

The essential factors of legal equality for criminal offenses of international students in China

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Abstract: As the gradual advancement of internationalization in Chinese education continues, the number of international students studying in China has been on the rise year by year. Concurrently, the issue of crimes committed by international students has become increasingly severe, presenting new challenges to the public order and social stability of Chinese society. As a distinct group living and studying within Chinese society, the matter of crimes committed by international students, as well as their entitlement to fair treatment under the judicial process, cannot be underestimated. This paper aims to conduct empirical research on criminal cases involving international students in China to probe into the characteristics of the criminal group of international students in China, the causes of their frequent criminal offenses, and whether they are subject to unfair treatment due to differences in their home country's level of development, personal economic status, or the tier of the institution they attend. Based on the legal disparities among various nations, this paper also puts forth several suggestions to perfect the legal education for international students, in an effort to address the frequent occurrences of crimes among international students.

1. Presentation of the Problem

As China's comprehensive strength continues to rise, studying in China has increasingly become a popular choice among young students from various countries. Concurrently, the internationalization of Chinese education is advancing gradually, leading to a steady increase in the number of international students in China. According to the Ministry of Education of the PRC, a total of 492,185 international students from 196 countries and regions were enrolled in China in 2018, marking an increase of 3,013 students, or a growth rate of 0.62%, compared to the previous year.

However, alongside the rising number of international students, cases of cross-border integration and multicultural interaction-related illegal activities have also been on the rise. In recent years, multiple provinces in China have reported frequent occurrences of legal offenses committed by foreign students in universities: in July 2017, out of 19 individuals detained by the Xuzhou police for drug-related offenses, 9 were international students; in August 2019, a foreign student from a university in Hebei was detained and deported for molesting a Chinese female student [1]. While promoting the internationalization of Chinese education, the influx of international students also poses new challenges to public order and social stability in Chinese society. In a completely

unfamiliar environment, foreign students are faced with great challenges in terms of language, culture, habits and national legal differences. In this case, the wrong cognition of the laws of the host country may lead to their violation of criminal laws. In addition, in this case, as a special group, will foreign students be treated unfairly in the judicial process of the host country because of their different backgrounds? These problems are worth exploring and studying.

In the realm of international research, although studies on exchange student involvement in crime are still rare, the relationship between exchange students and criminal offenses has long been recognized by academia. As early as the 1980s, scholars like Richard A. Sundeen Recognized the fear of crime among international students from developing countries in American society and explored the reasons for its formation and the factors influencing the level of fear, ultimately concluding that the key source of security for international students lies in their adaptation to the new environment and positive communication between new members and the receiving society [2]. However, this research did not further explore the issues arising when exchange students are the perpetrators of crime. As a matter of fact, the exchange (overseas study) experience is not an easy task for the individuals involved. Takahiro Sato elaborated on the numerous difficulties faced by exchange students (with a focus on Japanese exchange students) in their new learning environment, but unfortunately, the article did not discuss whether factors such as high levels of anxiety and social marginalization might become motivators for inappropriate behavior or even criminal offenses among exchange students [3]. J. Fredericks Volkwein and other scholars systematically studied the phenomenon of crime on American university campuses and stated that the overall number of crimes on American campuses is decreasing, but this is not due to increased vigilance against criminal offenses within the campus; however, they did not analyze the real reasons behind the decrease in crime rates on campus[4]. Furthermore, the study suggested that the occurrence of property crimes on campus is closely associated with the high cost of food and accommodation payable by students, and it identified incoming students (including international students and exchange students) as a positive factor in reducing crime rates on campus, rather than as potential perpetrators of crime. In the book entitled *Campus Crime: Legal, Social, and Policy Perspectives*, Bonnie S. Fisher detailed various types of campus crimes and the reasons behind the criminal offenses of the perpetrators, but she still did not make a more detailed division of the criminal perpetrators, nor did she further analyze the specific impacts of certain identities on criminal offenses [5]. Even though some scholars recognize that campus crime is not an internal problem of the campus itself but is associated with certain characteristics of the surrounding community, they still have not discussed in detail the extent to which the connection between different student groups and their surrounding communities influences their criminal offenses[6]. Although many scholars insist that the proportion of the crimes committed by international students in China in campus crimes remains low, Forbes, in his book *International Students and Crime*, even analyzed the reasons for the crimes committed by international students in China from economic, cultural, and psychological perspectives, but did not pay much attention to the phenomenon of the crimes committed by international students in China [7]. Scholars like Cherniak A analyzed the distribution of criminal offenses manifested by exchange students by empirical methods, and the study meticulously demonstrated the role and status of exchange students as perpetrators in organized crime, but it did not discuss the true motives of exchange students who commit crimes in the receiving country in detail [8].

To keep abreast of the domestic research trends on the criminal offenses of international students in China, this paper conducted a literature retrieval on "CNKI" (<https://www.cnki.net/>) using "international students in China," "crime," and "rule of law" as key terms. Only 28 relevant articles were found, indicating that the issue of the crimes committed by international students in China is gradually gaining attention from the Chinese academic community, but the number is still small compared to other fields. Analysis of both domestic and international academic research has neither

employed empirical analysis methods to study the verdicts of the crimes committed by international students in China, nor has it explored the characteristics of the criminal groups of international students, the causes of frequent crimes, and whether they may be subject to unfair treatment, through empirical research on the crimes committed by international students in China. Thus, this paper aims to investigate the characteristics of the criminal groups of international students in China, the causes of frequent crimes, and whether they may be subject to unfair treatment in the judicial process due to their different backgrounds through research on the cases of the crimes committed by international students in China, for contributing to the resolution of the frequent occurrence of the crimes committed by international students in China.

2. Empirical Research Design on the Crimes of International Students in China

(1) Data Sources

To study the criminal offenses of international students in China, the author conducted a retrieval on the published judgment documents and other authoritative documents on the China Judgment Documents Network using "international students" as a qualifier. The samples were filtered in the following dimensions: (1) Full text: international students; (2) Case type: criminal cases; (3) Document nature: judgment documents; (4) Trial procedures: first-instance procedure, second-instance procedure. After manually removing the cases of the crimes committed by non-international students in China and duplicates from the 550 documents retrieved, it was found that there were 114 such cases between 2012 and 2021 (as presented in Figure 1). The year 2019 was a "watershed" year for the number of cases: before 2019, the number of cases generally took on an upward trend, peaking in 2019, and then began to show an overall downward trend after 2019. This study, with the 114 cases as samples, explored the characteristics of the criminal groups of international students in China, the causes of crime, and whether they may be subject to unfair treatment due to different backgrounds.

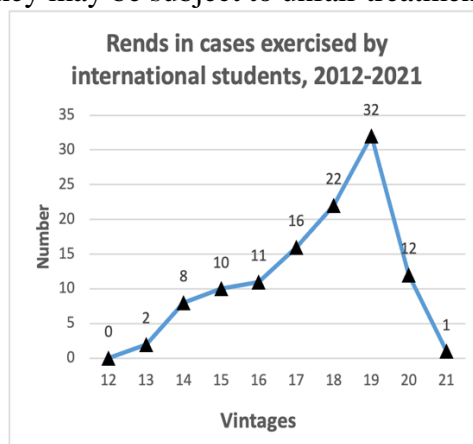


Figure 1: Variation Trend in the Number of criminal cases of international students from 2012 to 2021, last viewed on April 10, 2022.

(2) Variable Explanation

This paper constructs 28 variables based on the characteristics of the judgment documents, covering four parts: "Basic Information of Cases," "Circumstances of Sentencing," "Criminal Patterns," and "Judgment Outcomes," to record and analyze 114 judgment documents.

The first part consists of 7 variables, including the cause of action, province, defendant's citizenship, defendant's school, and whether the defendant's educational institution is part of the "985/211 Project" (prestigious universities); the second part consists of 3 variables, including the return of stolen goods, active compensation, and voluntary payment of fines; the third part consists

of 8 variables, including attempted and interrupted crimes; the fourth part consists of 9 variables, including imprisonment, fixed-term imprisonment, life imprisonment, whether the main sentence is severe, whether the main sentence is light, additional fines, sole fines, deportation, and whether the judgment outcome involves lighter punishment, mitigated punishment, or lenient punishment.

In statistical analysis, this study employs F-tests and t-tests to determine the correlation between the variables and to assess whether they meet certain hypotheses, thereby clarifying the inter relationships among the variables in the 114 judgment documents.

(3) Sample Overview

The sample size in this study is small, with only 114 judgment documents associated with the criminal offenses of international students in China from 2012 to 2021, accounting for 1.96% of the 5,816 foreigner crime cases under the same retrieval conditions during that decade. From 2012 to 2013 and 2014 to 2018, the increase was small, with 1-2 cases per year; by contrast, from 2013 to 2014 and 2016 to 2019, the increase was larger, with 4-6 cases per year. The largest increase was from 2018 to 2019, reaching 10 cases, but then decreased again in 2020 and 2021, with a reduction of 20 and 11 cases, respectively.

1) Distribution of International Student Crimes by Province

Looking at the distribution by province, the sample cases are spread across 18 provinces and 2 autonomous regions, with the majority of cases coming from the Jiangsu-Zhejiang-Shanghai area (Zhejiang Province, Shanghai City, Jiangsu Province) and Beijing, totaling 69 cases or 60.52% of the total sample. Zhejiang Province has the highest distribution with 31 cases (27.19%), followed by Beijing with 15 cases (13.16%) and Shanghai with 14 cases (12.28%). The remaining provinces have fewer than 10 cases each.

2) Distribution of Trial Courts by Hierarchy

With regard to court hierarchy, the majority of the samples are derived from basic courts, with a total of 93 cases (81.58%), while the remaining 21 cases (18.42%) are sourced from intermediate courts. There are no samples from higher people's courts or the Supreme Court.

3) Introduction to the Background of International Students as Defendants

Regarding the defendants (as presented in Figure 2), there are a total of 130 defendants involved in the cases, with 6 cases having 2 defendants or above. Apart from 12 samples where the defendant's specific institution was not mentioned, the remaining cases are from 70 different universities, including top Chinese universities such as Peking University, Tsinghua University, Nanjing University, and Zhejiang University of Technology, etc.. This paper categorizes them into two tiers: "prestigious universities" and "regular universities". This paper classifies universities part of China's "211 Project" and "985 Project" as prestigious universities. There are 29 samples from prestigious universities, accounting for 25.43% of the total sample, and 85 samples from regular universities, accounting for 74.56% of the total sample.

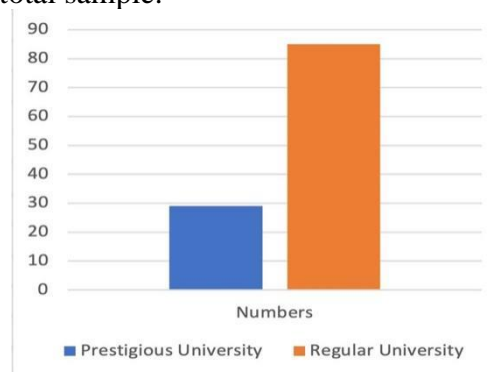


Figure 2: Comparison of the Number of Defendants from Prestigious Universities and Regular Universities

In summary, the case samples in this study are concentrated in economically developed regions, mostly tried by basic people's courts, and involve a significant number of international students charged with smuggling, selling, transporting and manufacturing drugs. With regard to the schools of international students, those from "prestigious universities" make up a quarter of the total number of defendants.

3. Analysis of Empirical Results of International Student Crimes

(1) Analysis of the "Lack of Understanding of Chinese Law" Factor Among Defendants

Legal systems vary enormously across countries, and the education on the rule of law for international students in China is relatively weak compared to language, culture, and ideology, etc.. Taking Hebei Province as an example, from August to October 2019, Zhang Shuming from Tianjin University of Technology and Liu Yuanyuan from Yanshan University conducted interviews with international students at several universities in Hebei Province, revealing that the students had limited opportunities to receive legal education and that their access to legal knowledge was singular and unfamiliar[9]. The lack of understanding and unfamiliarity with Chinese law among international students may increase their risk of committing crimes. On this basis, the author conducted a cross-case analysis of the samples where the defendants committed crimes due to a lack of understanding or unfamiliarity with Chinese law (see Table 1).

Based on analyzing the empirical results in Table 1, it is found that there are 4 cases where the defendants' "lack of understanding of Chinese law" was cited as a reason for committing crimes, all of which were allegations raised by the public prosecution organ. However, only one case of theft (No. 4) was adopted by the court, while the other crimes, especially smuggling, selling, transporting or manufacturing drugs, were not accepted by the court. It appears that the defendants' "lack of understanding of Chinese law" does not serve as an effective defense argument, which highlights the necessity of comprehensive legal education for international students in China.

Table 1: Cross-Case Analysis of Defendants Committing Crimes Due to a "Lack of Understanding of Chinese Law"

No.	Charge	Defendant's Citizenship	Defendant's School	Whether Mitigated Punishment or Lenient Punishment was Granted	Whether the Court Adopted the Opinion
1	Crime of Smuggling, Selling, Transporting, Manufacturing Drugs	Pakistan	Northwestern Polytechnical University	Mitigated Punishment	No
2	Crime of Smuggling, Selling, Transporting, Manufacturing Drugs	Not specified	Shenyang University of Chemical Technology	Lighter Punishment	No
3	Crime of swindling	Nigeria	Guangxi University of Finance and Economics	Lenient Punishment	No
4	Crime of theft	Democratic Republic of the Congo	Ningbo University of Technology	Lighter Punishment	Yes

(2) Whether the Defendant's Citizenship Adversely Affects the Trial Outcome

Furthermore, upon analyzing the empirical results in Table 2, it is revealed that only one case did not specify the defendant's citizenship, while most defendants in the remaining cases hailed from underdeveloped countries. However, all these cases ultimately received lighter punishment, mitigated punishment, or lenient punishment, indicating that there is no evidence to suggest that the citizenship

of international students, as defendants, has an adverse effect on the trial outcome. It can be inferred from these empirical results that even if defendants predominantly come from economically underdeveloped countries such as Nigeria and the Congo, they will not be discriminated against or treated unfairly in the criminal justice process.

(3) Legal Differences between Countries Highlight Drug Crime Issues

In respect of the cause of action (as presented in Figure 3), there are 15 different charges. Drug-related crimes are the most numerous, with a total of 43 cases (37.72% of the total), including 37 cases (32.46%) of smuggling, selling, transporting, and manufacturing drugs, and 6 cases (5.26%) of harboring others to take drugs. This is followed by 20 cases (17.54%) of theft and 19 cases (16.67%) of dangerous driving, with the remaining charges numbering less than 10.

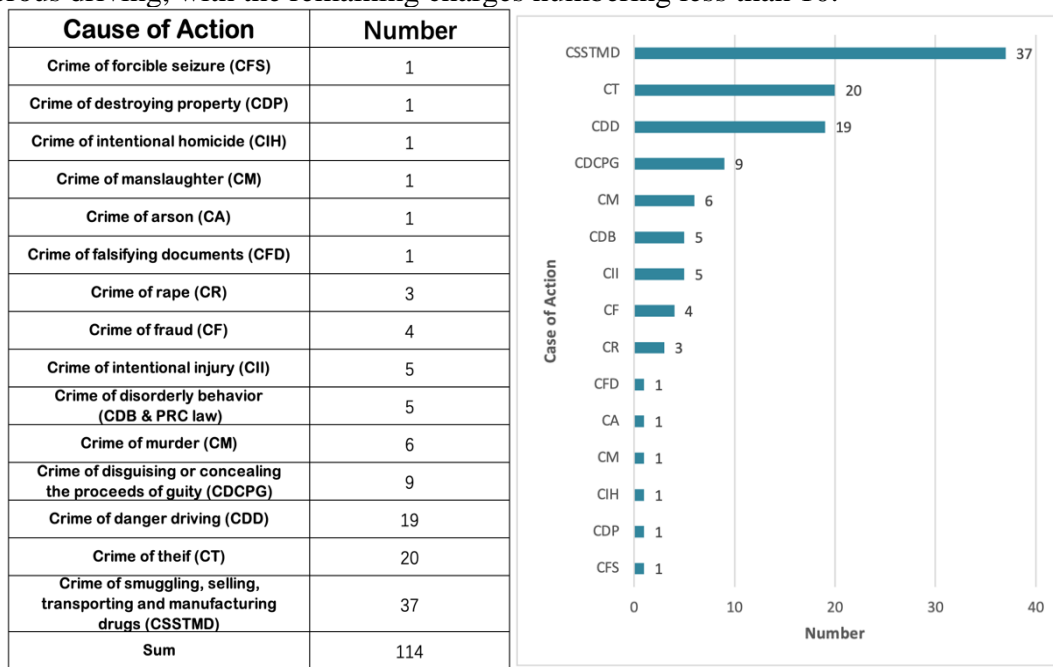


Figure 3 (1-2): Charges against International Students in the 114 Samples

The crime of smuggling, selling, transporting, or manufacturing drugs is at the forefront of crimes committed by international students in China, with nearly double the number of cases compared to theft. The citizenship of defendants convicted of this crime (as presented in Table 2) is primarily distributed across African countries, with 25 cases; followed by Asian countries, with 6 cases; and only one case from the Americas, with the remaining 5 cases not specifying the defendant's citizenship in the judgment documents. Zimbabwean nationals account for the highest proportion, followed by Mozambican, Nigerian, and other countries, with an average of 1-2 cases each. Globally, China has relatively strict regulations on drugs, and possession, consumption, or sale of any drug is severely illegal under Chinese law, with the maximum penalty being death. Some African countries have gradually relaxed regulations on cannabis, with Zimbabwe becoming the second African country to legalize the production of medical cannabis in 2018. In September 2018, the Constitutional Court of South Africa ruled that private use and cultivation of cannabis should not be punished, and in the United States, 37 states and Washington, D.C. have legalized medical cannabis, with 18 states and Washington, D.C. allowing its use for recreational purposes. Due to the more lenient criminal regulations on drugs such as cannabis in Africa and some European and American countries, international students influenced by their native cultures may have a biased understanding of Chinese law, potentially leading to an increase in the incidence of drug-related crimes among international students in China.

Table 2: Distribution of Citizenship among International Students in China Convicted of "Smuggling, Selling, Transporting and Manufacturing Drugs"

Continent	Nationality of the accused	Case number	Sum
Africa	Zimbabwe	6	25
	Mozambique	4	
	Nigeria	3	
	Seychelles	2	
	Benin	2	
	Sierra Leone	2	
	Ethiopia	1	
	Rwandan	1	
	Guinea	1	
	Burundi	1	
	Congo (Democratic Republic of the Congo)	1	
	Tanzania	1	
Asia	Bahrain	2	6
	Pakistan	2	
	Kazakhstan	1	
	India	1	
American	Columbia	1	1
Not in Detail	Not in Detail	5	5

(4) Analysis of Factors Influencing Lenient Punishment

In this study, the dependent variable was set as "whether the judgment outcome includes lighter punishment, mitigated punishment, or lenient punishment", while the independent variables included "whether the defendant's school is a prestigious university," "return of stolen goods," "active compensation," and "voluntary payment of fines." These independent variables were analyzed for their impact on the dependent variable.

In the model presented (see Table 3), the sig value of F-test of $0.0 < 0.05$ indicates that overall, at least one of the four variables has a significant linear relationship with the dependent variable "whether the judgment outcome includes lighter punishment, mitigated punishment, or lenient punishment", warranting further research. The R-squared value of 0.193 suggests that the independent variables collectively influence the dependent variable to the extent of 19.3%; the DW value of 1.898 close to 2 indicates that there is no autocorrelation among the random error terms; the observed VIF values show that the VIF value for "prestigious university" is 1.047, for "return of stolen goods" is 1.117, for "active compensation" is 1.072, and for "voluntary payment of fines" is 1.275. These VIF values close to 1 indicate that there is no correlation among the nine independent variables, making them all usable.

In summary, the data from this study is highly reliable, and the empirical results are usable. The empirical data demonstrates that only the sig value of the variable "prestigious university" is less than 0.05, which is statistically significant, while the sig values for the remaining variables are all greater than 0.05, indicating that they are not significant. Since the independent variables "return of stolen goods," "active compensation," and "voluntary payment of fines" are closely associated with the economic situation of the defendants, also international students, the empirical results indicate that these factors, which reflect the economic situation, do not correlate with whether international students who have committed crimes can receive lenient punishment. This, in turn, indirectly reflects that criminal defendants, also international students, can receive fair judgments in China's judicial process and will not be treated unfairly due to their own economic difficulty.

Table 3: Multiple Regression Analysis on Factors Influencing Lenient Punishment

	Unstandardized Coefficients		Standardized Coefficients	Proportion of Standardized Coefficients	T	Sig	VIF	DW	R Square	F	Sig
	B	Standardized Error									
Constant	0.856	0.036	-	-	24.005	0	4.427	1.898	0.193	3.735	0
Prestigious Universities	-0.142	0.042	-0.263	25.29	-3.391	0.001	1.047				
Return of Stolen Goods	-0.085	0.072	-0.094	9.1	-1.181	0.24	1.117				
Active Compensation	0.005	0.071	0.005	0.52	0.007	0.945	1.072				
Voluntary Payment of Fines	0.021	0.081	0.022	2.15	0.281	0.795	1.276				

(5) Whether Defendants from Prestigious Universities Can Receive Lenient Punishment

According to the data of multiple regression analysis discussed earlier, what is clear that the sig value (sig) for "prestigious university" is less than 0.05, indicating statistical significance. This suggests that there is a correlation between whether international students attend prestigious universities and their likelihood of receiving lenient punishment. However, does this mean that international students with criminal offenses who attend prestigious universities can automatically receive lenient punishment? This requires us to determine the nature of the correlation—whether it is positive or negative - through cross-validation.

As presented in Table 4, there are a total of 97 cases where the judgment outcome includes lighter punishment, mitigated punishment, or lenient punishment, with 24 cases involving defendants from "prestigious universities", accounting for 82.76% of the total number of defendants from "prestigious universities" and 24.72% of the total number of cases with the outcomes of lighter punishment, mitigated punishment and lenient punishment. (See Table 4: "prestigious university" * Lighter Punishment, Mitigated Punishment, and Lenient Punishment). The sig value of T-test of $0.0 < 0.05$ indicates a significant linear relationship between the two; the standardized coefficient is -0.263, a negative value, indicating a negative correlation and a relatively strong degree of impact, accounting for 25.29%, opposite to the hypothesis. To sum up, international students attending "prestigious universities" not only do not have a higher likelihood of surrendering due to the higher ranking of their institution, but they also do not receive lenient punishment as a result.

Table 4: Cross-Tabulation of prestigious university * Lighter Punishment, Mitigated Punishment, and Lenient Punishment

Count		School		Total
		No	Yes	
Lighter punishment, mitigated punishment and lenient punishment	No	12	5	17
	Yes	73	24	97
Total		85	29	114

(6) Empirical Summary

In conclusion, the lack of understanding of Chinese law among defendants is one of the factors contributing to criminal offenses, and besides, there is a higher proportion of African nationals for drug-related crimes. The lenient regulation of drug-related crimes in African countries and the legalization of cannabis in some African countries due to national legal differences may give rise to misconceptions about Chinese law. Regarding factors influencing the lenient sentencing, the data shows that there is no unfair or unjust treatment. Primarily, the data indicates that differences in national conditions do not influence the conviction and sentencing of defendants, and international students with criminal offenses do not receive unjust judgments simply because they come from economically underdeveloped countries. Furthermore, the empirical results do not align with the assumptions of this paper; the court does not grant lenient punishment to international students solely because they can "return stolen goods," "actively compensate," or "voluntarily pay fines." This also indirectly reflects that international students with criminal offenses do not receive special preferential

treatment in China's judicial process thanks to their favorable economic background. Finally, compared to international students with criminal offenses attending regular universities, those attending prestigious universities do not receive lenient treatment simply because of the higher ranking of their institution.

4. Conclusion

This paper conducts an empirical study on the judgment documents of criminal offenses involving international students in China, summarizing the characteristics of the crimes committed by international students in China and their influencing factors. The empirical data results indicate that the citizenship, economic status, and educational level of the school attended by international students do not lead to discrimination against them in the judicial process, and thus, there is no unfair or unjust treatment in the sentencing of international students with criminal offenses.

Regarding the causes of the crimes committed by international students in China, the empirical results show that approximately 25% of international students are enrolled in prestigious universities. This suggests that they have a higher level of scientific and cultural literacy but may commit crimes due to a lack of rule of law education and unfamiliarity with Chinese laws. Moreover, the crimes committed by international students in China are often drug-related crimes, which may be due to the less stringent drug control in their home countries, coupled with a lack of effective rule of law education after coming to China, leading to cognitive biases in understanding Chinese laws due to cross-national legal differences. Thus, in future education for international students, it is necessary to emphasize the rule of law education for international students in China and promote the legalization of legal education and the education work for international students in China. Based on the research of the aforementioned national legal differences and their potential negative impacts on international students, this paper proposes the following three suggestions for improvement in line with the objectives of rule of law education for international students in China:

(1) Integration of resources for rule of law education for international students from foreign

Countries: transitioning from fragmentation to systematization. Currently, the education provided by universities to international student groups lays more emphasis on professional knowledge, with only specialized courses offered. After enrollment, students, with the exception of accessing to some legal knowledge within their academic and daily lives, are largely unable to receive systematic and regular instruction in legal studies. Therefore, it is imperative to offer foundational legal courses to international students, thereby enhancing their understanding of the rule of law. The classroom is a crucial venue for imparting knowledge, and through systematic legal education, international students can gain a comprehensive understanding, recognition, and familiarity with China's laws and regulations, thereby fostering their voluntary compliance with Chinese laws and regulations. Moreover, a variety of activities can be organized to influence international students. Public security, procuratorial, and judicial departments, as well as immigration, foreign affairs, and consular-related authorities, can be requested for assistance. By inviting these government departments, judicial branches, and diplomatic corps to campus on a regular basis for promotional events and lectures, we can collectively strengthen the rule of law education provided to international students.

(2) Refinement of the mechanism for rule of law education for international students

Transitioning from selective work to mandatory instructions. Pursuant to Article 24 of the "Regulations for the Acceptance of International Students by Higher Education Institutions" jointly issued by the Ministry of Education, the Ministry of Foreign Affairs, and the Ministry of Public Security, Chinese Language and General Conditions of China are mandatory courses for international students pursuing academic degrees, while Political Theory is a required course for those majoring in Philosophy, Politics, and Economics. International students in other majors may apply for exemption.

There are no mandatory requirements for rule of law education therein, which falls within the discretionary scope of individual universities. As this is not a compulsory course, rule of law education for international students has not been given due attention by many institutions.

This has resulted in a lack of legal awareness among international students, a poor understanding of Chinese laws and regulations, an increase in the number of criminal offenses, cross-cultural inadaptability, and inadaptability caused by legal differences. Thus, it is recommended that fundamental legal courses be explicitly stipulated as mandatory for international students and that rule of law education be implemented as a compulsory directive to promote legal awareness and cultivate a respect for the rule of law among international students in China.

(3) Transformation of the concept of rule of law education for international students: transitioning from pure legal education to rule of law education

Legal education lays emphasis on the dissemination of legal systems, primarily covering legal common sense and foundational knowledge. While rule of law education, building on legal education, emphasizes the primacy of law, requiring comprehensive and all-around legal intervention in social life to achieve the educational goal of enabling the public to know, respect, use, and believe in the law. Given the cross-cultural adaptability challenges faced by international students in Guangdong and the legal differences among their respective countries, mere provision of legal education to these students is insufficient. It is necessary to foster a wide recognition and strong support among the entire international student community for the supreme authority of Chinese law in social life through legal education, thereby encouraging them to consciously comply with Chinese laws and regulations and cultivating a rule of law consciousness of resolving disputes through legal or judicial procedures.

Due to time constraints and the limitations of the author's capabilities, although this paper has achieved certain research findings, there are still shortcomings, such as limited access to samples and insufficient depth of analysis, etc.. These issues will be reflected upon and improved in future research and practice.

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