice among school appeals, education arbitration and litigation, so as to ensure the rights of college students in China. The approach should be comprehensive and fluency.

## References

- [1] Ci Hai Editorial Committee. Ci Hai[M]. Shanghai Lexicographical Publishing House, 1999; (12): 5478.
- [2] David. M. Walker. Oxford Law Dictionary [M]. Translated by Beijing Institute of Social and Technological Development. Guangming Daily Press, 1988: 764.
- [3] Li Hua. Examining the Management Behavior of College Students from the Judicial Supervision[J]. Modern Education Management, 2010; (09): 60.
- [4] Edited by the Legislative Affairs Office of the State Council. The Education Code of the People's Republic of China[M]. China Legal Publishing House, 2016; (1): 221.
- [5] Chen Jiukui. Research on the Construction of my country's Educational Arbitration System——A New Way to Solve Educational Disputes[J]. Education Research, 2006; (5): 52.