The Current Situation and Improvement Path of Institutional System of Chinese Colleges and Universities from the Perspective of the Rule of Law

Dazhi Zhou
Office of the Rule of Law, Donghua University, Shanghai 201620, China.

Abstract

The rule of law is the key and only way for universities to promote the modernization of the institutional system. This paper takes 102 universities in China as research samples to investigate the current situation of the construction of institutional systems in Chinese universities from the perspective of the rule of law. While some achievements have been made, there are also some problems: the "legislative law" in some universities are not sound enough, the rank relationship is not clear enough, the deliberation subject has overstepped powers, and the completeness of the system construction procedure needs to be improved. On the basis of analyzing the reasons, this paper believes that the institutional system of universities from the perspective of the rule of law can be improved in the following ways: to insist on using the rule of law thinking and method to build the university system, to establish and improve the "legislative law" in the university, to do a good job in the top-level design and planning of the university system, to clarify the powers and responsibilities of decision-making subjects in universities, and to establish and improve the supervision mechanism for the construction of the university system.

Keywords

Modern University System, Institutional Systems of Chinese Universities, Rule of Law, Rule of Law Thinking, Rule of Law Mode

1. Introduction

Building a modern university system is the basic requirement and pursuit goal of the governance of higher education institutions around the world. Although the models of modern university systems in different countries are different, they all focus on the modernization of the internal governance system of colleges and universities, especially the university system. In today's world, the rule of law has become a measure of the modernization of the country's governance system and governance capacity, and the rule of law is the key and only way of modernization. The modernization of the institutional system of colleges and universities also pursues the rule of law. The institutional system of colleges and universities (hereinafter referred to as "university institutional system") referred to in this article refers to a set of regulations or codes of conduct that are formulated and run by colleges and universities to regulate the behavior of teachers and students in the whole university and its process. Combined with the connotation of the rule of law, the legalization of the institutional system of colleges and universities has at least the following characteristics: there are "laws" to abide by in the construction of the system, the rank of the system is clear, the content is legal, the authority is legal, and the
procedure is proper.

2. The Current Situation of the Legalization of the Institutional System in Chinese Colleges and Universities

"A good university not only depends on a good president, but also on a good system and a good organizational culture." (Xiong, 2015). Over the years of construction, the institutional system of Chinese universities has become increasingly large and has achieved certain achievements, but there is still a long way to go to construct a university institutional system from the perspective of the rule of law. In order to gain an in-depth understanding of the current situation of the construction of the legalization of the institutional system in Chinese colleges and universities, we selected 102 colleges and universities in China as research samples, compared with the legalization characteristics of the institutional system construction of colleges and universities, and conducted empirical analysis through questionnaires, personal interviews, etc. The conclusion is as follows.

2.1 There are “Laws” to Follow in the System Construction of Most Colleges and Universities

It is more common for system construction to have "laws" to follow. A major feature of the construction of the legalization of the institutional system of colleges and universities is that the construction of the university system is brought into the track of the rule of law, and there are "laws" to regulate it, that is, the university should formulate a "legislative law" within the university to regulate the formulation, modification, abolition, interpretation, filing, and cleaning of the entire university system. Among the 102 colleges and universities, 92 (accounting for 90.2%) colleges and universities have formulated the "legislative law" on campus, and 10 (accounting for 9.8%) colleges and universities have not formulated the "legislative law" on campus. The above data shows that most colleges and universities pay attention to using "law" to regulate the construction of university systems, but there are still very few colleges and universities that do not realize that system construction should be incorporated into the track of the rule of law and that there should be "laws" to regulate it.

Part of the system construction of some colleges and universities has not been brought into the track of the rule of law. Among the above-mentioned 92 colleges and universities that have formulated on-campus "legislative law", 41 (accounting for 44.6%) of colleges and universities have their on-campus "legislative law" to regulate university-wide normative documents; 46 (accounting for 50%) of colleges and universities have on-campus "legislative law" that only regulates the administrative normative documents on campus; the “legislative law” of 5 colleges and universities (accounting for 5.4%) only regulates the important on-campus administrative normative documents and others. The above data shows that there are still some institutions in some colleges and universities that have not been incorporated into the track of the rule of law and lack “legislative law” to regulate it. The construction of this part of the system may appear humanized and random because of the lack of rules to follow.

2.2 The Content Construction of the University System Basically Conforms to the Spirit of the Rule of Law

The most important feature of the rule of law in the institutional system of colleges and universities is that the content of the system must be legal, and there should be no violation of the superior law, and the content construction must conform to the spirit of the rule of law. Entering the 21st century, with the implementation of China's Ministry of Education's "Implementation Outline of Governing Education by Law (2016-2020)", "Implementation Outline of Comprehensive Promoting university Governance by Law", and "The Ministry of Education's Opinions on Further Strengthening the Rule of Law in Colleges and Universities" and other documents, remarkable achievements have been made in the work of administering universities according to law in colleges and universities, including that the university system should be formulated in accordance with the higher-level law and cannot violate the higher-level law. This has gradually become a consensus among university managers.

The purpose of system construction is basically in line with the spirit of the rule of law. From the perspective of the rule of law, the fundamental purpose of institutional system construction in colleges and universities is to protect the rights and interests of teachers and students in accordance with the law. In the interviews with legal workers in 102 colleges and universities, 102 teachers (accounting for 100%) held the view that "the purpose of university system construction includes protecting the rights and interests of teachers and students"; there are 97 teachers (accounting for 95.1%) who hold the view that "the purpose of university system construction includes regulating the operation of university power", there are 97 teachers (accounting for 95.1%) who hold the view that "the purpose of university system construction includes protecting the rights and interests of teachers and students"; there are 97 teachers (accounting for 95.1%) who hold the view that "the purpose of university system construction includes regulating the operation of university power".
construction includes facilitating university management", and 9 teachers (accounting for 8.8%) who hold other views. The above data shows that the purpose of institutional construction in China's universities basically includes "protecting the rights and interests of teachers and students" and "regulating the operation of university power", which is in line with the spirit of the rule of law in terms of purpose.

Most of the system contents contain provisions of legal consequences. Regarding the investigation of "whether each system of the university contains legal consequences such as liability/supervision clauses", among 102 colleges and universities, 70 (accounting for 68.6%) of the colleges and universities contain liability/supervision clauses in the vast majority of systems, and a small number of systems at 19 (accounting for 18.6%) colleges and universities include liability/oversight clauses, and only 13 (accounting for 12.8%) colleges and universities include liability/oversight clauses in every system. The above data shows that most colleges and universities pay attention to the clarification of "responsibility clauses" or "supervision clauses" during system construction, which facilitates the "normative" play of the system and ensures the effective implementation of the system.

2.3 The Rank Relationship of Some University Institutional Systems is not Clear Enough

The legalization of the university system requires that the hierarchy of the university system is clear, and that the upper law and the lower law are effectively connected. It can be examined from two aspects: one is the classification of the system, the other is the stratification of the system.

The institutional system of some colleges and universities is not classified. Regarding the research on "whether the university system is classified", among 102 colleges and universities, 56 (accounting for 54.9%) colleges and universities did not classify the university system, and 46 (accounting for 45.1%) colleges and universities classified the university system. The situations include: "Party construction, administrative construction, academic construction, and group construction", "Party committee leadership and principal responsibility system, university governance structure, student training and management, faculty construction, international cooperation", "Party affairs, resource allocation and security, comprehensive management, teaching management, student education", etc. The above data shows that some colleges and universities have not conducted or realized that the university system needs to be classified management, and the classification standards of colleges and universities that have been classified management are not uniform.

The institutional system of some colleges and universities is not stratified. Regarding the research on "whether the university system is stratified ", among the 102 colleges and universities, the institutional systems of 46 (accounting for 45.1%) colleges and universities are divided into fundamental systems, basic systems, specific systems, etc. The institutional systems of 23 (accounting for 22.5%) colleges and universities are divided into "university charter, university-level system, secondary department system", "rules and regulations, detailed implementation rules", "important systems and conventional systems"; The institutional systems of 33 (accounting for 32.4%) colleges and universities are not stratified. The above data shows that the institutional systems of some colleges and universities are not stratified, which indirectly indicates that the rank relationship of the institutional system of some colleges and universities is unclear.

Some colleges and universities have not established a guarantee mechanism that takes the university charter as the core of the institutional system. In the rank relationship of the institutional system of colleges and universities, the university charter, as the fundamental law of the university, is at the core, and other university systems must not contradict the university charter. Regarding the investigation on "whether the university has established a corresponding mechanism for implementing the 'university constitution' as the core of the university system", among the 102 colleges and universities, 62 (accounting for 60.8%) colleges and universities have established a guarantee mechanism for the implementation of the university constitution, and 40 (accounting for 39.2%) colleges and universities have not established a guarantee mechanism for the implementation of the university charter. The above data shows that in some colleges and universities, the role of the university charter as the basic system of the university has not been brought into play, and the implementation of the charter has appeared to “stay on paper” or “hollow out” and other phenomena.

2.4 The Deliberation Subjects of Some University Systems Have Overstepped Their Powers

One of the characteristics of the rule of law in the institutional system of colleges and universities is that the authority to formulate the system must be legal, the subject of deliberation must be clear, and there should be no arrogance of authority. Regarding the investigation on "whether the corresponding review and decision-making body of the draft university-level system is clear", among 102 colleges and universities, 79 (accounting for 77.5%) colleges and universities have clear system review and decision-making bodies and clear division of labor; 23 (accounting for 22.5%) colleges and universities' institutional deliberation decision-making body are occasionally unclear and require judgment.
The above data shows that there are still very few colleges and universities that need to consider the system deliberation and decision-making body in the system construction. If the decision-making body is wrongly selected, it means that the legality of the subject authority of the system formulation is lacking.

The same system content is reviewed and decided by different subjects in different universities. Taking the review subject of the "university degree evaluation committee charter" as an example, this article interviewed the staff of 20 universities directly under the Ministry of Education of China, and 10 (accounting for 50%) universities' degree evaluation committee charters are finalized by the university degree evaluation committee. The charters of the degree evaluation committee of 8 (accounting for 40%) colleges and universities are finally reviewed and decided by the university academic committee, and the charters of the degree evaluation committee of 2 (accounting for 10%) colleges and universities are finally reviewed and decided by the Standing Committee of the Party Committee. There are three different bodies in the deliberation and decision-making body of the same "university degree evaluation committee charter". For the same system construction content, the deliberation and decision-making bodies should be the same. The above data shows that the deliberation subjects of some university systems have overstepped their powers. The reason behind this problem is that the division of power in the university governance structure is not clear.

2.5 The Completeness of the System Construction Procedures of Some Colleges and Universities is not Enough

As far as the process is concerned, the construction of the rule of law in the institutional system of colleges and universities also requires that the process of the construction of the institutional system should conform to the spirit of the rule of law, and avoid long-term problems in institutional construction such as disorderly legislation, frequent revision of laws, long-term non-revision, and illegal content.

The institutional construction of some colleges and universities has no planning, annual plan and "project approval". On the basis of system classification and stratification, the construction of institutional system in colleges and universities should be carried out according to the plan, so as to promote the completeness and scientificity of the institutional system. Regarding the survey on "whether there is a plan or an annual plan for the construction of the university system", among 102 colleges and universities, 79 (accounting for 77.5%) colleges and universities have plans or annual plans for system construction, and 23 (accounting for 22.5%) colleges and universities have no plan or annual plan for system construction. As far as the integrity of the system formulation process is concerned, in the survey on "whether the university system includes 'project establishment' in the formulation process", among 102 colleges and universities, 65 (accounting for 63.7%) colleges and universities include "project establishment" in the system formulation process. 37 (accounting for 36.3%) colleges and universities do not include the "project establishment" link in the system formulation process. The above data shows that some colleges and universities are unplanned or disorderly in system construction, lacking systematicness and planning.

Only a few colleges and universities have established a pre-meeting review mechanism for the draft system of the whole university. The legal construction of the institutional system of colleges and universities requires that the content of the system be legal, and the safeguard measures are: to conduct a legality review before submitting it to the decision-making body. Regarding the investigation on "whether the draft of the university-level system is subject to legality review before it is submitted to the university's decision-making body", among 102 colleges and universities, 28 (accounting for 27.5%) colleges and universities have reviewed all the draft normative documents (including party internal normative documents) have been reviewed for legitimacy, 18 (accounting for 17.6%) colleges and universities have reviewed the legitimacy of some important administrative and intra-party normative documents, and 28 (accounting for 27.5%) colleges and universities have reviewed all administrative normative documents. 23 (accounting for 22.5%) colleges and universities have conducted legality review of some important draft administrative normative documents, and 5 (accounting for 4.9%) colleges and universities have other legal issues in the scope of legality review.

The above data shows that some systems in some colleges and universities have not been reviewed for legitimacy before they are submitted to decision-making bodies, failing to ensure the legality, compliance, and compliance of the system content construction. This problem needs to be paid enough attention to and reasonably solved by universities.

To sum up, the legal construction of the institutional system in Chinese universities mainly has the following problems: the "legislative law" in some universities is not sound enough, the rank relationship of the institutional system is not clear enough, the deliberation subject has overstepped its powers, and the completeness of the institutional construction procedure is not enough.

3.1 The Breadth and Depth of Promoting the Construction of the Institutional System by Using the Thinking of the Rule of Law is not Enough

From a semantic point of view, "the rule of law thinking refers to the thinking habits and procedures of human beings that conform to the spirit, principles, concepts, logic and requirements of the rule of law. It is a more rational cognitive process for the rule of law, and it is a dynamic process." (Han, 2013). In extension, it includes the thinking of the priority of rules, the protection of rights, the regulation of power, and the due process. In contrast to the above-mentioned connotation of "rule of law thinking", it is not enough for Chinese universities to use the rule of law thinking to promote the breadth and depth of institutional system construction.

The application of the rule of law thinking to promote the construction of the institutional system is insufficient. On the one hand, a very small number of colleges and universities still have not established a "legislative law" within the university, and some colleges and universities have no "law" to formulate normative documents within the Party. Behind these problems is that some colleges and universities have not followed the rules-first thinking to promote system construction. Because the system construction itself must also be incorporated into the rule of law, and the institutional system must be built according to rules and systems. On the other hand, some colleges and universities have not classified or stratified the institutional system, which hierarchical relationship is not clear enough. When there is inconsistency between the institutions, there is no rule to solve the conflict of effectiveness and other problems. In addition, there are no rules to be based on the formulation of normative documents within the party in some colleges and universities, and there is no pre-conference review of legitimacy, and the deliberation subjects of some colleges and universities have overstepped their powers, which just shows that some public powers have not been effectively regulated and their operation lacks supervision.

The use of the rule of law thinking to promote the construction of the institutional system is not deep enough. From the perspective of the rule of law, the fundamental purpose of institutional system construction in colleges and universities is to protect the rights and interests of teachers and students, and they should use the thinking of protecting rights to promote institutional construction. Judging from the results of personal interviews, many university staff believe that when drafting the system, they should firstly start from the perspective of facilitating university management, and regard it as the primary starting point for system construction. This kind of thinking is essentially a kind of "man-rule thinking", is contrary to the rule of law. In addition, the completeness of the procedures for the construction of the institutional system in colleges and universities is insufficient, and some colleges and universities lack important system construction links such as "project establishment", "legality review", "interpretation", and "filing", which are behind the insufficient application of procedural legitimacy thinking. Some colleges and universities only pay attention to the substantial construction of the system, but ignore the procedural construction of the system.

3.2 The University Lacks Top-level Design and Unified Planning for Institutional System Construction

At present, the institutional system construction of some colleges and universities has not been classified and stratified, and the core role of the university charter is not clearly played. The reason behind these problems is that colleges and universities have not done a good job in the top-level design and unified planning of institutional construction.

Some colleges and universities lack top-level design for institutional system construction. At present, the rank relationship in the institutional system of some Chinese universities is not clear enough, the systems are not self-consistent enough, and the legal system is not unified. The reason is that it is closely related to the fact that colleges and universities do not pay enough attention to the construction of the institutional system and do not do a good job in top-level design. The top-level design includes at least two aspects: one is the top-level design on the substantial construction of the entire university system, that is, the university system can be divided into different categories according to the different subjects of deliberation, and can be divided into fundamental systems, basic systems, specific systems, and university system, college system, etc. One is the top-level design of the procedure construction of the entire university institutional system, that is, the entire dynamic process of the university institutional system construction must be regulated by "laws", from the establishment of the system, drafting, review, decision, announcement, interpretation, modification, abolition, filing, etc. The process is brought into the track of the rule of law. It is precisely because of the lack of top-level design in the substantial and procedural construction of the institutional system that the construction of the entire university institutional system is complex, disordered, and lacks systematic and normative design.

Some colleges and universities lack a unified plan for the construction of the institutional system. On the basis
of doing a good job in the top-level design of the institutional system, colleges and universities should strengthen the planning and implementation of the institutional system construction plan. There are strange phenomena such as disorderly legislation, frequent revision of laws, and long-term non-revision in the institutional construction of some colleges and universities. The reasons are closely related to the lack of unified planning in institutions of colleges and universities. When colleges and universities do not formulate medium- and long-term plans for institutional construction, the amount of institutional construction in one category and one aspect may be large, while the amount of institutional construction in another category and another aspect may be very small, and it is difficult to ensure the integrity of the university's institutional system. In addition, some colleges and universities have no annual plan for system construction and no project establishment link, resulting in a lot of randomness in the formulation and revision of the system, and the workload of the system review department is too much or too little, which is not conducive to the construction of a long-term mechanism for the operation of the system.

3.3 The Internal Governance Structure of the University is not Sound Enough

China's "Opinions of the Ministry of Education on further strengthening the rule of law in colleges and universities" (Jiaozhengfa [2020] No.8) pointed out that colleges and universities should "adhere to and improve the university leadership system and governance system with the principal responsibility system under the leadership of the Party committee as the core, ... to further improve the academic governance system centered on the academic committee, ... to further play the role of the faculty representative assembly system and the student representative assembly system." It can be seen that Chinese colleges and universities still implement a modern university governance structure with the leadership of the party committee, the president in charge, professors running the university, and democratic management. There are four main powers involved: leadership power, administrative power, academic power, and democratic supervision power. At present, the deliberation subjects of some colleges and universities have arrogant powers. The same system content is reviewed and decided by different subjects in different universities. The reason behind this problem is that the division of labor among several public powers in universities is unclear. In the context of strengthening the overall leadership of the Party, where is the power boundary of the university party committee? Where are the boundaries of the principal's power? Where are the power boundaries of academic committees? Where are the power boundaries of the faculty and staff congress and the student congress? If such issues are not clarified in a timely manner, it will lead to unclear powers and responsibilities of universities, confusion of decision-making bodies in system construction, and further extension of the legal issue of the authority of the main body of system construction.

3.4 The Supervision Mechanism of University System Construction is not Perfect Enough

At present, a small number of colleges and universities have not established a regular system clean-up mechanism or a filing review mechanism in the process of institutional system construction. As a result, some university systems are seriously lagging behind and have not been revised or abolished in time, and there is a lack of supervision after the system is formulated. It should be said that the normative document filing and review mechanism is a powerful post-event system construction supervision mechanism. At present, the "filing" work in the system construction of colleges and universities is still far from the requirements of "everything is necessary, everything must be reviewed, and errors must be corrected". There is a big gap. Judging from the results of individual interviews, most colleges and universities that have established a filing mechanism mainly stay on the "filing" of the system, and fail to effectively promote the "review" of the system afterwards, that is, focus on "filing" and ignore "review". It is related to the lack of awareness of the filing review in colleges and universities.

4. The Perfect Path of the Institutional System of Chinese Colleges and Universities from the Perspective of the Rule of Law

4.1 Adhere to the Application of the Rule of Law Thinking and Way to Build the University System

The legalization of the institutional system of colleges and universities requires that colleges and universities should apply the rule of law thinking and way to formulate, implement and supervise the university institutional system that conforms to the spirit of the rule of law.

Adhere to the application of the rule of law thinking to build the university system. The first is the rule-based thinking. It is the primary content of the rule of law thinking. It requires colleges and universities to firstly consider whether there are relevant regulations in the university or the country, and whether the system conforms to the "legislative law" in the university in substance and procedure. The second is the thinking of rights protection. The fundamental purpose of the construction of the rule of law in colleges and universities is to protect the rights of teachers and students.
Therefore, the construction of college systems should take the protection of the rights and interests of teachers and students as the primary responsibility, and strive to maximize the rights and interests of teachers and students. From another point of view, the thinking of rights protection requires that universities should adhere to "people-oriented" when promoting the construction of the institutional system. "The people's nature in the rule of law in education requires that we must integrate the current normative system of education law. It integrates other systems of the education rule of law, abolishes the rules in the education rule of law that are not in line with the public interest, and allows the public to intervene and participate in every link of the education operation mechanism." (Guan, 2021). The third is to regulate the thinking of power. It requires that public powers such as the formulation, modification, abolition, and interpretation of the institution of university should be incorporated into the rule of law, and the institution system should not be constructed in accordance with administrative orders and the thinking of the rule of man. The fourth is the proper thinking of procedures. It requires colleges and universities to carry out system construction in accordance with relevant laws and regulations, and in accordance with the due process of formulating construction.

**Adhere to the application of the rule of law to build the university system.** The rule of law method is the behavioral method of using the rule of law thinking to deal with and solve problems. Usually people say "acting according to the law, finding the law in case of trouble, using the method to solve the problem, and relying on the law to resolve the contradiction", all belong to the category of the rule of law method. The rule of law approach for institutional construction in colleges and universities should include at least five aspects: the first is to formulate a "legislative law" within the university, making it clear that the "law" can be followed in the construction of the university system. The second is to find the upper-level laws and regulations. When the main body of colleges and universities is building the system, they should firstly look for the relevant laws and regulations, and formulate the system according to the "law". The third is to act strictly in accordance with the law. When constructing the system of colleges and universities, we should strictly follow the national laws and regulations and the "legislative law" in the university, and prevent drafting or revising the system draft artificially and arbitrarily. The fourth is to adopt a method that is conducive to protecting private rights and focuses on regulating public power. When public power and private rights conflict, colleges and universities should adopt a tendency to protect private rights and focus on regulating public rights in institutional construction. Only when power is locked into the cage of the system can it truly realize the legalization of institutional system construction. The fifth is to follow due process. In the construction of institutions, colleges and universities should strictly follow the corresponding procedures, and pay attention to soliciting opinions from teachers and students and reviewing their legality.

### 4.2 Establish and Improve the "Legislative Law" within the University

Colleges and universities that have not established an on-campus "legislative law" should hurry up and issue regulations on the management of on-campus normative documents as soon as possible, so that the university system construction has a "law" to abide by. Universities that have promulgated the "legislative law" on campus should improve the regulations on the management of normative documents, and improve them from the following two aspects:

**The scope of application of the "legislative law" in the university shall include all normative documents of the whole university.** At present, the scope of application of the "legislative law" in some Chinese universities is still limited to administrative normative documents, and this approach is currently unable to meet the requirements of comprehensively governing the university according to law and comprehensively and strictly governing the Party. The intra-party institutional documents of colleges and universities should be included in the rule of law like other institutional documents. Therefore, the scope of application of the university's normative documents management regulations or measures should include intra-party normative documents, administrative normative documents, and academic normative documents, group organization normative documents, etc.

**Procedures should include formulation, modification, abolition, filing, etc.** The construction of the rule of law in the institutional system of colleges and universities requires that the entire dynamic process of institutional construction in colleges and universities should be brought into the track of the rule of law, and must be regulated by "laws".

Improve the university system formulation mechanism. It includes project establishment, drafting, review, decision, and publication. It is necessary to vigorously promote and emphasize the importance and necessity of institutional "project establishment", and it is recommended that all colleges and universities should carry out institutional "project establishment" work. In the drafting stage, the drafting department should conduct serious investigation and research, and solicit opinions widely. The draft system involving the rights and interests of teachers and students should also be submitted to the faculty representative assembly or the student representative assembly for discussion. This is a requirement of democratic legislation and also promotes system construction scientific and rational. In the pre-meeting review link, it is recommended to establish the main body of review with the rule of law work institution and the party
committee policy research institution as the main body, and conduct legal, compliant and constitutional review of all system drafts submitted to the university decision-making meeting. In the decision-making link, the university must clarify the division of powers and responsibilities of the review and decision-making body, and review and make decisions on the draft system in accordance with the procedures. After the decision is made, the university shall publish the system in a timely manner, and the unpublished draft of the system shall not have normative effect.

Improve the university system clean-up mechanism. When the university system is in operation and encounters the modification of the higher-level law or the objective changes in the application of the system, the university shall revise or abolish it in a timely manner, and regularly carry out the clean-up of the system. The revision procedure of the system shall be the same as the formulation procedure, and attention shall also be paid to the effective date of the revised document and the change of the document number. The abolition of the system shall be submitted to the same deliberation and decision-making body as when the system was formulated for decision, and shall be announced in a timely manner. The university should regularly clean up the system documents of the whole university to ensure that the university system is consistent with or adapted to the latest higher-level law and applicable objective situations. The cleaning here is not a simple system sorting out, but to remove "old regulations" and "legal regulations" according to the latest higher-level law.

Improve the university system filing review mechanism. The filing review mechanism is a powerful post-event supervision mechanism for system construction. Colleges and universities should make it clear that all normative documents should be put on filing by the drafting department of normative documents to the institution designated by the university within 30 days from the date of publication. The filing content includes the official text of the normative document, electronic text, relevant background information and the filing registration form. At the same time, it can be clarified that: if a university unit, individual or off-campus organization or individual believes that a specific normative document is in conflict with the upper norm, or conflicts with other normative documents, or violates these regulations, they may submit a review suggest to the institution designated by the university. When reviewing the normative documents filed in accordance with the provisions of the preceding paragraph, the filing review institution considers that the relevant functional department needs to make an opinion or explain the situation, the relevant functional department shall make an opinion or explain the situation within the prescribed time limit.

4.3 Do a Good Job in the Top-level design and Planning of the University System According to the Rank Relationship

The university system can be divided into three levels: fundamental system, basic system and specific system. The establishment of rank relationship is very important for the construction of institutional system in colleges and universities. Referring to the classification of national legal rank, colleges and universities can divide the university-level system into: fundamental system, basic system, and specific system according to the level of upper law and lower law. This is the horizontal dimension; another vertical dimension is to divide the whole university system into the university-level system, colleges and other secondary unit systems, the university-level system is the upper law of the college system. According to the principle of the rule of law, the system at the lower level is mainly the specificity and refinement of the system at the upper level. The content of its regulations must not violate the system at the upper level. The addition of obligations or reduction of rights for teachers and students should be authorized by the system at the higher level, otherwise it is a violation of the rule of law.

The system can be divided into four categories: party system, administrative system, academic system and group system. In view of the complexity of the institutional system of China's higher education institutions, in order to promote the construction of the institutional system in an orderly manner and strengthen the responsibility of the construction subject, it is recommended to manage the university system by categories. Judging from the previous research, the universities that have been classified have different classification standards: one classification standard is "Party affairs, resource allocation and security, comprehensive management, teaching management, and student education", and one classification standard is "Party committee leadership and principal responsibility system, university governance structure, student training and management, teacher team building, international cooperation", a classification standard is "Party building ideological and political, administrative management, teaching management, subject scientific research, personnel, teaching staff construction, talent cultivation, foreign cooperation services, and internationalized education". This paper proposes that it can be divided into the following four categories according to the different subjects of system deliberation and decision-making: party system, administrative system, academic system, group system, etc.

Incorporate system construction into the university's medium and long-term planning and annual plans. At present, there are strange phenomena such as disorderly legislation, frequent revision of laws, and long-term
non-revision in the institutional construction of some colleges and universities. In order to solve such problems in the long run, universities should incorporate the construction of the university system into medium and long-term planning and annual plans from the perspective of the modernization of governance systems and governance capabilities. Taking Tsinghua University as an example, the university has formulated the "Tsinghua University Institutional System Architecture Plan", which "divides the university system into three levels: fundamental system, basic system and specific system, covering education and teaching, academic research, academic support, internal management and 336 specific indicators have been identified in eight major areas, including service guarantee, democratic supervision, social service, internationalization, party building, and ideological and political work. The current university-level rules and regulations and normative documents have been sorted out, and the Thirteenth Five-Year plan (2016-2020) for Institutional Construction of Tsinghua University has been compiled, researched and proposed 134 system construction tasks to be supplemented and improved and implemented them year by year by department." (Ministry of Education, 2017). According to the plan, Tsinghua University "strives to fully build a system with scientific content, strict procedures, complete supporting facilities and effective operation by 2020. The university system construction will gradually standardize and improve the work mechanisms such as hierarchical authorization, planning and project approval, review and filing, and comprehensively promote the university and college two-level institutional system construction" (Tsinghua University, 2016). On the basis of medium and long-term planning, each university should also strengthen the implementation of the plan, and do a good job in the "project establishment" of the system construction every year, so as to facilitate the orderly progress of the system construction.

4.4 Clarify the Powers and Responsibilities of the Main Body of the University System Review and Decision-making

"Establishing a modern university system and improving a modern university system with Chinese characteristics is an important goal of China's higher education reform and development, and improving the governance structure is the key to achieving this goal. The governance structure of an organization is a systematic existence, which includes the elements of power and their distribution, the vertical and horizontal distribution of power, the way and mechanism of power operation, etc. Among them, the top-level structure of the governance structure is the most important, because it is the brain of the entire governance structure. The so-called top-level structure refers to the power allocation at the university level." (Xiong, 2013). At present, there is a problem of overstepping the authority of the deliberation body in the construction of the university system. To solve such problems, it is necessary to clarify the boundaries of the operation of several types of public power in the university. From the perspective of the legitimacy of the authority of the university system review and decision-making body, colleges and universities should sort out and formulate a list of powers and responsibilities of university institutions, including the powers and responsibilities of system review and decision-making bodies. To guide, standardize and supervise the exercise of the power of the university, colleges and universities shall, in accordance with the "Rules of the Communist Party of China on the Work of Grassroots Organizations in Ordinary Institutions of Higher Learning", "Education Law", "Higher Education Law", "Regulations of Academic Committees of Higher Education Institutions", "Provisions of the university Staff Representative Conference" and other intra-Party regulations and national laws and regulations, sort out the authority and division of labor of the system review and decision-making body, and publish in the form of its list. According to the different levels of the university system, the power of the deliberation body can be configured as follows: the university party committee deliberates and decides on the fundamental system of the university, the party system, and the basic systems involving administrative management, academic scholarship, and democratic supervision; the president and the president's office meeting review and decide on the specific administrative system; the academic committee and the degree evaluation committee deliberate and decide the specific system of the university's academic and degree awarding, and the trade union, the youth league committee, the faculty representative assembly, and the student union deliberate and decide the specific system of their affairs.

4.5 Establish a Supervision Mechanism for University System Construction

Increase the information disclosure of the system. Information disclosure is the best way to supervise power. Colleges and universities should actively improve the information disclosure mechanism, increase active disclosure, and consciously accept social supervision. At present, some heads of functional departments of colleges and universities still hold the following views: they are unwilling to disclose the content of the system, worry that more outsiders will learn about it, and only regard the system as a guideline for on-campus work. This closed approach or understanding is not conducive to the social supervision. On the premise that state secrets and university secrets are not involved, universities can vigorously disclose the content of the system.
Establish a system construction assessment mechanism. Only the establishment of an assessment mechanism can effectively promote the high-quality construction of the system. The "Opinions of the Ministry of Education on Further Strengthening the Rule of Law in Colleges and Universities" (Jiaozhengfa [2020] No.8) pointed out that colleges and universities "should study and formulate assessment standards and methods in accordance with laws and regulations and the actual situation of the university, and strengthen the assessment of the work of the rule of law in various departments of the university. The assessment results are an important part of the comprehensive assessment of each department." For this reason, when formulating the assessment methods for rule of law in universities, colleges and universities incorporate system construction into the scope of assessment, and strengthen the assessment of the system construction of functional departments, colleges and other secondary units within the university. It can prompt them to attach importance to system construction, focus on improving the legal compliance of system formulation in substance and procedure, improve the quality of system construction, and promote the long-term mechanism construction of the system.

5. Epilogue

Modern university system requires that colleges and universities should promote the rule of law of the system, that is, use the thinking and method of the rule of law to formulate, implement and supervise the university system system that conforms to the spirit of the rule of law. Its characteristics include: "legislation law", rank situation, legal content, legal authority and legitimate procedure. After an empirical analysis of 102 universities in China, we believe that the construction of the institutional system of Chinese universities has achieved remarkable results, but there are also the following problems: the "legislative law" in some universities is not perfect, the rank relationship of the institutional system is not clear enough, the review subject has overstepped its powers, and the completeness of the system construction procedure needs to be improved. In order to solve the above problems, this paper proposes the following paths for the construction of the legalization of the institutional system in colleges and universities: the first is to adhere to the use of the rule of law thinking and method to build the university system; the second is to establish and improve the "legislative law" in the university; the third is to do a good job in the top-level design and planning of the university system system according to the rank relationship; the fourth is to clarify the powers and responsibilities of the main body of university system deliberation and decision-making, and the fifth is to establish a supervision and evaluation mechanism for university system construction. It is hoped that this paper can provide some reference and reference for scholars and policy makers who study or understand the system construction of Chinese colleges and universities.

All data generated and analyzed during this study are included in this article.

Acknowledgments

Not applicable.

Conflicts of Interest

The authors declare no conflict of interest.

Funding

This work supported by the 2021 "Shanghai Education Law Talents Training Program" project "Research on the Legalization of Institutional System in Colleges and Universities from the Perspective of Modernization of Governance System" (Number: 2020JYFXR043).

References

Tsinghua University. (2016, December 30). Tsinghua University’s institutional system construction and two important rules and regulations to govern the university according to law. Retrieved from https://www.tsinghua.edu.cn/info/1181/43657.htm.