

# Research on the Construction and Development Path of Rule by Law Institutions in Colleges and Universities: The Case of "C9 Alliance" Colleges and Universities

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**Abstract:** In the course of building a society based on the rule by law, in order to strengthen the development of the field of education, we should continuously establish and improve the school governance system, especially the governance capacity of higher education schools, and complete the goal of the rule by law work at a high standard to realize the modernization of the rule by law in colleges and universities. We set up an independent rule of law department from colleges and universities as an entry point for in-depth research, based on the analysis of the rule by law work institutions set up in C9 alliance colleges and universities, and draw on the successful practical experience of foreign countries, so as to explore the construction of the rule by law work institutions of colleges and universities and the development of the path of the study, which is of great significance for colleges and universities to improve the efficiency of dealing with legal affairs and to promote rule of law work.

**Keywords:** Rule by Law; Rule of Law in Higher Education; C9 League Universities; Comparative Study

## 1. Formulation of the Problem

In the new era, the rule by law in colleges and universities has been gradually promoted to enhance the modernization of college and university governance by means of the rule by law thinking and the rule by law, and it is evident that the rule by law in colleges and universities has become an important way of building the rule by law in colleges and universities. With the promulgation of the Opinions on Further Strengthening the Rule of Law in Higher Education Institutions, the

construction of rule of law institutions in higher education institutions has become a top priority for the rule of law in internal governance, with the aim of advancing the process of modernizing and developing the governance system and capacity of higher education. At the same time, as independent legal persons, institutions of higher education carry out their educational activities autonomously, facing extensive social participation and complex internal and external relationships. Different stakeholders have their own different expectations and requirements, which increase the complexity of management and also bring about a variety of legal risks. In reality, the legal affairs of colleges and universities are increasing, while the construction of rule of law institutions in colleges and universities is still slow, and there is a "tension" between the two in practice, which has seriously hindered the rule by law process of college and university governance. In order to effectively safeguard the interests of higher education institutions and the legitimate rights of faculty and students, it is advisable to consider establishing a legal entity or designating a specialized body to handle the legal affairs of the school. This approach comprehensively promotes the governance of the university in accordance with the law. Tie and Hou, 2004 believe that the role of "legal advisors" in colleges and universities should be brought into full play, and comprehensively analyze the necessity of legal advisors, the ways in which colleges and universities appoint legal advisors, and the role of legal advisors to determine their positive significance. <sup>[1]</sup> Liu et al., 2007 conducted a comprehensive analysis of legal affairs management in higher education institutions. <sup>[2]</sup> Li, 2010 indicates a refinement based on the

existing conceptualization of the model of university legal affairs institutions. [3] It can be seen that, under the background of the rule by law, the academic community for the rule by law in colleges and universities has never stopped exploring the work of institutions, with the continuous deepening of the research, it is to further promote the development of the rule by law in colleges and universities in China.

In summary, domestic scholars have conducted relevant research on the rule by law institutions in colleges and universities, laying a solid theoretical foundation for this study. As the country advances in the rule of law construction, the establishment of legal institutions in colleges and universities becomes crucial as a key organizational framework for safeguarding the legitimate rights and interests of teachers and students internally, as well as protecting the university's interests externally. This study aims to assess the current status of the establishment and functioning of legal institutions in higher education, identify prevailing issues within these institutions, and propose corresponding solutions. The objective is to offer insights for enhancing the rule by law in China.

## 2. Research Methodology

### 2.1 Purposive Sampling Method

Given the considerable number of universities in China and the varying levels of rule of law governance, this study employs purposive sampling. The C9 university alliance is chosen as the sample, comprising universities initiated in 2009 by Peking University, Tsinghua University, Zhejiang University, Fudan University, Shanghai Jiaotong University, Nanjing University, University of Science and Technology of China, Xi'an Jiaotong University, and Harbin Institute of Technology. These universities represent the initial batch of 985 project institutions, representing the top nine universities in China. Its establishment has not only opened up a new situation in talent cultivation and scientific research, but also played a model and leading role in university governance. At the same time, as China's first university alliance among top universities, "C9 Alliance" universities have a long history of rule of law, institutionalization of the text is more sound, the practice of good

results. For example, researchers have pointed out that the "C9 Alliance" universities are more rigorous in penalizing graduate students for academic misconduct, and have formulated relevant normative documents. In practice, students are more willing to seek redress through on-campus and off-campus channels, thanks to the efficient rule of law work carried out by the rule by law departments of the universities. Hence, this study focuses on these nine universities to explore the crucial significance of establishing legal institutions in universities within the context of the rule by law, along with the associated challenges.

### 2.2 Comparative Research Method

The comparative research method is of great value in educational scientific research, analyzing the differences through domestic and international comparisons and summarizing the experience, and proposing feasible countermeasures and suggestions through analysis and reference. In establishing legal institutions in colleges and universities, numerous institutions both domestically and internationally have engaged in extensive and prolonged exploration. Compared with our country, the United States and other foreign universities for the rule by law in colleges and universities for a longer period of time, faster progress. Following the establishment of the People's Republic of China, the country's social economy and education gradually rebounded. However, the development of the rule by law in colleges and universities progressed slowly over an extended period. Notably, more significant advancements have become apparent only in the last decade. In contrast, the rule by law in universities abroad, such as in the United States, has a longstanding history. American universities implement rule of law management with adherence to jurisprudence and procedural law, resulting in a wealth of experience in internal governance and rule of law construction. This experience holds substantial reference value.

### 3. Status of the Rule by Law Institutions in the "C9 Alliance" Universities

According to the statistical results, the establishment of rule of law institutions in the "C9 Alliance" universities is relatively optimistic, and has reached full coverage. Nevertheless, there is variation in the

development of the rule of law institutions among the nine universities. This disparity prompts an examination of the current status of higher education institutions' rule of law construction.

### 3.1 Rule of Law Institutions in Colleges and Universities are set up in a Form that is More Dependent and Less Independent

**Table 1 Establishment of Rule of Law Departments in Universities of the "C9 Alliance"**

	Rule of law sector set-up	Independent sector	Dependent	Built-in
Number of colleges and universities	9	1	7	1
Persent (%)	100	11.11	77.78	11.11

As can be seen from Table 1, rule of law departments are set up in all nine universities, and it is worth mentioning that Tsinghua University has set up an independent rule of law department, the rule by law department of Nanjing University is an internal organization of the president's office, and the rest of the universities are in the form of dependency. There are some differences between the two ways of setting up institutions: internal institutions and dependent offices. Unlike internal institutions, dependent offices mean that the rule by law department of the university is attached to the president's office or the general office, and its rule of law institution has a separate seal, duties and tasks, staffing, etc., but there is no inter-organizational affiliation with the office. Independence, on the other hand, means that it operates as a separate department, with specialized staff and separate office space, and has the same rights and status as other administrative units of the university.

With the progress made in recent years in the construction of rule of law institutions of higher education in China, the form of setting up rule of law departments in some universities has gradually changed. Tsinghua University has grown from a form of dependency to an independent department, a change that is epoch-making in the construction of rule of law institutions of higher education. Tsinghua University rule of law institutions as an independent department is mainly responsible for the overall legal affairs of the school, for legal affairs within and outside the school to provide legal advice and services, and there is a special leading group of the rule by law, in the form of setting up a clearer and clearer, more clear in the division of functions, more reasonable in the

Through the investigation and study of the "C9 Alliance" universities and colleges set up the rule by law department found that universities and colleges rule of law department set up independently of the road is long and difficult, "dependent" is still the first choice of the rule by law department of the existence of the way, the specific situation as shown in Table 1:

staff set up.

### 3.2 The Main Service Object of the Rule by Law Institutions of Higher Education is Socialized

Through a comprehensive analysis of the functions of the rule by law institutions of the nine universities, it can be summarized that the relevant duties of the rule by law institutions of higher education are to plan, coordinate and promote the rule by law in all aspects of the work of the university, responsible for coordinating the handling of legal affairs of the university, carry out education on the rule by law, provide legal argumentation, legitimacy review and legal risk assessment of the important decisions of the university, organize and coordinate the management of the university's contract, build and maintain the image of the university, the brand, logo system, providing legal consultation and legal services, responding to legal disputes to protect and safeguard the rights and interests of the school. Through the collation of relevant data and materials to draw a list of "C9 Alliance" university rule of law institutions development status (see Table 2).

As depicted in Table 2, Shanghai Jiao Tong University and Harbin Institute of Technology primarily cater to grassroots organizations and students and teachers. The University of Science and Technology of China and Xi'an Jiaotong University, as per their official websites, do not specify a particular focus. For the remaining universities and colleges, the rule of law departments predominantly serve the community, with a stronger inclination towards handling legal matters between the institution and the community, particularly in the preparation of contracts and other legal affairs. They are actively involved in

coordinating legal advisors throughout the year and facilitating legal transactions between the institution and various entities. However, in the introduction of its functions, it does not clearly state the legal affairs services for

teachers and students in the school, as well as the process and methods of legal affairs services. This shows that the lack of legal services for teachers and students is a common phenomenon in the nine universities.

**Table 2 Current Development of Rule of Law Departments in Universities of the C9 Consortium**

No.	Colleges and Universities	Setting mode	Main service targets	Staffing
1	Tsinghua University	Independent department	Social staff	---
2	Peking University	Dependent	Social staff	---
3	Fudan University	Dependent	Social staff	6
4	Nanjing University	Built-in	Social staff	3
5	Zhejiang University	Dependent	Social staff	---
6	Shanghai Jiao Tong University	Dependent	Grassroots, teachers and students	5
7	University of Science Technology of China	Dependent	---	---
8	Harbin Institute of Technology	Dependent	Students and teachers at school	---
9	Xi'an Jiaotong University	Dependent	---	---

Note: "---" means that the primary service recipients are not known.

#### 4. Problems in Building Institutions for the Rule by Law in Universities and Colleges

Through the analysis of the current situation of the construction of rule of law institutions in universities, it can be seen that there are many problems in the development and construction of the rule by law institutions in colleges and universities in China. Colleges and universities did not set up a separate rule of law department, the staff structure is unreasonable and other problems still exist in large quantities, for the following problems for specific analysis in order to find specific solutions.

##### 4.1 Lack of Independence of the Rule by Law Sector

As can be seen from table 2 above, eight of the universities in the "C9 Alliance" have set up rule of law departments in the form of dependent offices and in-house departments, a non-independent form of existence that has slowed down the development of rule of law work in universities. Dependent and internal existence reduces the efficiency of the rule by law work, mainly for two reasons: First, the work of the rule by law department often involves a number of important departments, for the approval of funds, activities, legal affairs need to be dealt with the approval of the department's superiors, and as a dependency and internal institutions, the energy of its administrators is limited, so it will result in a part of the rule by law work can not be approved in a timely manner; Second, the

non-independent sector in the allocation of resources and the development of the rule by law department, the rule by law department is not independent. Second, non-independent departments have large gaps in resource allocation and staffing, and can only share resources with their departments. However, the scope of rule of law work is broader and the level of personnel involved is more complex, so the lack of independence will not be conducive to the development of rule of law work. According to the actual situation in nine universities, the rule by law department lacks the process of discussion and decision-making with other departments, through the analysis of the current situation, it can be seen that the rule by law department is seriously lack of independence, the construction of the rule by law in colleges and universities has caused obstacles to the implementation of the principle of the rule by law to a certain extent affects the implementation of the principle of the rule by law in colleges and universities and slows down the pace of the rule by law management system. In view of this, in order to give full play to the role of the rule by law departments in universities, improve the efficiency of the rule by law and promote the development of the rule by law in universities, universities to set up independent rule of law departments without delay.

##### 4.2 Unreasonable Staffing

Through the statistical collation of information on the personnel of the rule by law

departments of the nine universities, it was found that most of the institutional staff are administrative staff with non-legal majors on campus, with varying levels of professionalism and a low degree of specialization. Although all nine colleges and universities in the sample have set up law majors, it was found in the actual survey that the law teachers of the university, in addition to their own teaching duties and scientific research tasks, have difficulty in having the energy and time to deal with the complex legal affairs of the university on a part-time basis. It is difficult to ensure work efficiency and effectiveness in dealing with issues within the professional level and capacity of the staff. In addition, in the staffing of the rule by law department, there are fewer staff members responsible for legal services. According to previous data, the number of staffing in the rule by law department is 1 to 3 persons. According to the statistics in Table 2, most of the staff in the rule by law department have to deal with other administrative work in addition to their legal duties. Upon reviewing the official websites of the "C9 Alliance" universities, it is observed that none of the rule of law departments in these universities have appointed full-time legal advisers. Instead, they often rely on external legal institutions when addressing campus-related legal issues. Moreover, the heads of these rule of law departments are all university management personnel dedicated solely to rule of law responsibilities, lacking a professional legal background. This situation may to some extent impact the objectivity and fairness of the processing results. Therefore, the staff of the rule by law department of universities must be set up with professionalism, and the staff within the department has their own duties, and the division of labor is clearer to improve the efficiency of the work.

#### **4.3 The Rights and Interests of Teachers and Students in Colleges and Universities are Given Low Priority**

The general scope of work of the rule by law department of universities includes the establishment of university charters, decision-making counseling, school contract processing, legal issues. At present, the legal service object of colleges and universities is relatively single, most colleges and universities are the service object of the unit or

organization, dealing with legal affairs between the school and the social units, organizations, for the college and university individuals within the specialized legal services less, it is difficult to maintain the teachers and students, as well as the daily legal assistance of the internal staff of the school and other issues. Most colleges and universities have neglected the fact that their main service targets should be teachers and students, and that, as far as students are concerned, before they enter society, the school should popularize legal knowledge and carry out legal activities, as well as effectively safeguard the interests of students at school. Li, 2020 stated that "as far as teachers are concerned, they should be protected in terms of intellectual property rights, rights to duties, performance appraisal, entitlement to salary, etc." [4] Teachers in the protection of scientific research results, students in the practice of internship will inevitably encounter all kinds of legal problems. Therefore, the role of the university's rule of law department is crucial in providing legal protection to teachers and students, ensuring the safeguarding of their legitimate interests.

#### **5. Successful Experience in Building Rule of Law Institutions in Foreign Universities**

the rule by law in foreign colleges and universities has given domestic colleges and universities a wealth of practical experience in its continuous development, which has led to faster development of the rule by law in colleges and universities in the new era. For colleges and universities, an independent rule of law department means new development and progress, not only to solve the rule by law problems in colleges and universities, but also to promote the process of governing by law. Therefore, some of the successful experiences in the construction of rule of law institutions in foreign universities are of great practical significance to Chinese universities.

#### **5.1 Soundness of Legal Counseling Bodies in Higher Education Institutions**

In the late nineteenth and early twentieth centuries, student administration was established in the United States and a specialized and robust legal counseling agency was set up under the student administration to serve the students. Ma, 2000 indicated that the

scope of the agency's services is very broad, including race, safety, property, campus violence, gender discrimination, etc., and it has provided comprehensive legal counseling services for students and faculty, e.g. San Francisco State University has established a specialized legal counseling office in addition to the basic student governance structure, it also has a dedicated Office of Student Grievance and a variety of other departments. [5] The scope of these counseling services covers all the problems that may be encountered by students and faculty of the university on campus, with full consideration of the needs of the school's faculty and teachers, and with a strong humanistic approach. Yale University has different committees for dealing with the interests of students on campus, the problem of heterosexual insulting behavior complaints, racial and physical defects discrimination and other issues of complaints, and the Yale University Executive Committee is the only authoritative body to punish the students in full accordance with the rules and regulations of the school, is fully in line with the school philosophy of the rule by law management of colleges and universities. American colleges and universities to set up a specialized and sound legal advisory body, not only for the school teachers and students to provide legal affairs consulting services, but also be given a certain range of problem-solving duties and rights, to promote the rule by law in colleges and universities to build an important practical significance of the department.

## 5.2 Science in the Functioning of Rule of Law Institutions in Higher Education

The civilization of the rule by law in its true sense originated in the United Kingdom. In 2004, the British government promulgated the Higher Education Act to abolish the visitor system and establish the Independent Higher Education Arbitration Office of the United Kingdom (IHEAO), which, in principle, requires all universities in the United Kingdom to comply with the rules and regulations of the IHEAO, which is a specialized body for handling student appeals concerning student learning, welfare, contracts, discrimination, procedures, and disciplinary irregularities, Fang, 2005, "specializes in handling student appeals against acts or omissions of the

university in relation to student learning, welfare, contracts, discrimination, procedures, poor discipline, etc., and has developed a sound organizational structure and operational mechanism". [6] The independent arbitration system for higher education in the UK requires that student appeals are subject to the principle of exhaustion of internal procedures, and that they must be made in compliance with all relevant regulations of the university in order to be eligible for an appeal. Zhang, 2012 indicated that the system adopts the principle of initial first offender mitigation for first offenders when dealing with students' daily affairs, and adopts the principle of two-way communication when dealing with students' reasonable appeals, i.e., after deciding to accept the appeal application, it will be referred to the relevant department of the university to deal with the appeal, and the department is required to respond in writing within three to four weeks, and in the process of communication, the Office of the Independent Arbitrator for Higher Education drafts an agreement on the basis of the agreements that both parties would like to reach as far as possible, and submits it to the student and the university for review, and requires both parties to respond to it within two weeks, which will lead to the final proposal. [7] the rule by law is carried out on the premise of a scientific organizational structure and operating mechanism, and rules and regulations are established to deal with the day-to-day affairs of students, so that the legitimate rights and interests of students are fully safeguarded.

## 5.3 Legalization of the Rule by Law Institutions Sector in Universities

Yang et al. (2016) noted that the administration of student affairs in France is overseen by the National Centre for Student Affairs (CNOUS), a specialized administrative body directly under the authority of the Ministry of Education. CNOUS is a public institution possessing independent legal personality and financial autonomy. [8] It is worth noting that the most important feature of the management of student affairs in France is that it is governed by law, and the management of student affairs is established according to the relevant provisions of the national legislation. 1955, the government reorganized the social

service sector for students by promulgating the relevant decrees and regulations, and in the period of nearly 10 years from 1987 to 1996, the French government has promulgated or amended the laws and regulations concerning the social services for students for seven times. In the past 10 years from 1987 to 1996, the French government enacted or amended laws and regulations on social services for students seven times. The rule by law departments of French universities have a clear legal status, a clear hierarchy of work levels, a relatively complete organization, and a more complete system of work. The success of the rule of law departments in French universities relies not only on the support of French policies but also on the rigorous enforcement of legal principles within the higher education institutions. The collaborative effort between policy support and effective implementation of the rule of law in colleges and universities contributes to the sustained development of these departments over the long term.

## **6. Exploration of the Path of the Construction of the Rule by Law Institutions in China's Colleges and Universities**

Using the "C9 Alliance" universities as a case study, this paper aims to identify practical challenges that may arise in the construction of rule of law institutions in higher education. By drawing on successful experiences from the establishment of similar institutions in foreign countries, the objective is to chart a new course for the development of rule of law institutions in Chinese higher education. This approach is tailored to the unique characteristics and circumstances of domestic colleges and universities.

### **6.1 Establishment of an Independent and Robust Rule of Law Sector**

In recent years, China has made great progress in the rule by law in colleges and universities, although there are still many shortcomings. Gao and Li, 2017 stated that "the problem of replacing legal regulations with administrative regulations and replacing blanket policies with interim policies still exists"<sup>[9]</sup>. However, the development and improvement of rule of law institutions of higher education is a gradual process, with analysis based on the actual situation and constant adjustment of relevant

policies, and the rule by law departments of higher education constantly implementing and realizing new policies to keep pace with the times. The independence of the rule by law working institutions in colleges and universities can precisely fill this gap. In the work of colleges and universities, especially the rule by law work is complex and volatile, the rule by law department is independent and specialized to deal with the implementation of the relevant policies, in the implementation of the policy process is not subject to the intervention of other departments, in the formulation of the policy, review, adoption, implementation and supervision of the rule by law department has complete autonomy, truly independent rule of law department. At present, only Tsinghua University set up a separate rule of law department in nine universities, is an important symbol of the rule by law in the process of universities, the rule by law department from the internal institutions, dependency and other ways to transform into an independent department of the process needs to continue to improve and perfect the system, the rule by law department independent not only to improve the rule by law department to deal with university rule of law affairs, but also speed up the implementation of the policy, in addition to the basic policy and the policy of new and adjusted policies etc., greatly improving the process of policy implementation. Therefore, the independence of the rule by law sector will play a strong role in the implementation of relevant policies.

### **6.2 Establishment of a Sound Responsibility and Accountability Mechanism**

A clear division of responsibility and a clear definition of those responsible. In the process of dealing with the work of the rule by law department in colleges and universities, colleges and universities that have set up rule of law work institutions through dependency and internalization are often unclear in the responsibility mechanism and cannot effectively arrange for the responsible person and division of work. Clearly designate the main person in charge of colleges and universities must be the first person responsible for the rule by law work in the university, and assume the corresponding responsibilities, must be the rule by law

department work throughout the work of other departments of the entire university, and regularly convene thematic meetings to discuss and decide on relevant rule of law work matters. Colleges and universities should also recommend a school leader with a certain legal background and management experience to manage the work of the rule by law department, and effectively follow up on the implementation of the duties of the rule by law department of colleges and universities and the duties of the staff. Rule of law department as a school administrative department, its department staff should have a professional background in law, familiar with legal regulations and administrative policies, to improve the overall professional capacity of the rule by law department. The work of universities is often complex and comprehensive, so the handling of affairs is generally multi-departmental collaboration, not only the rule by law department alone, and therefore should establish a mechanism of responsibility between departments. Secondly, within the rule by law department should also establish a responsibility and accountability mechanism, a detailed division of functions within the department, is the supervision of the duties of the staff, and more is to improve the sense of responsibility. The establishment of responsibility and accountability mechanisms clarifies the content and scope of work and maximizes professional efficiency. The establishment of responsibility and accountability mechanisms can not only improve the efficiency of the staff of the rule by law department, but also make the operation of the university docking off-campus business units, on-campus teachers and students of legal counseling, rights protection and other processes more clear and concise.

### **6.3 Improving the Remedial Mechanism for the Protection of the Rights and Interests of Teachers and Students**

Universities and colleges should adhere to the principle of combining theoretical education and realistic discipline in the way they deal with or discipline students and faculty members on campus, and should strictly carry out relevant procedures such as investigating the facts of the case in accordance with the relevant laws, collecting information related to the case and extracting evidence, listening to

the statements and pleadings of the relevant persons to safeguard the rights of the parties involved, and jointly studying the final decision. When dealing with or disciplining decisions related to the major interests of students and faculty, consideration should be given to introducing a hearing system to guarantee the fairness and impartiality of the decisions. Colleges and universities should pay attention to the maintenance of the personal rights and interests of teachers and students, formulate a system for the relief of rights and interests within the school, establish and improve the rules and procedures for the complaints of teachers and students in colleges and universities, and open a "green channel" for the relief of rights and interests within the school.<sup>[10]</sup> In addition, the establishment of legal aid organizations in colleges and universities to strengthen legal education and legal propaganda, cultivate the concept of the rule by law, legal education of the boring and numerous make teachers and students in colleges and universities in the process of learning legal knowledge brings great difficulty, play the legal aid organizations in colleges and universities to cultivate the students' legal thoughts and behaviors. Through the legal aid organization can provide legal aid, legal advice and other work to ensure the authority and the rule by law. The legal aid organizations in universities can realize the work and study practice of the teachers and students of law in the university, and the university set up the discipline of law, which combines practice and theory, only through the book knowledge and classic cases are far less than the direct contact with the practice to learn more.

### **7. Conclusion**

Based on the aforementioned analysis highlighting issues such as the lack of independence in rule of law departments, an imprudent staff structure, and insufficient attention to the rights and interests of teachers and students in colleges and universities, a policy pathway is proposed. The construction of rule of law departments in Chinese higher education should involve the establishment of independent and robust rule of law departments, the implementation of a comprehensive responsibility and accountability mechanism, and the



enhancement of mechanisms to protect the rights and interests of teachers and students. Within the framework of the rule of law, enhancing the construction mechanism of rule of law departments, establishing and refining the management of rule of law in colleges and universities, fostering legal awareness, intensifying legal knowledge dissemination, refining the rule of law system, and fostering the ongoing development of rule of law departments in higher education are essential steps.

### Acknowledgments

This paper is supported by 2021 Wuhan Institute of Technology Higher Education Research General Program "Wuhan Institute of Technology Rule of Law Institution Setting and Operation Mechanism Research" (No. 2021YB03)

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