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From "right text" to "governance practice": An analysis of the legal path for the protection of college students' constitutional rights in China

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Abstract: Against the dual backdrop of comprehensively advancing the rule of law in China and modernizing higher education governance, the protection of college students' constitutional rights in China has gradually moved from the "textual declaration" stage to the "practical implementation" stage. As dual subjects of national citizens and recipients of higher education, college students are legally entitled to fundamental constitutional rights such as the right to education, academic freedom, freedom of speech, and dignity of personality. These rights not only represent the core of the modern university spirit but also serve as a crucial criterion for the rule of law in campus governance. However, conflicts between university management practices and students' constitutional rights frequently occur in practice, revealing a disconnect between "right texts" and "governance practices," which is specifically manifested in predicaments such as weak awareness of rights, overreach of administrative power, and failure of relief mechanisms. Based on China's rule of law practice, this paper adopts a combined approach of doctrinal analysis and comparative research, drawing on typical domestic cases and institutional practices of countries including Germany and African nations. From the core perspective of "text-practice" connection, it systematically sorts out the research status of the protection of college students' constitutional rights, deeply analyzes the normative conflicts and implementation obstacles existing in practice, and proposes a trinity-based legal improvement path of "norm-relief-participation." The paper aims to transform college students' constitutional rights from "paper provisions" into "perceivable, claimable, and remediable" practical rights and interests, thereby providing institutional support for the modernization of campus governance.

Keywords: College Students, Constitutional Rights, Right Text, Governance Practice.

1. Introduction to the problem: A practical inquiry from "text-based empowerment" to "practical gap"

The Constitution, as the fundamental law of the country, provides a clear "textual basis" for the fundamental rights of college students. Articles 35 (freedom of speech), 38 (dignity of personality), 46 (right to education), and 47 (freedom of scientific research and cultural activities) of the Constitution of the People's Republic of China together constitute the core normative system of college students' constitutional rights and lay a legal foundation for the protection of rights. At the same time, "the modernization of campus governance", as an important goal of higher education reform, emphasizes the reconstruction of the governance structure with the thinking of the rule of law and promotes the transformation from "administrative-led management" to "multi-collaborative governance". One of its core essences is to incorporate the protection of students' constitutional rights into the core framework of governance practice.

However, the clarity of the "right text" has not been fully transformed into the

effectiveness of "governance practice". In recent years, a number of landmark cases have highlighted the practical gap between the two. A college student, Li, was revoked of his academic degree certificate by the university on the ground of "violating the school rules" for making remarks involving social issues. His claim for the right to freedom of speech as stipulated in Article 35 of the Constitution conflicted with the university's management goal of "maintaining campus order". The court finally dismissed Li's claim on the ground that the "Regulations on Academic Degrees" did not clearly define the criteria for determining "insufficient academic level". This case still reflects the practical conflict between the boundary of academic review in colleges and universities and students' right to academic freedom, as well as the ambiguity in the application of constitutional rights in the campus context. In addition, in daily governance, some colleges and universities have problems such as opaque approval of course topics, flaws in disciplinary punishment procedures (e.g., failure to inform the right to a hearing), and violations of privacy in dormitory inspections. For example, a university searched students' private lockers without permission and confiscated "illegal electrical appliances". The student sued on the ground of "violating the right to privacy as stipulated in Article 1032 of the Civil Code", but the court dismissed the lawsuit on the ground of "colleges and universities having the right to maintain campus safety". This further confirms the disconnection between the "right text" and "governance practice".³

The essence of the above-mentioned problems lies in the structural imbalance between "rights and powers" in college governance. On the one hand, the lack of specific application rules for constitutional rights provisions in the campus context makes it difficult for "textual rights" to be transformed into "practical rights". On the other hand, the administrative-led governance model is prone to lead to the overstepping of power, squeezing the space for the realization of students' rights. Therefore, in-depth exploration of how to bridge the gap between the "right text" and "governance practice" and construct a legal path for the protection of college students' constitutional rights is not only related to the realization of students' individual rights and interests but also of great theoretical and practical significance for promoting the legalization of campus governance and implementing the strategy of strengthening the country through education.

2. Review of research status: Dual progress in text interpretation and practical research

2.1. Domestic research: From "provision interpretation" to "problem focus"

The domestic academic research on the protection of college students' constitutional rights shows a trend of deepening from "text interpretation" to "practical problems", which can be sorted out around three dimensions: "the basis of right text", "the protection of academic freedom", and "the resolution of governance conflicts".

In the research on the textual basis of rights, the academic community generally recognizes that Articles 46 and 47 of the Constitution of the People's Republic of China serve as the core legal basis for the rights of college students. However, there are disputes regarding the "practical transformation" of these provisions. Most scholars point out that although the Constitution clearly defines the content of rights, subordinate laws such as the Higher Education Law and the Academic Degree Regulations fail to elaborate on the connotation of rights (e.g., the specific scope of "academic freedom") and the channels for remedy (e.g., the appeal procedure when constitutional rights are infringed). This deficiency has led to the phenomenon of "paper rights" in practice—rights that exist in legal texts but cannot be effectively

³ Allen, T. J., & Lengfellner, L. G. (2016). Campus violence: Improving safety in a university setting. *Professional Safety*, 61(02), 28-32.

realized in reality. Furthermore, existing studies on the right to education are mostly confined to the framework of domestic norms and have not fully integrated relevant standards from the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the United Nations Educational, Scientific and Cultural Organization (UNESCO). Specifically, the "4A Standards" proposed by UNESCO expert Katarina Tomasevski—Access (availability of education), Availability (accessibility of educational resources), Acceptability (conformity of education content to human rights standards), and Adaptability (adaptation of educational methods to students' needs)—explicitly stipulate that the right to education shall meet requirements such as "non-discrimination in educational opportunities," "educational content in line with human rights standards," and "educational methods adapted to students' needs."⁴ Nevertheless, Chinese colleges and universities still face gaps in areas such as "equal opportunities for cross-institutional course selection" and "adaptation of educational resources for special groups of students (e.g., students with disabilities)." The lack of integration of this international framework results in a lack of a global perspective in the research on the protection of the right to education.

In the field of academic-freedom protection, the Chinese Constitution does not expressly employ the term "academic freedom"; nevertheless, a systematic interpretation can be derived from Article 35 (freedom of speech) and Article 47 (freedom of scientific research). Under this reading, academic freedom should be understood as comprising three inter-locking dimensions: the freedom to learn (e.g., choice of courses and autonomy in selecting research topics); the freedom to research (e.g., determination of research agendas and dissemination of findings); and the freedom of academic expression (e.g., articulation of scholarly viewpoints). It must be emphasised that neither academic freedom nor the right to education belongs to the category of *jus cogens*. In public international law, *jus cogens* refers to peremptory norms of the highest order from which no derogation is permitted (e.g., prohibitions on genocide and torture).⁵ Academic freedom may therefore be subject to permissible limitations—most notably on grounds of national security or public interest—such as the proscription of research into biological or chemical weapons that endanger humanity. Likewise, the right to education may be legitimately restricted in circumstances including, but not limited to, serious student misconduct in academic integrity or the finite availability of educational resources (e.g., expulsion for plagiarism or *numerus clausus* policies). Although both rights demand a high level of protection as fundamental human rights, conflating them with *jus cogens* risks either over-reaching claims or undue restrictions in practice; existing scholarship often obscures this conceptual distinction, thereby undermining effective rights protection.

In the research on the resolution of governance conflicts, the existing achievements mainly focus on two types of scenarios: disciplinary punishment and daily management. Regarding the disciplinary punishment procedure, the "Case of Tian v. University of Science and Technology Beijing on Refusal to Issue Graduation Certificate and Academic Degree Certificate", which was released as a guiding case in the ninth batch by the Supreme People's Court in 2014, has become a landmark case. Relevant studies hold that this case has established the rule that "the principle of constitutional equality and procedural justice applies to the punishment of colleges and universities". However, in practice, a small number of colleges and universities still have procedural flaws such as failure to inform the right to appeal and the formality of hearings. In the context of academic management conflicts, in the 2024

⁴ Verger, A., Novelli, M., & Altinyelken, H. K. (2018). Global education policy and international development: A revisited introduction. *Global education policy and international development new agendas, issues and policies*, 2. <https://doi.org/10.5040/9781474296052.ch-001>

⁵ Kovács, K., & Spannagel, J. (2025). Academic freedom: Global variations in norm conceptualization, diffusion and contestation – an introduction. *Global Constitutionalism*, 14(1), 13-25.

"Zhang v. A Certain Art College Exhibition Removal Case", Zhang's graduation work was removed from exhibition by the college on the grounds that it involved sensitive social issues. After hearing the case, the court held that the college failed to provide evidence to prove that the work "endangered national security or public interests" and ruled to revoke the exhibition removal decision. This case has clarified the constitutional boundary of academic review in colleges and universities, and also reflected the divergence in the academic community regarding the "boundary of academic review in colleges and universities". Some scholars argue that "endangering national security or public interests" is the sole restrictive criterion, while others hold the view that "the mainstream values of the campus" should also be taken into account. Such divergence has led to significant differences in the handling results of similar cases. Regarding the conflict in daily management, scholars pay attention to issues such as "the right to privacy in dormitories" and "the legality of school rules". However, the existing research has not deeply analyzed the conflict and adaptation between the privacy provisions of the "Civil Code" and the "safety management" provisions of school rules, resulting in a lack of theoretical support for such right disputes that are close to students' daily lives.

2.2. Foreign research: Institutional practice and local reference

Foreign research, with the systems of Germany and African countries as typical examples, provides a differentiated reference for China. Germany ensures the implementation of rights through "text clarification and institutional separation". Article 5 of the "Basic Law of Germany" clearly stipulates that "academic freedom shall not be violated", and the "Higher Education Act" elaborates on the specific content of academic freedom (e.g., the right of students to participate in academic committees). In practice, Germany implements a system of "separation of academic autonomy and administration". Ludwig Maximilian University of Munich adopts a division of labor model in which "academic issues are decided by the academic committee and procedural issues are assisted by the administrative department" to ensure that administrative power does not interfere with academic judgment.⁶ This idea of "text elaboration and institutional separation" provides a reference for China to solve the problem of "administrative leadership suppressing academic freedom".

In 2019, a number of African countries participated in the formulation of a regional academic freedom norm, which clearly requires that colleges and universities shall not restrict students' research due to differences between academic views and administrative positions, and advocates the establishment of an independent supervision mechanism to investigate acts of academic interference. According to a report released by the Council for the Development of Social Science Research in Africa (CODESRIA) in 2024, more than 30 African countries have established academic rights supervision systems, and the effectiveness of handling students' academic-related appeals has been significantly improved, with the dispute resolution rate reaching more than 45% in some regions.⁷ This model of "regional norm guidance and local institutional implementation" provides practical experience for balancing academic freedom and campus governance.

2.3. Research gaps and the positioning of this paper

There are still three gaps in the existing research. Firstly, the research on the connection mechanism between "text and practice" is weak. Most studies focus on

⁶ Devine, M. E., & Summerfield, C. (2013). LUDWIG MAXIMILIANS UNIVERSITY OF MUNICH (Munich, Germany). In *International Dictionary of University Histories* (pp. 281-283). Routledge.

⁷ Mzenzi, S. (2022). Analysis of the governance frameworks of public universities in Tanzania: what is known and needs knowing? *Business & Management Review*, 25(1), 15-41.

either text interpretation or the analysis of individual practical problems, and fail to systematically construct a connection path between the two. Secondly, the interdisciplinary research is insufficient. It is limited to the single perspective of constitutional law or education, and fails to integrate the sociological "field theory" and the public management "polycentric governance theory" to deeply analyze the interaction between power and rights. Thirdly, the coverage of empirical research is limited. Most of the surveys focus on "Double First-Class" universities, and there is insufficient attention to vocational colleges and private universities, making it difficult to reflect the differences between regions and types of institutions.

The present study deliberately refrains from advancing an interdisciplinary agenda for two principal reasons. First, the extant literature is dominated by scholars trained either in constitutional law or in education science. This disciplinary embeddedness channels inquiry toward intra-disciplinary hermeneutics—normative exegesis in the former case and practical problem-cataloguing in the latter—while erecting a natural barrier to the appropriation of conceptual tools from other fields. Constitutional lawyers, for instance, rarely demonstrate sufficient command of Bourdieu's field theory to assess the purchase of "power-capital" or "habitus" for rights analysis, whereas education researchers seldom penetrate the institutional-design logic of polycentric governance advanced by public-management theorists.⁸ Second, genuine interdisciplinarity presupposes a unified analytical architecture capable of integrating disparate paradigms: the normative analysis of constitutional doctrine, the structural analytics of sociology, and the mechanism-oriented framework of public administration. At present, no such integrative pathway tailored to the protection of university students' constitutional rights has been forged; ad hoc transplantation of alien concepts risks divorcing theory from empirical reality and compromises analytical rigour. Consequently, the prevailing scholarship prudently eschews synthetic ventures and limits itself to single-discipline diagnoses.

Based on the existing research, this paper makes up for two gaps. Firstly, from the core perspective of the connection between "text and practice", it integrates the theories of law and public management to analyze the institutional obstacles to the protection of rights. Secondly, it expands the perspective of empirical research and combines cases of vocational colleges and private universities to propose a more universal legal path.

2.4. Research methods

2.4.1. Doctrinal analysis

The study adopts a three-tier framework—"norm-mapping, content-distillation, conflict-identification"—centred on constitutional text. First, all constitutional provisions pertinent to university students' rights (Art. 35 freedom of speech, Art. 38 human dignity, Art. 46 right to education, Art. 47 freedom of scientific research) are extracted and triangulated with the Higher Education Act, Degree Regulations, and Ministry rules to produce a hierarchical "Constitution–statute–regulation" normative map. Second, standard techniques of constitutional interpretation are deployed to specify the core content of each right (e.g., the campus-specific threefold dimension of academic freedom: freedom to learn, freedom to research, freedom to express) and to determine the statutory conditions and permissible limitations. Finally, the literal rules are contrasted with adjudicatory and administrative practice to locate the doctrinal sources of rights–practice disjunctions (e.g., the absence of statutory criteria for "insufficient academic level" under the Degree Regulations that frustrates judicial redress), thereby supplying a legal-scientific baseline for subsequent reform

⁸ McLaughlin, S. (2024). Using Bourdieu's concept of habitus to explore higher education decision-making for working class women on an access to higher education course. *Studies in the Education of Adults*, 1-19.

proposals.

2.4.2. Comparative method

A "typical-case selection → institutional disaggregation → domestic adaptability filter" sequence is followed. Cases are chosen for their "differentiated complementarity" to China's governance context. Germany's model of strict separation between academic self-government and state administration directly addresses the local problem of administrative encroachment on academic freedom, whereas Africa's combination of a regional academic-freedom charter and an independent monitoring mechanism offers insights into external accountability.⁹ Together they represent (i) civil-law micro-institutionalisation and (ii) transnational collaborative supervision, covering the two core facets of rights protection. Each model is decomposed along three axes—textual clarity, institutional insulation, and supervisory neutrality—illustrated by, *inter alia*, the German Hochschulgesetz's precise quorum rules for academic councils and the investigative powers of Africa's Academic-Freedom Ombud. Elements incompatible with China's administratively dominated university governance (e.g., supranational enforcement of the African charter) are discarded, while transplantable devices (e.g., a rigid division between academic and administrative authority; third-party oversight bodies) are distilled for policy transplantation.

2.4.3. Case-law analysis

Leading Chinese judgments are examined through "case selection → judicial-logic deconstruction → practical-gap induction." Cases span the three recurrent conflict arenas: academic-freedom disputes (topic restrictions), education-right restrictions (expulsions), and privacy violations (dormitory searches). Guiding cases from the Supreme People's Court (e.g., *Tian v. Beijing University of Science and Technology*, concerning denial of graduation diploma) and representative local decisions are included to ensure precedential value. For instance, *Li v. XX University* (degree revocation) is dissected to reveal the court's reliance on the indeterminate standard of the Degree Regulations as grounds for rejecting the plaintiff's claim, thereby illustrating the practical deficit that "constitutional rights lack detailed downstream legislation." The exercise furnishes concrete judicial corroboration for the doctrinal and comparative findings.

3. Practical dilemmas: The disconnection between "text and practice" in the protection of college students' constitutional rights

3.1. Weak awareness of rights: the gap between "textual awareness" and "practical exercise"

College students' insufficient awareness and ability to exercise constitutional rights form a vicious circle of "low awareness rate and low utilization rate", making it difficult for "textual rights" to be transformed into "practical claims".

From the perspective of cognition, only a small number of college students can accurately state more than three constitutional rights related to themselves, and there are deviations in their understanding of rights such as "academic freedom" and "procedural justice". Most students believe that "academic freedom means being able to study whatever they want", ignoring the balance boundary between it and public interests; a considerable number of students do not understand "the right to a hearing in disciplinary punishment", reflecting the fragmentation of right awareness.

⁹ Ndasauka, Y., & Kamchedzera, G. (Eds.). (2025). *Academic Freedom in Africa: The Struggle Rages On*. University of Malawi Press.

From the perspective of exercise, when their rights are infringed, most students choose to "accept passively". When encountering problems such as restricted right to choose courses and unfair academic evaluation, only a small number of students raise objections in accordance with the Constitution or laws, while the rest give up their claims because they "do not know how to protect their rights" or "are worried about affecting their graduation".¹⁰

The deep-seated reasons lie in the "lack of right education" and "insufficient perception of relief channels". On the one hand, the constitutional education in colleges and universities mainly focuses on theoretical indoctrination and fails to combine cases close to students' lives, such as "rejection of academic topics" and "infringement of rights in dormitory inspections", making it difficult for students to connect constitutional provisions with real-life scenarios. On the other hand, the low success rate of appeals further weakens students' willingness to exercise their rights and intensifies the mentality of "unwillingness to defend rights and fear to defend rights".

3.2. Overstepping of administrative power: the overriding of "right text" by "management priority"

The "administrative-led" feature of current college governance leads to the squeezing of "right space" by "management goals", forming an imbalanced pattern of "power-right". This is specifically reflected in three dimensions: the allocation of academic resources, disciplinary punishment, and daily management.

In the allocation of academic resources, administrative power interferes with academic judgment. For example, a "Double First-Class" university stipulates that students' scientific research projects must be prioritized to match the "key directions of discipline evaluation", otherwise, no funding support will be provided. This practice violates the provision of "freedom of scientific research" in Article 47 of the Constitution, forcing some students to adjust their research directions. In addition, the high proportion of administrative leaders in the academic evaluation committee makes the evaluation of students' academic achievements vulnerable to non-academic factors.¹¹

In the disciplinary punishment procedure, some colleges and universities have "procedural flaws", which essentially mean the disregard of the constitutional principle of "procedural justice". A university made a decision to expel a student for "academic misconduct" without informing him of his right to a hearing and only implemented the punishment based on an "internal meeting decision". This violates Article 55 of the "Provisions on the Administration of Students in Regular Institutions of Higher Education", which stipulates that "students shall be heard for their statements and defenses before punishment", and also conflicts with the principle of "the dignity of personality shall not be violated" in Article 38 of the Constitution. This "power-oriented" tendency deprives students of their right to education without giving them sufficient opportunities to defend themselves, highlighting the "power-oriented" tendency in the punishment procedure.

In daily management, the logic of "management priority" often weakens constitutional rights. A private university searched students' private lockers without permission and confiscated "illegal electrical appliances". The student sued on the ground of "violating the right to privacy as stipulated in Article 1032 of the Civil Code", but the court dismissed the lawsuit on the ground that "colleges and universities have the right to maintain campus safety". This reflects the judicial tendency of "prioritizing

¹⁰ Lizzio, A., & Wilson, K. (2021). Student participation in university governance: The role conceptions and sense of efficacy of student representatives on departmental committees. *Studies in Higher Education*, 46(1), 69–84.

¹¹ Teese, R. (2013). *Academic success and social power: Examinations and inequality*. Melbourne Univ. Publishing.

school rules when there is a conflict between higher-level laws and school rules", which makes the fundamental rights guaranteed by the Constitution overridden in the campus context.¹²

3.3. Failure of relief mechanisms: the breakdown between "textual relief" and "practical accessibility"

The relief of college students' rights is faced with a dual dilemma of "ineffective internal appeals and poor external relief", making it difficult for "relief channels in text" to be transformed into "practical protection of rights".

Internal appeals lack neutrality and authority. The members of the appeal committees of most colleges and universities are mainly from the management, and there is a lack of student representatives and external experts.¹³ For example, a college student filed an appeal because his "invention patent was occupied by an associate professor", but the committee dismissed the appeal on the ground that it "belonged to an academic dispute" and did not require the supervisor to submit evidence. This "self-supervision" model makes the relief of academic rights basically ineffective.

The threshold for external relief is relatively high. When students file lawsuits over major rights issues such as the granting of academic degrees and expulsion from school, the courts often refuse to file the cases on the ground of "colleges and universities' academic autonomy" or excessively respect the judgment of colleges and universities during the trial. For example, in the aforementioned case where Li's academic degree certificate was revoked by the university, Li claimed that his freedom of speech was protected by the Constitution, while the university argued that "maintaining campus order" should be given priority. The court dismissed Li's claim on the ground that the "Regulations on Academic Degrees" did not clearly define the criteria for "insufficient academic level". Essentially, this entrusts the responsibility of protecting constitutional rights entirely to colleges and universities, forming a "relief vacuum".

3.4. A proportionality-based framework for recurrent scenarios

Under the proportionality test, any interference with a fundamental right must satisfy three cumulative sub-tests: Suitability: the measure must be capable of achieving a legitimate public aim; Necessity: no less-restrictive alternative is equally effective; and Balancing (proportionality *stricto sensu*): the concrete burden imposed on the right must not outweigh the anticipated public benefit. The framework is applied below to the three conflicts most frequently encountered in Chinese higher-education governance.

3.4.1. Dormitory inspections: Privacy v. Campus safety

Suitability: A surprise room search directed at confiscating illegal electrical appliances is rationally linked to the legitimate aim of fire prevention. Necessity: If the same risk-reduction objective can be attained through less intrusive means—e.g., advance notice plus voluntary self-inspection or safety-awareness campaigns—the compulsory search is unnecessary. Only where credible evidence indicates an imminent hazard in a specific room is a coercive search warranted. Balancing: Routine blanket inspections systematically expose students' personal belongings and communications to university staff, creating a privacy cost that normally exceeds the

¹² Tapia, E. (2023). Schools' priority rules and ethnic school segregation. *British Journal of sociology of Education*, 44(2), 331-354.

¹³ Evers, M., & Kamvounias, P. (2025). Ombudsmen and Australian universities: learning from student complaints. *Journal of Higher Education Policy and Management*, 47(3), 249-265.

incremental safety gain. The measure is therefore disproportionate unless strictly confined to targeted, time-limited inspections carried out under judicial or quasi-judicial control.

3.4.2. Restrictions on thesis topics: academic freedom v. disciplinary evaluation metrics

Suitability: Prohibiting topics that fall outside the "key research areas" defined by disciplinary assessment schemes is not suitable for the core university mission of cultivating independent research capacity; the measure is geared to short-term ranking maximisation rather than bona fide academic objectives. Necessity: Even assuming a legitimate interest in boosting a discipline's visibility, the same end can be pursued through positive incentives (dedicated grants, preferential supervision, extra funding) rather than outright bans, rendering the prohibition unnecessary. Balancing: Mandatory topic lists suppress intellectual curiosity and contravene the essence of academic freedom, while the anticipated benefit (a marginal rise in evaluative scores) is both speculative and transient. The interference is therefore manifestly disproportionate.

3.4.3 Expulsion for academic misconduct: Right to Education v. Academic integrity

Suitability: Expelling a student for plagiarism is clearly capable of safeguarding the integrity of the academic community. Necessity: Where the misconduct is minor (first-time offence, limited textual similarity), less severe sanctions—warning, mandatory research-ethics course, or grade deduction—achieve the same deterrent effect, so dismissal is unnecessary. Expulsion becomes necessary only when the misconduct is serious (repeated or malicious plagiarism, data fabrication) and lesser sanctions have demonstrably failed. Balancing: Permanent exclusion extinguishes the student's right to higher education and entails life-long socio-economic disadvantages. The measure is proportionate only if (i) the misconduct poses a systemic threat to academic standards and (ii) the university's interest in preserving those standards demonstrably outweighs the individual's educational and developmental interests.

4. Comparative law experience: Foreign reference for the connection between "text and practice"

4.1. Germany: Text elaboration and institutional separation

Germany realizes the implementation of rights through "text clarification and power separation", with the core being "making textual rules operable and institutional design preventing overstepping".

At the text level, Article 5 of the "Basic Law of Germany" clearly states that "academic freedom includes freedom of teaching, freedom of research, and freedom of learning", and the "Higher Education Act" elaborates on the content of rights. For example, "freedom of learning" includes students' right to independently choose courses and determine research topics, and colleges and universities are prohibited from restricting topic selection for "administrative goals".¹⁴ This "Constitution + departmental law" textual system provides a clear basis for the practice of rights.

At the institutional level, Germany implements the "separation of academic autonomy and administration". The academic committee is responsible for academic evaluation, topic approval, and other matters, and its members include teacher representatives, student representatives, and external experts. Administrative

¹⁴ Christanti, R., & Sukoco, A. A. (2022). Freedom to learn—independent campus policy: Do we really find our freedom?. *Journal of Education and Learning (EduLearn)*, 16(2), 189-198.

leaders are not allowed to serve as members; the administrative department is only responsible for fund allocation, logistics support, and is not allowed to raise objections to academic matters. When dealing with students' academic disputes, Ludwig Maximilian University of Munich adopts a division of labor model in which "academic issues are decided by the academic committee and procedural issues are assisted by the administrative department". This model not only ensures academic autonomy but also improves management efficiency, providing a sample for Chinese colleges and universities to resolve the conflict between "academic freedom and management order".

4.2. African countries: Regional charters and supervision mechanisms

African countries promote the practice of rights through "unified textual norms and independent supervision institutions", with the core being "promoting the implementation of rights through external supervision".

Africa has defined the obligations of colleges and universities in member countries through the "Regional Charter on Academic Freedom". The charter stipulates that "colleges and universities shall not restrict students' research due to differences between academic views and administrative positions" and "students shall have the right to participate in campus governance", and requires member countries to transform the content of the charter into domestic laws.¹⁵ On this basis, Africa has established "academic freedom supervisors", composed of education experts, legal scholars, and student representatives, to conduct independent investigations into acts of colleges and universities interfering with academic freedom and infringing on students' rights. The investigation results have legal effect.

4.3. Experience and enlightenment: Core elements for the connection between "text and practice"

Based on the experience of Germany and African countries, the connection between "text and practice" needs to have three core elements. Firstly, text clarification: clarify the connotation of rights and the boundary of power through constitutional interpretation or the elaboration of departmental laws. Secondly, institutional separation: construct a separation mechanism between "academic and administrative" power to prevent the overstepping of power. Thirdly, supervision neutrality: establish an independent right supervision institution outside colleges and universities to ensure the effectiveness of relief. These experiences can provide a reference for the protection of college students' constitutional rights in China.

5. Legal path: Constructing a protection system for the connection between "text and practice"

To solve the problem of the disconnection between "right text" and "governance practice", and combined with the experience of comparative law, this paper proposes a "norm-relief-participation" trinity legal path. It clarifies the boundary of rights at the normative level, smooths the channels for defending rights at the relief level, and implements the right to speak in governance at the participation level, jointly promoting the transformation of college students' constitutional rights from text to practice.

5.1. Strengthening the application of the constitution: Making the right text "enter the campus"

¹⁵ Nnawulezi, U., & Adeuti, B. R. (2022). Promoting Human Rights in Educational Sector in Nigeria: Trend of Student's Participation. *The Indonesian Journal of International Clinical Legal Education*, 4(1), 1-20.

Promote the concrete application of constitutional principles in campus governance and construct a dual-layer protection system of "Constitution + school rules". On the one hand, add a "special chapter on the protection of constitutional rights" to the university charter, and clarify the specific application rules of constitutional provisions on freedom of speech, the right to education, and freedom of scientific research in the campus context. For example, it is stipulated that when students make academic remarks, colleges and universities shall not interfere unless they involve endangering national security, public interests, or violating public order and good customs; students' research topics only need to comply with academic norms and are not restricted by non-academic factors such as "the priority of discipline evaluation" and "the orientation of administrative funds". On the other hand, establish a "constitutional application consultation mechanism", in which a consultation team composed of the university's legal department, teachers majoring in law, and student representatives provides opinions on the constitutional compliance review of campus management behaviors (such as academic evaluation and disciplinary punishment) to avoid conflicts between management decisions and constitutional rights. For example, before handling students' academic disputes or disciplinary punishments, the consultation team shall issue a constitutional application opinion to ensure that the basis for punishment and the investigation procedure comply with constitutional principles and prevent the overriding of constitutional rights by the logic of "management priority".¹⁶ At the same time, include the application of the Constitution in the evaluation indicators of university governance. The education administrative department shall regularly check the constitutional compliance of the university charter and management behaviors, and order colleges and universities with insufficient protection of constitutional rights to make rectifications, so as to promote the integration of the Constitution from "text provisions" into the practice of campus governance.

5.2. Improving the system: Making the right text "operable"

Firstly, elaborate on the content of the right text. Promote the revision of the "Higher Education Law", add a "special chapter on the protection of academic freedom", and clarify the specific scope of academic freedom (e.g., independent topic selection and publication of results without interference from non-academic factors) and the prohibited situations of administrative power (e.g., not restricting students' research directions due to "discipline evaluation"); formulate a "list of college students' constitutional rights" in the "Provisions on the Administration of Students in Regular Institutions of Higher Education", and make operational provisions on the conditions for exercising the right to education and the right to appeal, as well as the relief channels. Secondly, establish a mechanism for reviewing the legality of school rules. The education administrative department shall take the lead, and jointly with legal experts and student representatives, conduct a comprehensive review of the existing rules and regulations of colleges and universities, and delete the provisions that conflict with the Constitution and laws.¹⁷ For example, regarding the school rule of a certain university that "students' articles must be reviewed by the college before publication", it shall be reviewed and revised in accordance with the freedom of speech provision in Article 35 of the Constitution. When formulating rules and regulations involving students' major rights and interests, extensive opinions from students shall be solicited, and a legality review shall be conducted to ensure that the school rules and disciplines are consistent with higher-level laws.

¹⁶ Barclay, S. H. (2025). Constitutional rights as protected reasons. *University of Chicago Law Review*, 92, 1179.

¹⁷ Roznai, Y., & Okubasu, D. M. (2023). Stability of constitutional structures and identity analyst "political settlement": Lessons from Kenya and Israel. *Comparative Constitutional Studies*, 1(1), 101-123

5.3. Strengthening relief: Making the practice of rights "remediable"

Firstly, construct an independent appeal system. Reform the composition of the university appeal committee, requiring that teacher representatives account for 30%, student representatives account for 30%, external legal experts account for 30%, and administrative representatives account for 10%, so as to ensure the objectivity and fairness of the handling process and improve students' recognition of the appeal results. Clarify the time limit for the appeal procedure (e.g., completing the investigation within 15 days after acceptance), and endow students with the right to access evidence and hire agents to improve the credibility of the appeal. In the process of appeal, hearing, and reconsideration, the students' right to know, the right to statement, and the right to defense must be strictly protected. Referring to the experience of Germany, a "student rights appeal review committee" can be established in the provincial education administrative department to conduct a secondary review of the appeal results of colleges and universities, making up for the deficiency of internal relief.¹⁸ Secondly, smooth the channels for external relief. In judicial practice, it shall be further clarified that when the punishment of colleges and universities involves students' constitutional rights, the courts shall file and hear the cases, and avoid evading judicial review on the ground of "academic autonomy"; in the trial, the principle of "prioritizing constitutional interpretation" shall be introduced, and when there is a conflict between school rules and the Constitution, the constitutional provisions shall be applied first. At the same time, establish a connection mechanism between "educational administrative reconsideration and judicial litigation". If students are not satisfied with the punishment of colleges and universities, they can first apply for reconsideration to the education administrative department, and then file a lawsuit if they are not satisfied with the reconsideration result, so as to reduce the cost of defending rights.

5.4. Empowering participation: Making the practice of rights "have a subject"

Firstly, build a platform for students to participate in governance. Endow the Student Congress with substantive power to participate in the major decision-making of the university and supervise the campus management behaviors. It is required that major decisions involving students' rights and interests (such as the revision of school rules and the formulation of academic evaluation rules) can only be implemented after being reviewed and approved by the Student Congress; ensure that student representatives account for no less than 25% in the university academic committee, and endow student representatives with the right to vote on academic affairs to prevent the dominance of administrative power in academic judgment. Referring to the experience of Africa, "student rights representatives" can be established in colleges and universities, who are elected by students and responsible for collecting the demands for rights and supervising the implementation of school rules, so as to build a communication bridge between students and the university, transform students from passive recipients of management to active participants in governance, and improve the democracy and effectiveness of campus governance.¹⁹ Secondly, strengthen the education on rights and the cultivation of abilities. Incorporate "college students' constitutional rights" into the orientation education for new students and the basic law courses, and explain the connotation of rights and the path of defending rights in combination with typical cases of students' rights defense; invite judges and lawyers to give special lectures on campus to guide students on how to collect

¹⁸ Hein, E. (2025). Post-Keynesian economics in Germany since the 1970s: a detailed mapping of the landscape. *Cambridge Journal of Economics*.

¹⁹ Mthethwa, V. (2022). *Students' participation in university governance in South Africa* (p. 216). AOSIS.

evidence and file appeals, so as to improve their ability to exercise their rights. At the same time, establish a "legal aid center for student rights" to provide free legal consultation and agency services for students whose rights are infringed, reducing the threshold for defending rights.

6. Research limitations and future prospects

6.1 Research limitations

The research limitations of this paper are mainly reflected in two aspects. Firstly, the coverage of empirical samples is limited. The cases and data are mostly from "Double First-Class" universities and universities in eastern China, and there is insufficient attention to vocational colleges, private universities, and universities in central and western China, making it difficult to fully reflect the differences in the protection of college students' constitutional rights among different types and regions of institutions. Secondly, the depth of interdisciplinary integration is insufficient. Although the theory of public management is introduced, it fails to fully integrate the sociological "field theory" to analyze the interaction mechanism between the university power structure and students' right demands, and the theoretical framework still needs to be improved.

6.2. Future prospects

Future research can be advanced from three aspects. Firstly, expand the scope of empirical research, select different types of samples such as vocational colleges, private universities, and local universities, focus on strengthening field investigations on universities in central and western China and ethnic minority areas, obtain first-hand data on students' awareness of rights, experience of academic freedom, and satisfaction with governance, and analyze the impact of regional and institutional type differences on the protection of rights. Secondly, deepen interdisciplinary research, integrate the theories of constitutional law, sociology, public management, and other disciplines, construct an analytical framework for the interaction between "power and rights", and analyze the relationship between administrative power, academic power, and student rights. Thirdly, focus on new issues in the technological era, study the impact of the application of big data and artificial intelligence in campus management on students' right to privacy and freedom of expression, explore the protection mechanism of college students' constitutional rights in the digital era, and promote the connection between "text and practice" to keep pace with the times.

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