

Research on the Legal Issue of University's Right to Revoke Degree Based on Academic Misconduct

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Abstract: Academic misconduct is the main reason for the exercise of the right to revoke degrees. The revocation of a degree will have a serious impact on the property, living conditions, and future development of the party concerned. Therefore, it is critical to pay attention to the legal issues of degree revocation. Based on recent cases of university degree revocation due to academic misconduct, this paper explores the flaws in the academic regulations of academic misconduct in the People's Republic of China — such as different regulations across various universities, unstandardized reviewal procedure, and poor sense of responsibility of the supervisors — and puts forward some suggestions.

1. Introduction

A degree is inseparable from future development opportunities. Since a degree is often closely related to a person's wealth and honor, degree revocation can be seen as a deprivation of the person's human rights, property rights, and development rights. Therefore, research on the legal issues of degree revocation is long overdue. There are many people who have committed academic misconduct; for instance, Yu Yanru, Zhai Tianlin, Chen Ying, Hungary's President Pal Schmitt. This paper sorts out the legislative and practical issues universities faced when revoking degrees, and then it proposes corresponding countermeasures and opinions.

2. Definition of Related Concepts

2.1. Definition of Academic Misconduct

The term "academic misconduct" was jointly proposed by a group of 22 scientists from the National Academy of Sciences, the National Academy of Engineering, and the National Academy of Medicine in 1992. It is a list of negative behaviors formulated by the scientific community to maintain the purity of science, generally represented by forgery, tampering, and plagiarism in the public's eyes^[1].

In 2004, the Regulations on Academic Degrees of the People's Republic of China (hereinafter referred to as the Regulations on Academic Degrees) identified "falsification" as academic misconduct. In 2013, the Measures for Handling Falsified Dissertations stipulated six types of degree fraud for the first time. In 2016, Article 27 of the Measures for the Prevention and Punishment of Academic Misconducts in Higher Education Institutions stipulated seven types of academic misconduct. Through combing the laws and regulations, we can observe that academic misconduct is characterized by falsity, which is based on one's subjective intent and violates the principle of good faith^[2]. Although there are some differences in the definition of various laws and regulations, their essence and fundamental purpose are basically the same; that is, academic misconduct refers to the violation of norms of scientific conduct, fraud, and plagiarism in the process of academic research.

2.2. Definition of the Concept of the Right to Revoke Degrees

Institutions of higher education are accredited by laws and regulations authorized by administrative organs in accordance with the law. Within the scope of authorization, colleges and universities have the right to revoke degrees granted according to the law. Article 17 of the Regulations on Academic Degrees stipulates that "if irregularities, fraudulent practices or other serious violations of the provisions of the Regulations are discovered, the degree-granting institution may revoke the degree already awarded upon reconsideration by its academic degree evaluation committee." The article stipulates the conditions to rightfully revoke an academic degree, which are the authority to award a degree (subject condition); after the degree is awarded (time condition); there are illegal acts, such as fraud and falsification, in the occurrence of the crime (fact condition); and reconsideration by the academic degree evaluation committee (procedural condition). Therefore, degree revocation refers to the administrative act of degree and certification revocation by the degree-granting institution — often the university — after it identified, investigated, and verified that the applicant's degree application indeed does not meet the degree-granting requirements.

3. Definition of Related Concepts Research on the Legal Issues of University's Rights to Revoke Degree Based on Academic Misconduct

Degree revocation is one of the controversial focuses in the academic circle. It not only relates to the development opportunities of the concerned party but also affects the interests of the degree-granting party.

3.1. Legislation Issues

3.1.1. Vague Legislative Provisions

China lacks a systematic law on the academic degree, and the existing laws and regulations are too abstract for degree revocation. Taking the Regulations on Academic Degrees as an example, it did not provide a detailed explanation of the conditions for the procedures to revoke an academic degree. There is essentially no systematic legal liability for academic misconduct.

3.1.2. Different Regulations for Degree Revocation Across Universities

According to the principle of legal reservation, a degree can only be revoked when it meets the conditions of "fraud and forgery". However, when colleges and universities formulate rules or regulations, they will have different conditions for the implementation of degree revocation. Some colleges and universities are relatively lenient in the implementation of the revocation, while some are stricter. For example, the school rules of some colleges and universities consider a poorly written dissertation or ethical misconduct as one of the reasons to revoke the degree. The difference between leniency and strictness in the university's degree revocation power can easily cause disputes between degree-granting institutions and students in practice.

3.2. Challenges in Practice

3.2.1. Poor Sense of Responsibility of the Dissertation Supervisor

The supervisor is the first person to find academic misconduct in a dissertation and be responsible for it. However, in practice, the arduous workload of the supervisor is a hindrance to their guidance to the concerned party's dissertation. It is also common for the supervisor to be permissive during their supervision. This kind of behavior is irresponsible to the party who committed academic misconduct, implying that academic misconduct such as plagiarism is acceptable, which will lead to more and more academic misconduct. This is not conducive to creating a clean academic atmosphere.

3.2.2. Unstandardized Procedures of Evaluation and Revocation of the Degree

Procedural justice is regarded as "visible justice", meaning that justice should not only be served, but should also be served visibly. The procedure can be viewed as the center of law, and its

importance is no less than that of the substantive rules. Procedural errors and the lack of procedure will violate the rights and interests of the party concerned. Despite that, the Regulations on Academic Degrees do not clearly stipulate the specific process of revocation of academic degrees, which should require colleges and universities to listen to the opinions of the party concerned in accordance with the principle of due process before making any decision to exercise their rights that adversely affect others. For example, in the case of a Ph.D. from Peking suing his alma mater for unjustly revoking his degree, Yu Yanru's dissertation was deemed as plagiarized. As a degree-granting institution, Peking University has the right to revoke degrees. However, before making the revocation decision, the concerned party's statements and defense were not fully listened to. The court of second instance found that Peking University's review procedures were improper and reversed its decision to revoke Yu Yanru's academic degree.

3.2.3. Improve the Review Mechanism of the Degree Evaluation Committee

In accordance with the Regulations on Academic Degrees and Interim Measures for the Implementation of Regulations on Academic Degrees of the People's Republic of China, a degree evaluation committee should be established and a one-level reconsideration system should be implemented for the revocation of academic degrees. Therefore, the degree evaluation committee is the evaluation organization that handles degree-granting violations, and its professionalism and review mechanism are of great significance to the rationality and fairness of the case. In practice, when academic misconduct occurs, the institution will set up a review team to verify and review the academic issues. More often than not, the review team that evaluates the issues is the degree evaluation committee. Although the impartiality of the degree evaluation committee can dispel reasonable doubt, it is related to the future development and reputation of the party concerned after the degree is revoked, which should be treated with more attention by colleges and universities.

4. Suggestions for Universities to Exercise the Right to Revoke Academic Degree Based on Academic Misconduct

4.1. Improve the Legislation Regulation

4.1.1. Proposes Amendments to the Regulations on Academic Degrees

With the vigorous development of education, the Regulations on Academic Degrees has gradually fallen out of line to the current situation. So, its revision is imminent. Article 17 of the Regulations on Academic Degrees stipulates that falsification is a general illegal act. This paper argues that it should be clearly stipulated, and "plagiarism, forgery, tampering, improper signature, multiple contributions, repeated publication, violation of research ethics" should be further defined. Secondly, the Regulations on Academic Degrees do not have a relief system for the degree revocation of the party concerned, which should be supplemented. Finally, adhering to the zero-tolerance policy, the Regulations on Academic Degrees should also add disciplinary provisions for the party who committed academic misconduct and the relevant responsible people. Once found, academic misconduct must be investigated strictly.

4.1.2. Higher Education Institutions Formulate School Rules in Accordance with the Regulations on Academic Degrees

According to the academic spirit embodied in the Regulations on Academic Degrees, institutions should refine and clarify the specific scope of academic misconduct on the basis of their regulations. It should also be formulated in accordance with the actual situation in the institution and the nature of the right to revoke degrees authorized by the administrative organs. The scope of the university's right to revoke an academic degree should not be intentionally expanded. In addition to that, colleges and universities should adhere to the basic spirit of people-oriented education and protect the legitimate rights and interests of students as much as possible. This can be done by improving the relief system for students and the appeal system on campus, as well as allowing them to take positive remedial measures for minor violations. This is because the purpose

of granting and revoking academic degrees is non-punitive.

4.2. Strengthen Implementation Supervision at the Practical Level

4.2.1. Strict Dissertation Supervision from the Supervisor

In the case of Zhai Tianlin, a famous actor, his degree was revoked for plagiarizing his dissertation, and his supervisor's admission qualification was also cancelled. A supervisor is the student's academic guide, who bears the unshirkable responsibility for the student's academic misconduct. When students are found to commit academic misconduct, they should promptly stop the misconduct and criticize it instead of blindly accommodating it. This is to prevent the amplification of a behavior that could be stopped in time and result in serious consequences, such as degree revocation. Supervisors are the source of precluding academic misconduct. Their duty is to put moral education as the priority, strictly supervise dissertation research while earnestly fulfilling their fundamental duty in moral education.

4.2.2. Standardize the Review Procedure for the Revocation of Academic Degrees

Substantive justice without procedural guarantee is the so-called "fruit of poison tree". Procedural justice is the premise and foundation of case fairness and justice, and the principle of procedural justice is an important basic principle of administrative law. In practice, the procedural condition is the key to restricting the granting institution's lawful implementation of the degree revocation right.

This paper suggests that colleges and universities, as the main bodies of degree granting and revocation, should give full play to the role of evaluation and listen to the party's statement before making a decision to revoke degrees. After the decision to revoke the degree is made, the principle of due process should be followed to fully protect the concerned party's right to defense.

4.2.3. Improve the Review Mechanism of Degree Revocation

The Regulations on Academic Degrees stipulates that degree-granting institutions should establish a degree evaluation committee to review the academic theses of the party concerned before making a decision to revoke their academic degrees. The assessment result of the degree evaluation committee is the most intuitive proof of the revocation of a degree by an institution of higher education, and its professionalism often has a direct causal relationship with the final decision of colleges and universities.

In this paper, it is recommended to adopt the "dual track system + supervision system" for the degree revocation evaluation, that is, the professional evaluation by the peer review committee comes first, and the final evaluation of the degree evaluation committee follows. It is suggested to include a certain number of external experts in the professional evaluation process, which can effectively avoid the interference of human factors in peer review. Based on the evaluation results, the academic degree evaluation committee of the university will finally consider whether there is academic misconduct and the degree of violation. This dual track review mechanism is more conducive to the prudence and comprehensiveness of the review. On one hand, it protects the interests of the party concerned and prevents them from being harmed by unnecessary mistakes. On the other hand, it protects the justice of the procedure, makes the process more detailed, and promotes the healthy development of the academic field.

5. Conclusion

As the degree certificates play an increasingly prominent role in the future development of individuals, the institutions of higher education should exercise their right to revoke the degrees with prudence. This paper reveals, from a legislative and practical perspective, the issues such as the ambiguous terms of the Regulations on Academic Degrees, the difficulties in applying laws in institutions of higher education, the loose control by supervisors, the irregular review procedures and imperfect deliberation mechanism when the institutions of higher education exercise their right to revoke degrees based on academic misconduct, and puts forward some suggestions and

countermeasures, such as the revision of the Regulations on Academic Degrees, the refinement of laws for institutions of higher education, the stricter control by supervisors, the standardization of review procedures and the improvement of deliberation mechanism for degree revocation.

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