

Original Paper

The Main Body and Legal Basis of American Graduate Degree

Awarding Authority

Zhaohui Yang¹ & Haiyan Li^{2*}

¹ Center for Teaching and Learning, Hebei College of Industry and Technology, Shijiazhuang city, China

² Department of Finance, Hebei Normal University, Shijiazhuang city, China

* Li Haiyan, E-mail: hantiwen@163.com

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Abstract

The right to confer postgraduate degrees is involved a key measure to universities and its students. Nations in the world pay a very high attention to postgraduate education and play it core role. As we known, U.S. has rich resources and great influences in the field of higher education worldwide. And there are many students from all over the world to enroll American universities to study for master or doctor degree. Although the degree is divided into curriculum and paper degree, the quality of both are strictly regulated and guaranteed in the United States. The main body has become different types of universities and diversity pattern in the course of developing. The right to award degree was struggled by universities in the development of history, and it is a part of its charter. In the process, the legitimacy of awarding degree gradually was established. As so far, it is known as an important measure for the development of universities and students. There are different bodies of the right to grant graduate degrees in American universities, and the methods of obtaining graduate degrees are also different. How to ensure that the right to confer university degrees is not affected by the government and its actions? This paper will explicit from the point view of legal basis.

Keywords

postgraduate students, degree awarding right, the main body, legal basis

1. Introduction

Graduate education plays a very important role in the implementation of American higher education. The U.S. Department of Education considers graduate education an important part of America's global leadership. Not only does the U.S. government subsidize graduate students each year in the name of

various scholarships, but it also subsidizes graduate education with research grants. The U.S. government goes to great lengths to intervene in graduate education rather than directly regulate it, not because it doesn't want to, but because it can't. The reason is that American universities are established by contract (charter), and the U.S. Constitution says that the government cannot break the contract by any law. This tradition prevents the government from interfering in university affairs by administrative means.

One of the most important aspects of graduate education is degree conferment. Although the graduate education in the United States can be divided into paper graduate and course graduate, both of them are awarded degree or qualification certificates to prove that they have met the academic requirements of graduate students. The right of American universities to grant graduate degrees is not authorized by the government, but a clear agreement of university autonomy, and only universities or colleges in the United States have this right, that is to say, American universities have obtained the corresponding right to grant graduate degrees at the beginning of their establishment. University or college is different in nature, the subject of degree conferral is not the same.

The master's degree has different meanings among the more than 600 colleges and universities in the United States that grant it, as well as among the different departments of these colleges and universities. At most colleges and universities, students can obtain the master's degree after completing the required credits in about two years. The others, students must pass a qualifying exam, submit a dissertation and take a foreign language course. Some schools see a master's degree as a research degree, while others see it as an exploratory stepping-stone to a doctorate. Some master's degrees, such as New York University's LLM, are treated as a foundation for a PhD. Master's degrees can be broadly divided into two categories: Master of Arts and Sciences and Master of Professional studies. The master of Arts and Sciences degree generally requires 24 to 30 credits to be obtained at the university.

2. The Right to Grant Graduate Degrees to Private Universities in the United States

The right to grant graduate degrees to private universities in the United States can be traced back to the colonial period. In 1636, the establishment of Harvard College created the precedent of Higher education in the United States and was also the beginning of private universities. Although it was under British rule at that time, the right to confer the degree of Harvard College could not be obtained from British higher education. In The United Kingdom, Oxford and Cambridge are specially authorized by the King to grant degrees to all universities, and British colleges are affiliated to or part of these two universities. With no degree-granting universities like Cambridge and Oxford to hang on to in the then chaotic United States, Harvard College had no choice but to grant degrees on its own. The validity of its degrees is recognized in the UK because Scottish colleges such as Aberdeen and Edinburgh have the right to award degrees on their own.

Harvard's move marked the departure of American higher education from British rule before politics. Ten private colleges, including Yale College and The College of William and Mary, offer degrees

independently. During this period, the US government failed in several attempts to admit private universities, and promoted a series of laws to protect private universities, making them an “independent kingdom”. For example, in 1816, the New Hampshire government tried to admit the private Dartmouth College into a state school, which aroused strong opposition from the college and appealed to the Supreme Court of the federal government. In 1819, the court ruled in favor of Dartmouth College. This event had a great impact on American higher education. First, it further reaffirmed and confirmed that private groups (especially churches) had the right to run schools and could develop freely without the threat of government takeover, thus stimulating the enthusiasm of churches to run schools. Since then many private universities have been established. Second, the attempt of the state government to accept private universities to run the state universities was not feasible, so it had to fund the state universities by itself, which also made the state universities develop.

After the Lawsuit of Dartmouth College, the existence of private universities in the United States has a legal basis. The act clearly states that the government and private universities are the subjects of rights, and the government no longer intervenes in private universities, ensuring a high degree of autonomy of schools. A private university is a legal entity governed by the board of directors, which has the right to decide all matters of the university. Therefore, the right to grant graduate degrees in private universities in the United States is granted independently by their respective schools, which is the right they have at the beginning of running a school. The approval of the board of directors can take effect without applying to any government agency.

3. The Right to Confer Graduate Degrees in State Universities in the United States

As universities play an increasingly important role in national politics, economy and society, it is impossible for the government to transfer the educational rights of states to the federal central government by amending the provisions of the Constitution. Therefore, how to make universities serve the government has become an urgent problem for the United States. After the Dartmouth lawsuit, the government turned to establishing state universities. In the past, the university charter defined the private rights of the university, while the state university declared its public nature and expressed gratitude for the generous donation of the government. But there are no federal grants other than land grants, and state funding for state universities varies widely, so state and university management differ from one another.

When the University of Virginia became a state university in 1819, the state Legislature stipulated that the members of the University’s board of Trustees would be appointed by the governor and that the university would “at all times and in all matters be subject to the control of the State Legislature.” The state legislature directly controlled the management of state universities, which created a precedent for the government to directly manage the academic undertakings of universities. Morrill Land Grant Act passed in 1862 and a series of subsequent acts to fund and strengthen the implementation of public colleges greatly promoted the rapid development of American university education, “leading to the

formation of the modern public university system in the United States”. Institutions of higher learning are authorized by the state government to run schools and confer degrees according to the constitution and regulations of the state where they are located or the state where they are incorporated. An institution of higher learning obtains the authority to independently run schools and grant degrees when it obtains the certificate of approval for running schools and granting degrees issued by the state legislature. Under normal circumstances, the right to run a school is in the temporary permission stage of the government, while the permission to confer the right to degree is the formal permission. Schools are evaluated by the state to determine whether they are qualified to award a degree at that level. This means that in the United States, states have the power to confer degrees.

In California, for example, permission for universities to set up and grant degrees is the authority of the government. A school that has obtained the permission to establish a school and intends to further acquire the degree-conferencing authority must submit an application to the state commissioner of Education and provide detailed information, including the relevant facilities, equipment, financial resources, management capacity, faculty, other necessary professional skills and curriculum closely related to the degree conferencing. Within 90 days of acceptance of an application for degree awarding, the state superintendent of Education appoints a special committee to evaluate the application. The committee submits a report and recommendations to the state superintendent of Education. Within 90 days of receiving the board's report, the state superintendent of education will decide whether to grant a three-year permit, or whether to grant a one-year conditional permit or not, with the latter two notifying the university of improvements and reasons for disallowing. At the same time, the university may obtain the right to confer degrees by submitting a guarantee to the director general of Education that records its actual educational activities, assets, property and necessary circumstances. In this case, the superintendent will send an investigation team consisting of three members to check whether the facts stated in the guarantee are accurate or not. Under the 1984 amendment to the California Education Law, the investigation of universities that obtain degrees through this route is more stringent, and they are granted degrees after passing the investigation. This means that in California, the government has the power to confer degrees and the responsibility to do so.

New York State Universities apply for a license as follows: to the state department of Education; The proposed corporation would present the notary public and various notarized materials to the state education department; To examine compliance with the legal provisions formulated by the Legal Bureau; Review by state education authorities of their efforts to achieve the necessary level of education; Site visits by state department of Education officials to educational facilities and curricula; State education department officials report findings to the board; The State Council makes decisions at its regular monthly meeting. Almost all new educational institutions set up for the purpose of running universities are granted temporary permits, which are only valid for a period of three to five years. If the university is very stable and outstanding during this period, the provisional licence may be converted into a full licence when it expires or extended by the Board of Governors for a certain period.

The institutions with temporary licenses have the same rights and obligations as universities with official licenses, but they are still granted degrees by the board of the university district of each state until official licenses are granted.

4. The Right to Grant Graduate Degrees in Missionary Universities in the United States

The centralization of state university once affected the degree conferral right of missionary university and caused the contradiction between them. In the 1850s, Michigan State University President Henry P. Tappan transferred statewide degree-awarding authority to the state, which caused the displeasure of the mission university. The mission university, in conjunction with the state legislature, controlled the state University through its board of trustees, forcing the university to fire Tappan. In Indiana, the Presbyterian controlled university and The Methodist Episcopal Church controlled Depauw University led the Indiana Constitution of 1850 to make no mention of a state university. Ohio churchmen are often elected presidents of state universities.

In the United States, where there is a constitutional principle of separation of church and state, there is caution about granting degrees to religious universities. In Michigan, after years of effort, the state legislature by a solid majority refused to grant college degrees to mission universities. Because of this, the Michigan legislature not only refused to grant higher education degrees from missionary universities for many years, but also allowed Michigan State University to monopolize the access of students throughout the state, which is the origin of the aforementioned control of the state universities by missionary universities. It was not until 1855, when the denominational community fought fiercely, that missionary universities were legalized in Michigan.

5. The Legal Basis of the Right to Confer Postgraduate Degrees

Degree-awarding rights could affect a university and its students, who can change their fate by granting degrees to achieve their dream jobs. Every country attaches great importance to degree awarding, and the change of its conferral status involves the change of laws and regulations, and the change of university license (contract). In 2012, Dickson State University in North Dakota falsified degrees, which had a huge impact, but the US Department of Education and local governments did not cancel the right to grant degrees to universities, but the university system conducted its own examination.

5.1 The Main Status of the Right to Confer Postgraduate Degrees is Guaranteed by the Constitution of the University

The idea of progressive law in American higher education has been enormously influential, ensuring that universities remain as free as possible from outside interference. The permission to run a university is very important because the permission to run a university contains the right to confer degrees. To ensure the running of the university, each university has a charter. There are many similarities between the charter of a public university and the charter of a private university in the United States. The charter of a public university in the United States has many similarities between the charter of a public

university and the charter of a private university. The charter of a public university in the United States has many similarities between the charter of a public university and that of a private university. The charter of American universities originated from the charter issued by the British royal family, which embodies a contractual relationship between the government and public organizations. The establishment of any single university, or the rise and revitalization of higher education, has been preceded by legislation. Article I, Section 10, of the U.S. Constitution states that “no state shall break the contract by any statute.”

5.2 The Guarantee of the Subject Status of the Right to Confer Postgraduate Degrees Benefits from Case Law

Influence of higher education diploma awarded the first case law were the Dartmouth college case, the case due to internal management, development to the state after case into university, college of which was once lost in the case, appeal to the federal court, federal court ruled that the state violated the relevant provisions of the constitution to protect the contract, so as to determine the state was unconstitutional. In his book *The Rise of American Culture*, Beard, an American historian, said that the Dartmouth case cleared the way for both private and state institutions. According to the law, the state and private schools are the subjects of power, and the relationship between them is clear. The government has no obligation to subsidize private universities.

In response to the Dartmouth lawsuit, the Philadelphia College Board of Trustees approved the state reorganization of the college and passed legislation in 1779, thus changing the name of the college to the University of Pennsylvania. Philadelphia College changed from private to public. Although the external conditions were proposed by the state government, the will of the Board of Directors of Philadelphia College was fully respected, without imposing interference, and the autonomous status of Philadelphia College was guaranteed through legislation.

5.3 The Main Status of the Right to Confer Postgraduate Degrees Is Guaranteed by the University Board System

The Board of trustees of American universities has the status of an independent legal entity, and its governance is highly autonomous like that of a corporate entity. As long as it does not engage in illegal activities and does not affect politics, it can operate freely. As the Carnegie Foundation for the Advancement of Teaching notes in “*Campus Control: A Report on Higher Education Management*” (1982), “The boards forms the cornerstone of the higher education management structure.” Since the board of directors is a legal person, it enjoys all the rights and obligations stipulated by law just like a company, and the right to confer graduate degrees is its internal right, which the government cannot influence and interfere with naturally.

4. Conclusion

In the United States, no matter the main body is private university, the state university or missionary university authorized by the state legislature has maintained the tradition of autonomy. As a result,

graduate education in various universities in the United States is different both form and curriculum construction, which ensures a positive spirit of exploration and leads the world in educational quality. The success of American university education is mainly attributed to graduate education, where students from all over the world come together to form a unique flag.

The right to grant degrees has an important impact on a university and its students. Universities have the right to grant degrees, which can show their academic value, prove their teaching level and expand their social reputation. By obtaining a degree, students can increase their chances of getting a dream job and change their fate. Every country attaches great importance to the granting of degrees. Changing the status of a school's granting of degrees means to change the laws and regulations.

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