

## Study on Students' Right Protection Mechanism in University Management

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### Abstract

*To establish a students' right protection mechanism in university management is an effect way to protect students' rights, build legal and harmonious campus and contribute to the embodiment of students' rights in university management. This thesis, by analyzing the current situation of university students' rights protection, aims to investigate the mechanism of system guarantee, institution guarantee and operation safeguard as one, realizing the rights of universities, education administrators and students; especially the realization of students' rights amongst university management and the logic rules in the midst of its operation.*

**Key words:** the investigation of university students' right protection amongst university management

In college life, I was deeply impressed by some special experiences. Some college teachers compel students to buy their books as textbooks, while they have nowhere to complain but to make wall posters to relieve anger and dissatisfaction; The students pay the same accommodation but receive different treatment from dorm administrators; The official declares 12 months' students subsidies yearly, but only 10 months' even 8 or 9 months' subsidies are put in students' pockets. Furthermore, the students know nothing about the issues such as, the planning, construction and development of their colleges, the selection and appointment of their teachers, which seems have nothing to do with them but are actually closely bound to their interests. Students can hardly get any information from beginning to the very end, from the decision-making to its operation, let alone participation and assisting to the decision-making. These seemingly normal situations actually violated the students' rights and breed some negative factors to the construction of harmonious

campus. Although, at present, our country has issued some laws and regulations to protect students' rights such as *Higher Education Law, Higher Vocational Education Law, Teachers Law, Common University Student Management Rule* etc.. All these laws and regulations cover the aspects of students' rights protection, but most of the treaties are just summarizations of students' rights and obligations and not so practical to put into management practice which led to lack of operability. As a result, a further improvement and perfection of the university students' right protection mechanism is needed urgently.

### 1. The definition of university students' right

The university students' right means that the university students have the right to do or not to do something or ask other people to do a specific behavior or not to do it in accordance with their will. (The university students are the ones who passed the college entrance exam or the exams offered by universities and colleges themselves that endowed by the government and had the registration). Any organizations and individuals are prohibited to infringe university students' legal rights or they must bear the legal liability once they infringe. In addition, the university students, as ordinary citizens, also have the fundamental rights that endowed by the Constitution.

The following are the fundamental rights of the university students

Personal rights(personality right and status right )	the right of personal liberty
	the right to life and health
	right of name
	right of portrait
	right of reputation
	Right of privacy
property rights	right in rem
	creditor's rights
	intellectual property
political rights	right to elect and to be elected Chinese citizens over 18
	Freedom of expression, freedom to publish, freedom of assembly etc.
	The rights of criticism, suggestions, complaints etc.
	The right to get involved in the management and service of common political affairs. The political rights of Democratic management right and the right vote for a student cadre in school administration.
The right to education	The right to attend education activities
	The right to use teaching facilities
	The right to choose their majors
	The right of teaching evaluation
	The right to get a academic degree and
The right of petition and commentary	Students have the right to comment on the issues which are closely bound to their interests, and the right to file an appeal if there is any problem

## **2. Several phenomena showed the infringement of students' rights**

### **2.1. The existence in name only of democratic right**

From a legal point of view, students and the universities are legally equal. Therefore, the students have the right to get involved in the management and supervision of the universities, and endowed to give their opinions and suggestions. But in the university management system in our country, the students' right of democratic management is a name only.

### **2.2 The infringement of students' property right**

The students pay certain tuition. As a result, they not merely have the right to educate but also the property right. To receive the scholarship and the student subsidies are the basic rights for the students and cannot be infringed. But as a matter of fact, some universities and colleges infringe students' property rights in every possible way. For example, some universities and colleges take the liberty of using the scholarship and the student subsidies or reduce the amount of scholarship and student subsidies; some teachers forced their students to buy the books they compiled or buy the books at an appointed place. These phenomena are the explicit demonstrations of infringement of students' property rights and there are also some implicit demonstrations showing that the universities and colleges infringed students' property rights including the teaching conditions are not qualified, the teaching facilities are imperfect and the accommodation is substandard etc.

### **2.3 The infringement of the students' right to information**

Except for the issues that legally required keeping their confidentiality, the other issues which are closely related to students' interests should keep open to the students. But, at present, some universities always invade students' right to information in their management. For instance, some projects closely bound to students' right are not open to students, the results of the election of students union and class committee are not transparent, students cannot get participate in the process of the planning and the development of their universities and colleges or even the important decision-making issues. Moreover the results would not release afterwards. Consequently, the students' rights are difficult to be guaranteed in such a management system.

### **2.4 No guarantee of students' right of petition**

In reality, the students' rights cannot be properly protected in most universities and colleges and they even have no access to appeal after the infringement of their rights. For example, the students cannot get any access to appeal after being punished or being treated unfairly by their colleges. It is recognized as severely infringed students' right of petition if the colleges and universities don't have any access for students to appeal or even refuse to offer students chances and ways to appeal.

## **3. The protection mechanism of university students' right**

The university students' right protection mechanism is a process of collecting, scientifically inducting, ranking and combining of all the rights that the students have to form an interrelated, mutual guaranteed, well-regulated and effectively-operated organic integrity to play its role of protecting students' rights. A

perfect protection mechanism should firstly has its overall regulations, rules and solutions as a fundamental basis to protect students' rights and the most important thing is to own an effective operating mechanism.

### 3.1 The key factors of efficaciously operating the protection mechanism

Generally speaking, the key factors in operating the protection mechanism are subject elements and support elements respectively.

#### 3.1.1 The subject elements

The subject elements mainly include the three party participators, universities and the administrators of the university teachers and the university students. Their obligations and relationships are illustrated in the following chart:

The subject	Obligations
Universities and colleges	The constructor and the implementer are the leading role in the whole protection mechanism. Every decision they made would have a decisive effect on regulating the administrators of the university teachers and the students.
The administrators of university teachers	The administrators of the university teachers are been divided into two categories: one is in charge of administrating and the other is responsible for teaching. The former, including department leaders, instructors, supervisors of the dorm and the educational administrators etc. are the operators or the promoters of the protection mechanism and they work as guidance or an assistant. The latter, focusing on teaching, play their role as an educational guidance in the protection mechanism.
The university students	The students are the most important element in operating the protection mechanism. The students should fully understand and respect their rights and learn to protect and realize their rights through different kinds of legal channels.

#### 3.1.2 The assurance factors

The support element includes institution construction, institutional norms, rules of order and effectively practice. It is responsible for the healthy operation, the effective cycling and gradually improving of the protection mechanism.

The institution construction: It is established for operating the protection mechanism and also a platform for the effective rights regulating. The more complete and standard of the institution construction, the stronger organizational guarantee will be provided for the students' right protection.

Institutional norms: The institutional norms, including all kinds of laws, regulations and rules which contribute to the students' right protection, are the reference and evidence to guarantee the operating of the students' rights.

Rules of order: It means the underlying rules and steps of the students' rights operation. The impartial regulations and rules can make sure the effective realization of the rights.

Effective practice: It means that in the process of right regulating, the effective practice can truly protect the students' rights and maximize the realization of their rights.

The relationship among the four parts is that the institution construction provides a platform for operating the institutional norms, rules of order and effectively practice; the institutional norms are the evidence for the institution construction, rules of order and effectively practice; rules of order offer the methods and procedures for institution construction, institutional norms and effectively practice.

### **3.2 The content of the protection mechanism**

The content of the protection mechanism contains realization of the rights, right rescue and supervision and safeguard. The realization of the rights means that through the operation of the protection mechanism, to comprehensively and effectively realize the personal rights, the property rights, the political rights, the right to educate and the right of petition and commentary etc. in a legal way. At the same time, we can take efficaciously measures to make a remedy when any infringements happen to the students. In the university management, we have already found the constantly infringement of students' rights, which requires us to start the assistant system to minimize the degree of infringement timely. Or the universities can correct the mistake and make a remedy by a series of procedures like appealing, preliminary investigation, public examination and hearing etc. The supervision and safeguard system can effectively avoid the infringement of students' rights to a large extent mainly through the feedback system. The systems will firstly feeds back the problematic issues and students' suggestions to the related department, then, the related department should provide solutions to these problematic issues and suggestions according to the facts and the references. Furthermore we will draw lessons from the problem-solving processes and accelerate experience of how to keep the protection mechanism effectively operate in the long run in order to remove the hidden troubles and efficaciously coordinate interests of all parties. And we will perfect the mechanism by infusing fresh blood and supplementing new resources.

## **4 The effective functioning of university students ' rights protection mechanism**

The subjects play a very important role in keeping effective functioning of college students ' rights protection mechanism. The students' rights can be effectively protected to the largest extent if the universities and colleges play an active role in overall planning and decision-making, the administrators of the university teachers would take their responsibility for operating the system, the students should fully understand and protect their rights and interests during the whole process.

### **4.1 Coordination to build a strong right-defending platform among universities and colleges**

Universities and colleges are creators and managers of students' rights protection mechanism. With the speeding up of the construction of society ruled by law, universities and colleges should attach importance to protecting students' rights on the ideological level firstly to make sure the protection of students' rights will be included in the daily work of management in accordance with the human-oriented policy. .In the management process, we should respect and trust the students to change the traditional management model

of “students were ruled by universities” to achieve the role transition between universities and students and make them fully use their power. We take students’ right protection as significant basis to form a management philosophy in rights protection. In the operating process, we should make students’ rights as priority and we are prohibited to ask students to carry out their obligations or under command of universities. Instead, we should make safeguarding and protecting their rights as our obligation and responsible to create a harmonious and legitimate atmosphere in rights protection

Since college students are intellectual, having various hobbies, equipping with both high-quality and rich in knowledge, university students’ right protection project cannot just focus on the rights protection only, but also ulteriorly attach importance to guiding their ideological views and moral constructing. First of all, we should improve training quality for educators and students; raise the level of university teachers’ teaching ability, management ability and service consciousness; establish a scientific and effective mechanism of teaching and management work. Second, we should make a point of constructing the student cadre group like organizing the student union, student community to guide all students setting up a consciousness of rights safeguarding, self-management, self-taught and self-development. Third, the universities and colleges should expand the ways and channels for students to get involved in the democratic management via all kinds of possible accesses and to inspire students to participate in the management process so that to protect their own legal rights.

#### **4.2 Scientific operations to improve the protection procedures**

Teachers are the operators in the students’ rights protection mechanism and play a crucial role in the management process. Therefore, on the one hand, teachers should actively improve their quality and their work efficiency; on the other hand, they should also guide the students to raise their rights protection awareness and capability.

First, teachers should take the lead to acquire both the practical knowledge and the theories, especially the laws and regulations, etc. During the management process, teachers should not only take the advantages of their practical experience, but also make the most of different kinds of rules and regulations expertly. At work, teachers should have a clear understanding of students’ rights and obligations, tasks and functions of every procedure. They should devote themselves into the protection project and try to avoid violations of students’ rights.

Secondly, teachers should not only dedicate themselves to teaching, but also to take the responsibility to help students raise rights protection awareness. In the process of management and teaching, teachers should always expose their students to the commonsense of laws and regulations to help them clearly know about their rights and obligations, how to defend their rights in a legal way and how to exercise their rights in the process of participating the management. Furthermore, teachers, being friendly and easygoing, ought to keep close contact with students to get to know what they thought, their philosophical features and their needs. Teacher should think twice before they punish students and they need to be careful with the ways they employed to talk to students, for example, scolding students with dirty words. The teachers had better to combine punishment with education to lead them into the right direction by patiently guidance, reasonable persuading, encouraging them to correct mistakes. Through this kind of conversational education, teachers will enjoy a good reputation in students’ hearts and that helps to improve their work efficiency.

### **4.3 Improving students' rights protection awareness and safeguarding their rights through a legal channel**

University students, as a main part in the rights protection mechanism, should gradually improve their consciousness of rights safeguarding and strive to make their legal rights maximized through a scientific and effective way.

At the beginning, students need to equip themselves with laws by learning and practical accumulation so that to become even stronger in virtue of laws and knowledge. Since they have background knowledge of laws and regulations, they would take measures to protect their rights in their daily life, even the detailed ones so that they will get used to and be brave enough to defend their rights over time.

Secondly, the students need to identify and treat their obligations and rights properly. Rights and obligations are being defined, but they are not fixed ones. They transmute into each other and they also overlaps to some extent. As a result, sometimes the students in the enjoyment of rights are fulfilling their obligations.

At last, after clarifying the rights, obligations and their relationship, students would have to try their best to safeguard their rights through actively participation and the legal channels. In order to achieve the goal, students can actively get involved in the university management to have a granted privilege to defend their legal rights; by organizing student communities to form a mutual development, joint-management and planning for future together model between universities and students by organizing student communities. And the students can fulfill their tasks extraordinarily to promote the fast development of universities in return; students should reasonably and scientifically use their rights to defend for themselves by appealing and hearing to change the unequal treatment they've met. Only by gradual efforts of all parties, can we enjoy more legal rights, so as to achieve the ultimate goal of constructing a harmonious, legitimate and orderly campus.

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