

Original Paper

Research on the Application of Academic Autonomy and Judicial Review—Taking the Granting and Revocation of Degrees as Examples

Chen Jiaxuan¹ & Xing Zheng^{1*}

¹ School of Maritime Law and Humanities, Dalian Ocean University, Heishijiao Street, China

* Corresponding Author, Xing Zheng

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Abstract

Based on the analysis of typical academic degree cases such as “Tian Yong v. Beijing University of Posts and Telecommunications,” “Zhang Xiangyang v. Wuhan University,” and “He Xiaoqiang v. Xiamen University,” it is evident that academic autonomy remains one of the contentious issues in the rule of law within higher education institutions. Relying solely on the self-management of academic autonomy within universities to resolve degree-related disputes is insufficient and cannot fundamentally address the conflict between students’ right to education and the autonomy of higher education institutions. Utilizing judicial power to examine procedural deficiencies in degree disputes is crucial for protecting the legitimate rights and interests of students and purifying the academic environment. In practice, academic autonomy and judicial review exhibit a relationship of interdependence, potential conflict, and balanced development. Clarifying their relationship, defining the nature of academic autonomy in judicial review, determining the limits and intensity of judicial review based on the core principles of academic autonomy, and implementing resolution mechanisms that emphasize both procedural and substantive reviews of academic autonomy can help address issues such as unclear factual determinations in judicial practice and insufficient enforcement of judgments.

Keywords

academic autonomy, judicial review, rule of law in higher education institutions

1. Introduction

In July 2020, the Ministry of Education issued the “Opinions on Further Strengthening the Rule of Law Work in Higher Education Institutions” for the first time, emphasizing the rule of law as the

fundamental concept and approach in university governance, and integrating it into all aspects and throughout the entire process of university operations. Academic autonomy is a distinctive discourse in the rule of law in China's higher education institutions. Originating from Western higher education concepts, it can be traced back to medieval Europe, reflecting the tradition of academic institutions' self-governance and the evolving relationship with external forces. In China's judicial practice today, it is frequently cited as a rationale for judicial decisions.

China's degree system has a long history. The "Regulations of the People's Republic of China on Academic Degrees" took effect in 1981, marking the initial implementation of the degree system. Some higher education institutions were granted the authority to confer and revoke degrees, forming a degree system with distinct Chinese characteristics. With the expansion of higher education, the number of degree-granting institutions has gradually increased. To ensure the quality and standards of degree education, degree-granting programs are authorized based on the "principle of authorization according to need," aligning with social demands and disciplinary development. Degree revocation also follows a strict management system. To meet the needs of current educational reforms, on April 26, 2024, the ninth session of the Standing Committee of the 14th National People's Congress passed the "Law of the People's Republic of China on Academic Degrees." The legalization of the degree system continues to accelerate, but numerous disputes remain in the process of degree authorization and revocation. For instance, typical cases such as Tian Yong v. Beijing University of Science and Technology over the refusal to issue graduation and degree certificates, and He Xiaoqiang v. Huazhong University of Science and Technology over the refusal to grant a degree, raise questions about whether the authority of universities to confer and revoke degrees and their degree-granting actions constitute specific administrative acts and are subject to judicial review. Therefore, it is necessary and reasonable to study the relationship between academic autonomy and judicial review.

2. Overview of Academic Autonomy and Judicial Review

2.1 Overview of Academic Autonomy

The concept of academic autonomy can be traced back to the tradition of self-management by university guilds in medieval Europe (Sun, K., 2023, pp. 31-38). Today, academic autonomy refers to the right of academic institutions such as universities to exercise self-management and self-governance in teaching, research, and other academic activities. Academic autonomy is characterized by features such as self-management, self-governance, and freedom from external interference. The development of cities and the prosperity of trade increased the demand for law in higher education institutions, promoting the advancement of academic activities. Gradually, academic autonomy became one of the core principles of self-management and independent operation for universities. As part of academic autonomy, the conferral and revocation of academic degrees reflect the autonomy of universities in academic evaluation and recognition. Today, China has granted more academic autonomy to degree-granting institutions through legislation. For instance, in the case of He Xiaoqiang suing

Huazhong University of Science and Technology for refusing to confer a degree, the court legally affirmed the university's autonomy in degree conferral.

2.2 Overview of Judicial Review

In the early stages, judicial review of issues arising from degree-related disputes was relatively limited. With the continuous development of higher education, various countries have introduced a series of laws and regulations to standardize the process of degree conferral, aiming to ensure the quality and fairness of degree awards while also providing a legal basis for judicial review. The number of judicial review cases has gradually increased, and some landmark cases have begun to offer guidance for similar disputes. For example, the case of “He Xiaoqiang v. Huazhong University of Science and Technology for Refusing to Confer a Degree” established the principle of legality review as the primary standard for adjudicating degree conferral disputes. Judicial review of degree conferral adheres to the principles of limited review and necessity, with judicial bodies fully respecting the academic autonomy of higher education institutions while examining decisions related to degree awards. Judicial review primarily focuses on issues of legality in the degree conferral process, such as whether procedures are proper and whether relevant laws and regulations are followed. Additionally, in response to the development of digitization and online learning, which may introduce new forms of degree conferral, there is a need for relevant judicial review mechanisms to adapt and update accordingly.

2.3 The Relationship between Academic Autonomy and Judicial Review

Academic autonomy and judicial review are characterized by a relationship of interdependence, potential conflict, and balanced development.

Academic autonomy requires universities to have a high degree of autonomy in internal management, while judicial review provides legal safeguards for academic autonomy, ensuring that the actions of academic institutions comply with legal norms. The interdependence between academic autonomy and judicial review is reflected in their mutual support and checks and balances. The potential conflict between academic autonomy and judicial review manifests in areas such as the boundary between academic judgment and judicial review, the tension between procedural legitimacy and the autonomy of academic self-governance, differences in standards for awarding degrees, and varying interpretations and applications of laws and regulations. The balanced development between academic autonomy and judicial review is demonstrated in finding an appropriate equilibrium between respecting the autonomy of universities and ensuring the necessity of judicial review.

Professor Lin Hua of China University of Political Science and Law, in an article on degree revocation cases, proposed that to maintain the balance between academic autonomy and judicial review, courts should establish different review standards based on the distinction between academic and non-academic matters (Lin, H., 2020, pp. 94-104). This review standard is referred to as the dual-track review standard. Although this standard is not a direct legal term in the field of degree revocation, introducing its concept into the review process of degree revocation can help enhance the

comprehensiveness, fairness, and rationality of judicial review. It encourages degree-granting institutions to exercise their revocation authority more cautiously and normatively, reduces unnecessary disputes and conflicts, and offers a feasible solution for balancing academic autonomy and judicial review.

3. Legal Conflicts Arising from the Application of Academic Autonomy and Judicial Review

3.1 Controversy Surrounding the Application of Judicial Review to University Degree Conferral and Revocation

Although universities engage in activities that may appear to be administrative in nature, these activities are primarily for academic management aimed at educational purposes, rather than administrative governance. In terms of legal attributes, while universities are sometimes regarded as entities exercising administrative authority, this does not change the fact that they are fundamentally educational institutions. The primary responsibility of universities is to provide educational services, not to carry out national administrative functions. Therefore, although universities may be considered within the scope of the concept of “administrative organs” in certain contexts, this is mainly from the perspective of whether their activities involve exercising administrative authority, rather than implying that universities are inherently part of the state administrative apparatus. The current judicial practice regarding the legality review of university regulations tends to seek framework provisions and authorizing bases from national laws and regulations, overlooking the relationship between degree conferral and revocation authority as a constitutional basic right of “no legal reservation”—namely, academic freedom—and national legislation. This results in judicial review of academic standards detaching from substantive judgment (Zhan, Z. L., & Song, Y. F., 2024, pp. 5-25, p. 140, p. 145).

According to Article 2 of the “Degree Regulations,” the conferral of degrees is an evaluation and confirmation of an individual’s academic capabilities, rather than administrative licensing in the ordinary sense. This judicial review logic extends formal legal authorization to substantive legal foundations, making it difficult within the current legal framework to accommodate value orientations beyond the formal legality of degree conferral standards. Such non-administrative licensing under this authorization fails to adequately consider the fundamental rights under the Constitution, leaving open questions about the applicability of judicial review, its criteria, boundaries, and other related issues.

3.2 Excessive Judicial Intervention in Academic Autonomy

Given the need to protect the autonomy of higher education institutions and academic self-governance, the limits of judicial intervention in disputes over the conferral and revocation of degrees become critically important. In degree-related disputes, the scope of permissible judicial intervention and the appropriate intensity of such intervention have consistently been focal points in such cases, indicating that challenges remain in defining the boundaries of judicial involvement in degree disputes. In practice, it is evident that administrative power is often overextended within universities, encroaching upon academic authority, while the boundaries between decision-making and administrative execution

remain blurred (Wu, L. B., 2014, p. 25).

Academic matters such as degree conferral and revocation are typically highly specialized and technical. Judicial review is conducted by the People's Courts, and when courts attempt to use legal criteria to assess the value of academic theses or determine whether a teacher's research achievements meet professorial standards, they may issue rulings that contravene academic norms, thereby violating the principles of judicial restraint. While judicial intervention can effectively safeguard the rights of students as a vulnerable party (Lü, A. K., 2021), if courts become overly frequent and deeply involved in evaluating the substantive content of academic work, they risk achieving perceived fairness in individual cases while undermining the long-standing authority and consistency of academic evaluation systems. This could lead to conservatism and timidity in academic management within universities, potentially resulting in a surge of lawsuits and diverting disputes that should be resolved through internal academic appeals and reviews into judicial proceedings, thereby wasting valuable judicial and academic resources.

3.3 There Is an Issue of Prioritizing Procedural over Substantive Review in Judicial Oversight

Procedural review is the most common method through which judicial oversight intervenes in academic autonomy. In the judgment of the "Yu Yanru Case," the court supported Yu Yanru's claims, finding that Peking University had failed to adequately hear her statements and defenses before making the decision to revoke her degree, thereby violating the principle of due process. Additionally, the revocation decision was deemed to lack a clear legal basis. Consequently, the court ordered Peking University to rescind its decision to revoke Yu Yanru's doctoral degree. In this case, although the legal provisions for degree revocation were unclear at the time, universities, as organizations authorized by laws and regulations, are obligated to adhere to the principle of due process to ensure the transparency and fairness of the entire procedure. This case illustrates that procedural review is an indispensable aspect of oversight in academic autonomy.

The issue of prioritizing procedural over substantive review in China's judicial oversight of university academic autonomy is particularly pronounced. In practice, most Chinese courts adopt a stance of judicial restraint or deference, conducting only formal reviews of degree disputes through the principle of due process (Geng, B. J., 2013, pp. 93-98). Only when universities violate the principle of due process do courts rule to revoke university decisions or order them to reissue decisions, refraining from making substantive judgments on the rationality of academic autonomy matters. This approach helps courts avoid the challenges posed by insufficient expertise and experience in conducting substantive reviews (Liu, X. D., & Gu, Z. L., 2025, pp. 25-35). However, losing universities merely correct procedural flaws, leaving students who win their lawsuits still facing issues such as non-awarding or revocation of degrees. This reflects the ineffectiveness of judicial oversight procedures. Therefore, substantive review is also a critical component in ensuring that academic autonomy aligns with the rule of law.

4. Mechanisms for Resolving Legal Conflicts in the Application of Academic Autonomy and Judicial Oversight

4.1 Clarifying the Legal Nature of the Authority to Grant and Revoke Academic Degrees in Judicial Review

Although universities are educational institutions, they share similarities with public institutions such as the state or state organs. They are established under public law and serve as subjects that exercise administrative powers, fulfill administrative obligations, and bear administrative responsibilities as stipulated by public law. They can exercise rights, fulfill obligations, and assume responsibilities in their own name (Shen, S. P., 2003, pp. 14-37). However, universities differ in that they are detached from general administrative functions, engaging only in specific educational services. They are not general public legal entities like the state or state organs but rather special legal entities characterized by independence, autonomy, and self-governance. In the context of degree conferment, the authority of universities to grant degrees is an administrative power delegated by laws and regulations. The legal basis for this delegation is found in Article 23 of the Education Law and Article 8 of the Degree Regulations, fully reflecting the special legal status of universities in exercising academic autonomy under delegation.

In cases involving the conferment and revocation of academic degrees by Chinese universities, courts have adopted two different approaches to defining the legal nature of the authority to grant and revoke degrees: “state administrative power” and “university autonomy” (Ling, Y. F., & Xu, X. D., 2021, pp. 161-182). Beyond these two theories, Professor Zhou Youyong has proposed a “dual-level” perspective, suggesting that degree conferment and revocation possess both administrative and academic power characteristics (Zhou, Y. Y., 2018, pp. 1-9). This paper supports the third viewpoint, arguing that the two powers are inseparable. The “dual-level” approach strikes a balance between them, recognizing that administrative power and academic power are not inherently conflicting. Solely emphasizing one aspect would be biased, while the “dual-level” perspective avoids such imbalance by relying on academic power to uphold the baseline of academic values and leveraging the legalized operation of administrative power to provide students with avenues for redress. By integrating the professionalism of academia with the normative aspects of administration, this approach safeguards the social recognition of degrees, aligns with the goals and requirements of higher education that balance education with the rule of law in universities, and proves feasible in the application of judicial review. Simultaneously, universities should clarify the boundaries between academic evaluation and administrative decision-making in their “Detailed Rules for Degree Conferment and Revocation” to prevent power abuse arising from ambiguous definitions.

From this perspective, the authority to confer and revoke academic degrees within academic autonomy represents a dual power—both administrative and academic—exercised by universities as special legal entities. The authority to grant and revoke degrees is a core manifestation of academic autonomy, and its status as a fundamental right under the Constitution should be fully guaranteed. In the constitutional

sense, academic autonomy is essentially an institutional safeguard of the fundamental right to academic freedom. The Chinese Constitution protects the fundamental right to academic freedom, thereby granting academic autonomy constitutional validity in China (Yang, L. L., 2026, pp. 1-18). Therefore, the application of judicial review to academic autonomy aims to guide the academic community, society, and students toward consensus within the framework of legal rights, fostering mutual understanding and trust in academic mechanisms and reducing disputes and conflicts. Judgments in cases such as “Tian Yong” and “Liu Yanwen” demonstrate that clarifying the legal nature of the authority to confer and revoke degrees, while safeguarding fundamental rights granted by the Constitution, contributes to the reasonable application of judicial review within academic autonomy and promotes the high-quality development of education.

4.2 Determining the Scope and Intensity of Judicial Review Based on the Core of University Academic Autonomy

The core of university academic autonomy is to ensure that universities can independently manage and make decisions while protecting academic freedom and promoting academic development. This not only involves improving the internal governance structure but also ensuring that teachers and students enjoy sufficient freedom in teaching and research activities. Compared with the internal governance mechanisms of universities, judicial intervention is an external mechanism through which state power participates in university internal governance. As a dispute resolution mechanism of public remedy, judicial intervention in university internal governance mainly arises from the imbalance in the allocation of rights among universities, students, and teachers, as well as the growing emphasis on protecting the rights and interests of teachers and students. Judicial intervention in university internal governance can provide remedies for teachers and students and serves to ensure the effective operation of internal governance mechanisms. Therefore, as the last line of defense in dispute resolution, the judiciary should pay attention to the scope and intensity of its intervention in academic autonomy to avoid infringing upon the core of university academic autonomy.

The scope of judicial review should be determined based on the core of university academic autonomy. In the case of “Lai Wenhao v. South China Normal University Regarding Degree Conferment,” Lai Wenhao filed an administrative lawsuit after failing to obtain a Bachelor of Laws degree due to not participating in three unified English proficiency examinations required for degree conferment. The court supported South China Normal University’s decision in its ruling, stating that the university has the right to formulate its own detailed rules for conferring bachelor’s degrees in accordance with the law. The court followed principles of limited review, “academic deference,” and “academic respect” during judicial review. Regarding the degree of judicial intervention in university internal governance, it is widely recognized in various countries and regions that matters unrelated to academic freedom should be strictly reviewed, while matters involving “significant issues” affecting teachers and students should also undergo strict review. In cases involving significant issues, the principle of legal priority applies. When matters affect or deprive students of their legally entitled rights, they must be explicitly

stipulated by law and cannot be handled solely based on university regulations (Wei, H. S., 2018, pp. 114-125). As for academic matters, in principle, only legality reviews should be conducted, adhering to the principles of “academic deference” or “academic respect.” In this case, the university independently set its training plans, degree conferment, and academic evaluation standards, exercising its “margin of judgment” in detailed academic regulations. The court’s review complied with procedural requirements, and judicial intervention remained within appropriate limits, safeguarding the university’s academic autonomy while satisfying the due process requirements of judicial application and promoting fairness and justice in the judiciary. At the same time, the university’s self-formulated and implemented regulations must adhere to the principle of legal priority and must not exceed legal boundaries.

Through an analysis of the scope and intensity of judicial review in degree conferment disputes, it is evident that the limitation of judicial review is that courts cannot substitute for universities in making academic judgments. However, other matters not involving academic judgments can be subject to review. The ultimate authority to determine whether a matter is academic in nature should belong to the courts, as this issue inherently involves discretionary power, meaning universities have some latitude in determining whether a matter is academic. To prevent universities from abusing this discretionary power, the judiciary should oversee and control it (Tao, B. B., 2023). The exercise of university academic autonomy requires appropriate judicial review to ensure the fairness and legality of academic matters. The scope and intensity of judicial review lie in respecting academic autonomy, adhering to the principles of proportionality and due process, conducting comprehensive and timely reviews, appropriately involving expert assessments, and balancing academic freedom with judicial authority. Through these measures, the legitimate rights and interests of students and the fairness of academic standards can be safeguarded while protecting university academic autonomy.

4.3 Striving to Achieve a Balance between Procedural and Substantive Review of Academic Autonomy

In degree-related disputes, court decisions that support students’ litigation claims, such as restoring their degree certificates or other judgments that protect their lawful rights and interests, often stem from procedural violations in the academic autonomy of higher education institutions. Such violations of the principle of due process frequently result in the illegality of the entire academic autonomy action. Therefore, it is imperative to strengthen the procedural review of degree conferral and revocation. First, improve the procedural norms for degree conferral and revocation. Supplement the higher-level legal basis for the application of the principle of due process, change the current situation where judicial activism determines its application, and provide a fundamental legal basis for procedural review. Regarding the revision of lower-level laws such as the Interim Measures for the Implementation of the Degree Regulations, more procedural rights should be granted to the parties concerned, and specific procedural requirements should be established for higher education institutions when exercising the right to confer or revoke degrees, such as listening to statements and defenses and providing explanations. A complete procedural framework not only provides institutional space for higher education institutions to exercise the power of degree conferral and revocation but also prevents

judicial discretion from becoming arbitrary (Yin, J. X., 2021, pp. 198-225). Second, promptly implement higher education institutions' execution of court judgments. To prevent situations where students win their cases but still face the non-conferral or revocation of their degrees, higher education institutions must establish supervision and management departments internally to ensure and supervise the effective implementation of court judgments, eliminating the "empty promises" that hinder the lawful exercise of students' rights and achieving integrated supervision and management throughout the entire process.

According to statistics on judicial review cases of degree conferral disputes in recent years, courts have all engaged in reasoning and argumentation regarding the legality of the degree conferral standards established by higher education institutions (Tao, B. B., 2023). Therefore, in-depth substantive review of degree conferral and revocation is also essential. The review of academic autonomy in higher education institutions should be strengthened in the following aspects: First, higher education institutions should strictly review the innovativeness and value of academic achievements, forming professional review reports, while courts conduct thorough verification of the authenticity of these reports to prevent academic misconduct; Second, when adjudicating academic dispute cases, courts should pay close attention to the academic standards set by higher education institutions, reviewing whether they comply with existing higher-level laws and education-related regulations, ensuring that degree conferral and revocation standards are reasonable and fair; Third, emphasize the construction of academic integrity in academic dispute judgments, advocate a scientific and truth-seeking academic ethos, and encourage students to adhere to academic ethics and norms; Fourth, promote self-regulation and self-inspection of the academic community within the legal framework, actively assist courts in their review work, and foster the formation of healthy and orderly review methods. As the rule of law in China's higher education institutions continues to deepen, attention to substantive review from both academic and practical circles has gradually increased, playing a key role in recent degree dispute reviews.

In striving to achieve academic autonomy, it is crucial to balance procedural and substantive review. This aligns with the current requirements for the rule of law in higher education institutions in China, not only helping to ensure the fairness, transparency, and high quality of academic activities but also effectively preventing academic misconduct and maintaining the healthy development of the academic community.

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