

On Responsive Regulation of Academic Misconduct in Colleges and Universities

Huiling Wang¹, Haoqiong Lian²

¹Zijin Mining College, Fuzhou University, Fuzhou, Fujian 350000

²Law College, Fuzhou University, Fuzhou, Fujian 350000

Keywords: Colleges and Universities; Academic Misconduct; Responsive Regulation; Micro-Power

Abstract: Research integrity is the foundation of colleges and universities. In order to maintain a good environment for academic research, it is necessary to have a relatively perfect system of academic misconduct norms. However, the actual regulatory effect of the existing regulatory mode is not ideal. From the perspective of micro-power theory, the main reason is that the existing regulatory mode lacks enough pressure and motivation for the regulatory subject of academic misconduct -- colleges and universities. Instead, the theory of responsive regulation not only gives advanced reflection on the micro-power theory to solve problems, but also provides a possible path to improve the regulation of academic misconduct in colleges and universities in the future.

Current Regulation on Academic Misconduct in Colleges and Universities

Research integrity plays an important fundamental role in promoting academic innovation and scientific research development in colleges and universities, and is an important guarantee for the authority of academic research. Academic activities in colleges and universities must follow this principle of integrity. However, in fact, academic misconduct occurs from time to time. For example, in April 2017, 107 Chinese medical papers were withdrawn by the international journal *Tumor Biology* for academic misconduct, which involves 119 universities and hospitals such as Shanghai Jiaotong University; Liang Ying, professor of the School of Sociology of Nanjing University, who was selected as the first Yangtze River Young Scholar of the Ministry of Education in 2015, was confirmed by Nanjing University to have serious academic misconduct in 2018; Another example is Zhai Tianlin, a postdoctoral student in Guanghua School of Management, Peking University, whose copy rate of "On Bai Xiaowen's Performance and Creation in the TV "White Deer Plain" reached 39.4%. As a result, he was suspected of plagiarism and his doctoral degree was canceled. This shows that the academic integrity level of Chinese colleges and universities is not optimistic. In this regard, China has issued a series of normative legal documents, which are summarized as Table 1:

From the above situation, we can see that the regulation of academic misconduct in China has a long history, and the regulation strength is constantly enhanced, and the regulation means are constantly enriched. This makes our country has formed a relatively perfect system of academic misconduct norms. However, the actual regulation effect of the existing regulation mode is not ideal, and academic misconduct in colleges and universities is still frequent, and it frequently involves famous college experts and scholars.

Table 1. Review of National Normative Documents Regulating Academic Misconduct in Colleges and Universities in China

| The release dates and names of normative documents | Regulatory perspective |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| In March 2009, the Ministry of Education issued the "Notice on Seriously Handling Academic Misconduct in Colleges and Universities" | Institutions of higher learning and administrative departments may issue administrative punishments such as warning to expulsion in academic misconduct; Those who violate the law shall be transferred to the judicial organ for handling; Besides, measures such as recovering research funds, canceling awards and honors, restricting the application of awards or canceling research projects can be taken. |
| In August 2012, the State Council issued the "Opinions on Strengthening the Construction of Teaching Staff" | The mechanism for punishment and investigation of academic misconduct is improved to severely handle those who have a bad influence or even cancel their qualifications according to regulations. |
| In August 2012, the Ministry of Human Resources and Social Security and the Ministry of Supervision issued the "Interim Provisions on the Punishment of Staff in Public Institutions" | Those who commit academic misconduct in institutions shall be given disciplinary punishments, such as warning, demerit recording, downgrading of post, dismissal and firing, depending on the seriousness of the case. |
| In December 2015, the General Office of the State Council issued the "Guiding Opinions on Optimizing the Academic Environment" | An academic integrity system is established to increase investigation and punishment of academic misconduct, publicize serious academic misconduct to the society, and restrict the selection of professional titles and promotion of positions. |
| In June 2016, the Ministry of Education issued the "Measures to Prevent and Handle Academic Misconduct in Colleges and Universities" | Educational prevention, acceptance and investigation, identification and handling, and review and supervision of academic misconduct in universities have been comprehensively regulated; |
| In October 2017, the Ministry of Education, the Ministry of Human Resources and Social Security issued the "Interim Measures for the Evaluation and Supervision of Teachers' Professional Titles in Colleges and Universities" | For teachers who have been appointed through evaluation based on the results of academic misconduct, the evaluation results shall be revoked. |
| In May 2018, the General Office of the CPC Central Committee and the General Office of the State Council issued "Several Opinions on Further Strengthening the Construction of Research Integrity " | A macro deployment is made to promote the institutionalization of the research integrity, and to proposed to adhere to the principle of no restricted zones, full coverage, and zero tolerance for behaviors that violate scientific integrity, such as academic misconduct, and to pursue accountability for life. Besides, it is suggested that criminal sanctions should be imposed on academic misconduct. |
| In November 2018, the Ministry of Science and Technology and other departments issued the "Memorandum of Cooperation on Joint Punishment for the Subjects Responsible for Dishonesty in the Field of Scientific Research | The joint disciplinary mechanism for dishonesty in scientific research needs to be established and improved. Through the national credit information sharing platform, all relevant departments jointly obtain the information of the joint punishment objects in the scientific research field from the reward and punishment subsystem, and jointly punish the academic misconduct. |

Theoretical Explanation for the Existing Regulation Failure on Academic Misconduct in Colleges and Universities in China

What is the crux of academic misconduct in colleges and universities? Michel Foucault of France believes that modern society is becoming increasingly complex and functionally differentiated, and that traditional power systems can no longer meet the regulatory needs of modern society. For this, he has proposed a new power concept of micro power, the main points of which are as follows. Firstly, power is micro. With the continuous differentiation of social functions, many social control institutions have emerged. In this way, power is no longer exercised by a single subject, but presents multiple distribution, and exists in various social control institutions in the form of different social control means; Secondly, power is decentralized, not permanent possession, but changes with the power of social relations; Finally, power can create knowledge. That is to say, in order to achieve the purpose of regulation, the social control institutions with power will establish different regulatory systems according to their own abilities and features. Of course, the role of power in creating knowledge is based on the premise that control institutions can effectively control the regulated objects□.

Based on the new concept of power, Foucault believes that the governance of social issues is divided into three levels. The first level is the punishment mechanism, that is, how to punish specific behaviors through legal norms; The second level is the disciplinary mechanism, that is, the correction and education of the actors based on the punishment mechanism; The third level is the security configuration mechanism, that is, through the security environment configuration to reduce the incidence of specific behaviors; These three mechanisms are complementary□. In other words, under the micro-power system, the governance of many social issues is done by social institutions other than the government. At present, the subjects of academic misconduct regulation in colleges and universities is themselves. The "Notice of the Ministry of Education on Seriously Handling Academic Misconduct in Colleges and Universities" clearly states: "The colleges and universities are directly responsible for the investigation and punishment of academic misconduct of relevant institutions or individuals."

The regulation failure of academic misconduct is due to the following reasons. Firstly, academic misconduct in colleges and universities is mainly based on passive regulation after the fact, and lack of prevention and active regulation; Secondly, the subject responsibility for the prevention and handling of academic misconduct is inadequately implemented in colleges and universities, lacks external supervision over the fulfillment of this responsibility by themselves, and relies too much on their self-discipline; Finally, it focuses on the punishment of academic misconduct, lacks the positive incentive to academic integrity, and lacks the motivation to actively promote this integrity□. From the perspective of micro-power theory, it can be concluded that the existing regulation mode grants colleges and universities the power to regulate academic misconduct, but fails to effectively motivate and supervise the self-regulation of schools. This makes these schools lack enough pressure and motivation to regulate academic misconduct.

Responsive Regulation Path of Academic Misconduct in Colleges and Universities in China

After Foucault's micro-power theory, Ian Ayres and John Brewster put forward the responsive regulatory theory. This theory provides important enlightenment to the regulation of academic misconduct in Chinese colleges and universities.

Establishing a pyramid regulatory structure

□Foucault (Liu Beicheng, Yang Yuanying). *Surveiller et punir*[M]. Shanghai: SDX Joint Publishing Company, 1999:193-219.

□Foucault (Qian Han, Chen Xiaojing). *Sécurité, territoire, population*[M]. Shanghai: Shanghai People's Publishing House, 2010:4-7.

◎Tian Xianpeng. Process Review on the Punishment of Academic Misconduct in Colleges and Universities--From the perspective of Procedural Justice[J]. *Social Science of Beijing*, 2017(5):4-13.

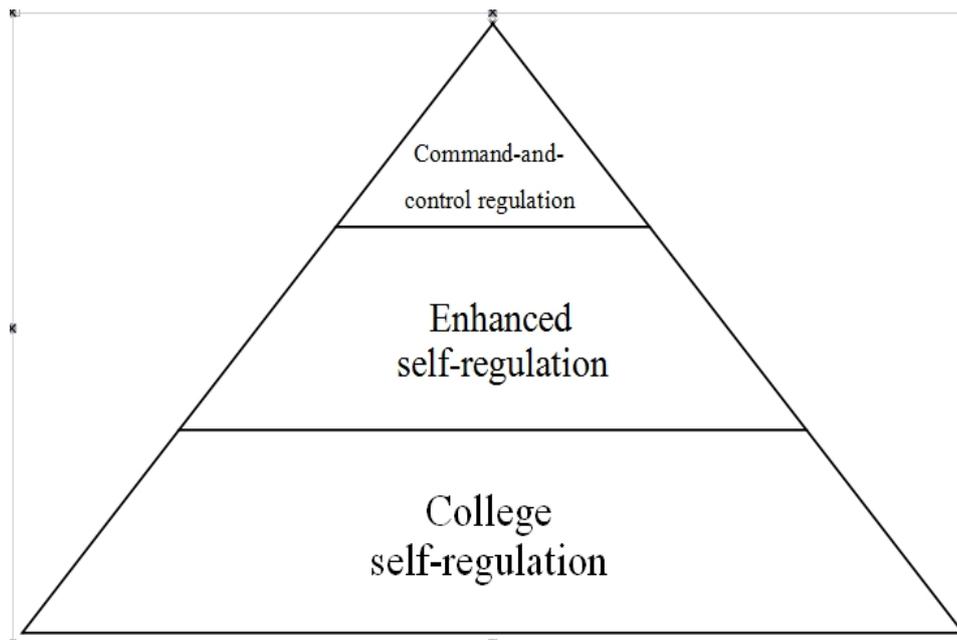


Figure1. Pyramid Regulatory Structure

Responsive regulatory theory advocates the use of various external pressures to guide regulatory subjects to exert maximum self-regulation, and proposes a pyramid model of regulatory strategies. It emphasizes that the government should encourage relevant social subjects to conduct self-regulation, and then gradually impose enhanced external regulations and command-and-control regulations on self-regulation to form a pyramid regulatory structure. Specifically in the regulation of academic misconduct in colleges and universities, first of all, they regulate academic misconduct by themselves. As a place where behaviors take place, they have the advantage of knowing and regulating behaviors; Secondly, external forces must be introduced as external pressure for self-regulation of academic misconduct in colleges and universities. □For example, civil society forces such as teachers and students, the public, the mass media, professional disciplinary evaluation agencies, university rankings, or reputation evaluation agencies can form non-mandatory external regulations on college self-regulation. Besides, the educational administrative departments, judicial departments and relevant legislative departments and other national public forces can form command-and-control regulations on their self-regulation. The pyramid model is used for reference to present the new structure of regulating academic misconduct in Chinese schools. College self-regulation is located at the base, which is the basis and main force for regulating academic misconduct in China. The other layers are external forces that motivate and urge schools to self-regulate. Among them, the enhanced self-regulated civil social force is located in the middle of the tower, and the national public force of command-and-control regulation is located at the top of the tower.

Using double pyramid regulation model

In the further study of regulation, John Brewster and others found that to improve the self-regulation level by finding and enhancing advantages is usually more effective than deterrence and punishment. Moreover, positive encouragement and support can also offset some negative factors within the regulated subjects. Based on the above cognition, John Brewster advocates that the "advantage pyramid" can be used as a supplement to the "regulation pyramid" to form a double pyramid model. The double pyramid model enlightens us to exert external pressure on the regulated subjects to regulate themselves when we regulate a certain issue. In addition, we should pay special

① See Ayres Ian, John Braithwaite. *Responsive Regulation: Transcending the Deregulation Debate*[M]. Oxford: Oxford University Press,1992:36-42.

attention to the means that can enhance the regulated subjects to play their own advantages, so as to enhance the regulatory effect. □

In contrast, the current external measures imposed on academic misconduct in colleges and universities in China not only lack positive incentives to follow the research integrity, but also have insufficient monitoring and accountability mechanisms for academic misconduct in these schools. Thus, our country should use the double pyramid regulatory model as an important direction to improve the academic misconduct in colleges and universities. In other words, facing the problem of poor regulation of academic misconduct in schools, we should not blindly adopt negative means, but should firstly use supportive means to promote the research integrity. Through a series of incentive measures, we should encourage colleges and students to consciously form a good habit of abiding by academic integrity and cherishing academic reputation. Then we take negative means to academic misconduct and punitive means to frighten teachers and students, so that they do not dare to engage in academic misconduct.

Taking responsive regulatory measures

The use of regulatory models to regulate academic misconduct in colleges and universities must be supplemented by specific regulatory measures. Responsive regulation advocates the formation of a structural premise for social organizations to achieve self-regulation through the improvement of organizational structure, process specifications, and regulatory abilities. The first is to improve the organizational structure of academic misconduct in colleges and universities. The academic committee of colleges and universities can be established to allocate its authority to regulate the acceptance, investigation, identification and handling of academic misconduct, so as to ensure its authority; It should be emphasized that research integrity information is shared across departments and regions. This can promote inter-departmental joint punishment of academic misconduct and mutual recognition of regulatory results among colleges and departments, and ensure that research integrity information is incorporated into the social integrity system; We should fully play the supervisory functions of teachers and students, the public, news media and discipline inspection and supervision departments. The second is to improve the procedures of regulating academic misconduct. Among them, one is to commend and reward colleges and universities that actively prevent and handle academic misconduct, and form preposed motive force and pressure for them to actively regulate academic misconduct with positive incentive and negative supervision; The other is to improve the acceptance procedures, information disclosure procedures and whistle-blower incentive and protection procedures of academic misconduct. Through the corresponding "Acceptance Standards", "Information Disclosure Requirements", "Whistle-blower Protection and Incentive Measures", we can encourage insiders to report academic misconduct, regulate the handling procedures of academic misconduct□. The third is to improve the ability to prevent academic misconduct. The educational administrative departments should uniformly purchase the academic misconduct monitoring system and redistribute it to universities to reduce regulatory costs; The relevant functional departments strengthen the preventive awareness and ability of colleges and universities through the training of regulatory ability, the publicity and education of scientific integrity, and the exchange and inheritance of regulatory experience□; In addition, third party consultation and evaluation institutions can be introduced as a supplement to enhance the independent, fair and effective regulation of academic misconduct in colleges and universities.

References

-
- ① See John Braithwaite, Toni Makkai, Valerie Braithwaite. *Regulating Aged Care: Ritualism and the New Pyramid*[M]. U K: Edward Elgar Publishing, 2007:305-333.
- Hao Kaibing, Guo Ju'e, Zhang Xu. A Quantitative Study of Academic Misconduct Governance Policies in Universities: Based on the Perspective of Policy Tools[J]. *China Higher Education Research*, 2018(7):43-44.
- Xiao Jun. Discussion on Necessity and Strategy of Training Periodical Editors' Ability against Academic Misconduct[J]. *Acta Editologica*, 2018,30(1):87-88.

- [1] Foucault (Chen Yihan). Foucault's Power and Discourse[M]. Wuhan: Huazhong University of Science and Technology Press, 2017.
- [2] Michel Foucault (Mo Weimin, Zhao Wei). Naissance de la biopolitique[M]. Beijing: People's Publishing House, 2011.
- [3] Yang Binglin. Responsive Regulation: Regulatory Law and Sociological Research on the Case of Safe Production[M]. Beijing: Intellectual Property Publishing House, 2012.
- [4] Nonette, Selznik (Zhang Zhiming). Law and Society in Transition: Toward Responsive Law[M]. Beijing: China University of Political Science and Law Press, 1994.
- [5] Chen Yuguo. Construction of the prevention system of the academic misconduct of graduate students: based on the perspective of the academic community[J]. Chinese Journal of Scientific and Technical Periodicals, 2016,27(11).
- [6] Hao Kaibing, Guo Ju'e, Zhang Xu. Evolving Features of the Efficiency of Governance Policies on Chinese University Research Misconduct[J]. Journal of Xi'an Jiaotong University (Social science), 2017,37(6) .
- [7] Xiao Jun, Xie Xiaohong, Wang Shuhua. A Discussion on Deep Prevention against Academic Misconduct[J]. Acta Editologica, 2017,29(4).
- [8] Zhou Zhuying, Ma Ji. A Study of International Efforts on Preventing Academic Corruption and Dishonesty[J]. Comparative Education Review, 2018,40(9).
- [9] Liu Pu. Current Situation and Governance Path of Academic Misconducts in China: Analysis Based on 64 Typical Misconduct Cases Reported by the Media[J]. Bulletin of National Natural Science Foundation of China, 2018,32(6).
- [10] Wang Zhaoping. On Legal Response to Academic Misconduct[J]. Journal of Socialist Theory Guide, 2013(5).
- [11] Jiang Meishi, Jiang An, Duan Shiyun. A Comparative Analysis on Their Procedures of Investigating and Dealing with Research Misconduct: Based on Some Typical Cases in the United States, South Korea and China[J]. Studies in Science of Science, 2013,31(4).
- [12] Yao Jiali. The Difference and Governance of Academic Misconduct in Institutions of Higher Learning[J]. Journal of Jishou University (Social sciences), 2018,39(2).
- [13] Chang Yaping, Jiang Yinbo, Yan Jun. The Sensitivity of Organizational Factors Influencing Academic Improper Behaviors of Researchers in Colleges and Universities: A Perspective of Factors[J]. Chinese Journal of Management, 2009,6(2).
- [14] Lu Dongfeng, Zeng Jia. Research on the Criminal Regulations of Academic Misconduct[J]. Guangxi Social Sciences, 2016(4).
- [15] Duan Chengyao. Features and Experiences of Academic Integrity in American Universities[J]. Chinese University Technology Transfer, 2017(10).
- [16] Tao Xia, Huang Mingdong. Discussion on Chronic Institutional Illness of University Academic Misconduct in China[J]. Heilongjiang Researches on Higher Education, 2017(3).