

A Brief Study on Unofficial Petition for Administrative Matters in Chinese Universities and Colleges

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Abstract

How to deal with the large amount of unofficial petition for operational matters has become an urgent issue for Chinese universities and colleges. After a focused study, the author finds the importance of legal resolutions in successfully transferring unofficial communications of operational disputes into constructive and productive outcomes. By implementing legal procedures to negotiate pragmatic and inclusive agreements for all the concerned individuals and institutions, it may provide an initiative protocol to solve internal disagreements and conflicts in academic and educational administration, and better serve and protect the rights of students and faculty. When legal channels become systemized, unofficial communications of confrontational complaints or constructive suggestions can lead to reciprocal benefits and, in time, may greatly reduce the amount of unofficial communications that often take much unnecessary time and energy. In this way, the students, faculty and staff can have access to and take reasonable actions in legal procedures when disputes come up.

Key words: Dispute; Petition; Unofficial communications; Legal procedure

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INTRODUCTION

Recently, among the legal cases for internal administrative affairs in Chinese universities and colleges, unofficial

petition has become a popular option for many of those who are involved in certain internal disputes.¹ It is increasingly important to understand the true nature of each unofficial petition, obtain empirical data for the proposed demands, predict possible financial and legal risks, and get prepared for effective solutions through legal procedures.

1. INTERNAL DISPUTES AND UNOFFICIAL PETITIONS

1.1 Unofficial Communications for Resolutions to Internal Disputes

Most unofficial communications came from students, their parents, teachers and other individuals. They paid visits or wrote letters to the various concerned institutions or superior offices. Most reported issues from the students were admission, student academic performances, instructional performances, student records, registration, matters of graduation, certificates of graduation or degree, medical care, dormitory management, canteen services, etc. that were related to the matters of administration and service management. Most faculty or staff members reported issues of salary, teaching posts, academic title, salary raise, contract employment and administrative affairs.

The amount of such unofficial communications has increased on a regular basis. Such matters did not just take place at the campuses, but also at the upper levels of governmental administration, and most often, in forms of group action that was usually accompanied by pestering or riotous behaviours. At certain periods of political sensitivity, these unofficial protesters, in efforts of putting more pressure on the school authorities and their upper-

¹ Guidelines for Complete Implementing Legal Schooling, No. 9, Ministry of Education, 2012.

level leaders, often trespassed school facilities, damaged important equipments, blockaded meeting rooms or slept overnight in the offices. Some protesters even carried guns and brought dangerous hazards to campus security.

1.2 Challenges to Legal Actions on Unofficial Communications

Scholars and specialists did substantial studies on unofficial communications of on-campus internal disputes and disagreements, and, after drawing experiences from various negotiation and regulation patterns, paid more attention to incorporating effective and constructive resolution with better management at the top-level administration of the school, especially through legal procedures. Such analytic contributions from different perspectives have been instrumental for further adjustment. In particular, much more efforts should be invested in these following challenges:

It is difficult to understand the overall picture of unofficial communications in negotiation and regulation that have already taken place in Chinese universities and colleges because of their different and complicated styles of administrative behaviour;

The lack of experience, especially through legal actions, in facing the challenges of unofficial communications of disputes and disagreements has led to numerous bottlenecks for both quantitative and qualitative research for policymaking optimization and internal regulatory consultation in Chinese higher education;

A general outlook for such research is in urgent need, but due to the disparate administrative practices between different higher education institutions, most studies were either far-fetched with pure theorization or too detailed for analytic formulation;

Most Chinese universities and colleges did not have workable regulations toward unofficial communications of disputes and disagreements and were especially unprepared for the pending legal risks. When such confrontational occurrences came, most administrators could not successfully take effective measures for premonitory regulation, risk prevention, emergency management, interactive involvement, consequence analysis or aftermath renovation.

2. REFLECTIVE ANALYSIS

2.1 Unofficial Petitions

2.1.1 Group Action

Some extreme actions were often taken by certain individuals. They relied on mass protest or riot to impel the school authorities to consider their often unreasonable requests. These instigators, sometimes acting like gangsters, intruded the administrative buildings of the concerned campuses, local governments or national agencies of the Chinese government. They occupied the

public spaces long after they were told to leave, shouting slogans and making verbal threats, and brought disorder and chaos to the routine work of the intruded schools or governmental offices.

Noticeably, such group actions were not punished through legal procedures according to *The Law of the PRC on Penalties for Public Security* and *The Criminal Law of PRC*.

Many of such unofficial communication cases were resolved without any legal evidence. In the end, the unofficial visitors obtained their requested benefits on a step by step basis, and often for compensation amounts higher than what the law may allow them to get.

Unofficial petition has a historical background in ancient China. For a long time, pre-modern Chinese rulers allowed petitions to be sent to an Office of Transmission (*Tongzheng si* or 通政司) and selected to be read to the emperor. When the petition failed, occasionally unofficial confrontation occurred and desperate rebellion followed. There was a cycle of lawful encouragement from the authorities, lawful communications from a scholar-official or a common farmer, unofficial protest and unlawful—and usually brutal—suppression of the ruling classes. But most of the recent unofficial petitions in Chinese universities and colleges were mainly influenced by the considerations of political and legal pragmatism. This tendency actually made the unofficial petitioners and the responsible administrators to take unlawful measures and reach unlawful resolutions, which was harmful to the process of legal administration in both the systematic and regulatory avenues.

It is often assumed that participants in such riotous petitions are emotional and quick-tempered. They are the victims of the instigators' mass mesmerisation, and thus their behaviours are irrational, impulsive and lack basic knowledge of law. In fact, most unofficial petitions were carefully calculated and controlled by the considerations of low costs, minimal risks and high efficiency out of the participants' instinctive capacity of self interest. Regardless of their legal knowledge, they were united by the same profiteering psychology. This was often neglected in the scholarship of unofficial petition. The participants' acumen of profit gaining and bargain opportunity should be studied, and their realistic motivations and rational calculation should be included in the process of negotiation. (Cheng, 2013)

Also, selective legal enforcement and timing prolongation were their common strategies. They increased their demands when the petitionees began to get involved with the process of negotiation. The more the petitionees wanted to resolve quickly, the more the petitioners asked for the compensation. But both sides chose such an unofficial way because they could bypass the usually long and trivial legal procedures. The authoritative discourse of leadership in China paved a

convenient way for such a “problematization” strategy to exaggerate the severity and urgency of an incident before a leader who was often regarded as the undisputable authority of decision-making and justice. In this way, the time for legal action or for legal investigation was not limited, and riotous petition became the usual resolution for on-campus internal administrative affairs that should be resolved through legal procedures. (Wang & Guo, 2007)

2.1.2 Legal Cases of Unofficial Petition

The culture of *lingdao* (领导, *lǐng dǎo*) has become a major obstacle for legal resolution in China. Because the long Confucian tradition of respecting individuals in power and the respected legacy of successful leadership during the wartime hardships of the Chinese Revolution, most Chinese officials and common citizens have developed an internalized reliance on leadership for any big issues. Besides such a psychological factor, other considerations were also accountable for not choosing legal procedure for on-campus disputable issues:

High cost of legal procedure and low possibility of additional demands. Law enforcement in China has often come from the upper level of governance, but seldom reached to the bottom of populace. Most citizens lacked trust and confidence for legal procedures, out of their limited knowledge of law and fear of the complicated law system, and such a psychological setback further lowered their capacity for using their legal rights.

Fast and convenient opportunities in unofficial communications. In contrast to the seemingly endless and intimidating legal process and the depressingly insecure feeling about a legal verdict, unofficial petition can more likely get the attention of a leader and, with efforts of “human nature”, break through the wall of human relationship, a winning card in Chinese society.

2.2 Side Effects of Unofficial Petitions

Without the support of legal system and principle that could provide resolutions based on the true nature of each issue, unofficial petition tended to be random and opportunistic, purely dependent of whether the petitioner take riotous action or not or how much influence such a riot could bring. As a result, unresolved issues may surface again when certain circumstances occur.

Bargain for profit became the guidelines for such unofficial petitions. It means the petitioners could use extreme actions to achieve their economic ambitions in the institutions of higher education. Legal measures may become bargain chips for those who want to be a profiteer out of the ivory. (Cheng & Dong, 2010)

It became a game of competition when all the concerned parties of the unofficial petition were gambling on legal regulations and political principles. These opportunists reached mutually beneficial agreements on the ethics of convenience at the sacrifice of systemized considerations and legal authentication.

The “problematization” strategy—in which the participants bypass legal procedures and, in large groups, take pestering or riotous actions—may only set bad examples for many Chinese petitioners and educators who may not be prepared for the complicated legal proceedings.

2.3 Professional Competence for Unofficial Petition

When petitioners arrive, the administration members should approach them with a conscientious attitude and organize the negotiation in a cooperative manner, strictly following the legal procedures of receiving the case, promptly offering solutions and simultaneously consulting feedback from the petitioners. Through prompt response, patient checking and interactive review, it is a good opportunity to find the gap or pitfalls in educational policies and their actual enforcement, and thus to renovate, adapt, correlate, revise or remove certain rules. In this way, reasonable petition from the public can be a valuable source for updating school policies and for democratizing decision-making in higher education.

Petitions should be approached and resolved through strict legal procedures. Unreasonable elements should be excluded from negotiation with legal references and constructive consultation, and bottom line principles should not be compromised for economic benefits or financial conveniences so as to prevent the petitioners from raising the bargain for negotiation, lower the severity of a riot to a controllable degree and avoid extreme occurrences.

3. UNCONVENTIONAL METHODOLOGY FOR INTERNAL DISPUTES AND UNOFFICIAL PETITIONS

3.1 Recent Development of Internal Disputes and Unofficial Petitions

Chinese citizens, in general, become more educated in legal matters. They are increasingly aware of the different ways to pursue their rights of law for complicated issues in their lives. By simply resorting to administrative regulations, internal management patterns or unofficial negotiations, universities and colleges may become powerless for confrontational disputes that would turn to violent riots and bring severe social unrest if appropriate resolutions have not been reached. To adopt the legal avenues into the regular administrative patterns, the administrators of higher education can find reliable and remedial measures from legal sources and recruit public support. Undoubtedly, this can also accelerate the process of regularizing and systematizing the negotiation methodology for internal disputes and unofficial petitions.

In the long run, only legal settlement can provide long term stability for higher education campuses. Through

legal procedures, the reliable provisions of the law and its universal equities make it possible to predict and prepare for the pending consequences, streamline unofficial petition and open negotiation with regular formulations and sustain a continuum of problem-solving supplies. In such a centripetal manner, it is unnecessary to worry about the tension and stress for bargaining uncertain interests that may have no legitimate foundations. (Liu, 2010)

3.2 Suggestions for Legal Solutions to Internal Disputes in Higher Education Administration

Wired Connections to Specific Departments

Publicity and transparency of legal affairs in universities and colleges should be implemented and maintained to ensure the smooth management and successful development of school operation. Offices of legal affairs should have their openly authorized responsibilities and clearly defined power of legal enforcement. They are also responsible for understanding the operational differences and actual needs of legal support in the various departments of the school.

Systematized Regulations and Timely Renovations

In an interactive organized structure of legal enforcement, legal transparency, legal publicity and legal consultation, unofficial petition can be fairly treated and solved on a timely basis. Systematized regulations improve the efficiency of handling legal affairs, and accelerate the process of solving internal disputes.

Meanwhile, horizontal connections between different departments in a higher education institution can strengthen the interactive actions of adjustment and control, and improve the efficiency of case report, authorization, risk prevention and other routine procedures. This also can help to systematically gather well-grounded sources and update the regulations that may not properly block erratic practices, and thus to better serve educational policies.

Data Collection and Constantly Updated Archive

It is necessary to set up a separate account for legal affairs that can constantly input data of internal disputes in terms of negotiation, investigation, supervision, interview and feedback. When the details of initiative cause, petitioner, petitionee, authorization, resolution and enforcement supervision, this account can provide reliable sources for analytic purposes and new research focuses.

Experienced personnel should then carefully monitor the sources, evaluate the data and find valuable clues for improving the efficiency of handling internal disputes. After such empirical and quantitative studies, the particular cases are put together and some general patterns can be found to establish a premonitory system

that can readily recognize any possible sources of internal disputes. Such a system is especially helpful in preparing for legal issues that are usually the major concerns of internal disputes and are usually the reliable bases for effective resolutions to such disputes.

CONCLUSION

In the process of legalization in national politics, Chinese citizens' social awareness of legal regulations has strengthened their sense of reliable and justifiable solution through legal procedure. When it comes to internal dispute in higher education structure, more and more people have realized that legal actions are the popularized and preferable options for both petitioners and petitionees. But to implement legal mechanism into the existing administrative patterns in most higher education institutions is still a complicated and time-consuming process. This challenge can be overcome through the joint efforts of the administrators, faculty and staff members, and students who understand their legal rights and responsibilities when internal disputes occur, and work together to make legal procedures accessible on campus. (Sun, 2013)

While unofficial petition will still be the unavoidable channel for reporting unlawful, corrupt or criminal administrative behaviors, only legal procedures can offer successful channels for, on the side of petitioners, solving the presented problems and adopting the proposed corrections, and, on the side of petitionees, improving their efficiency of management and service, winning more trust from the students, the faculty and staff members, and meanwhile preventing unnecessary energy and damage when unreasonable petition comes up and tend to cause riots.

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