

Comparing Legal Approaches to Workplace Gender Discrimination: A Study of Canada and China

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Abstract: This paper compares the regulation of workplace gender discrimination in Canada and China, focusing on differences in legal definitions, judicial practices, and enforcement mechanisms. The study finds that while Canada has developed a relatively complete system with clear legal standards, independent enforcement bodies, and strong public awareness, China still faces challenges such as vague legal language, weak enforcement structures, and deeply rooted traditional gender norms. Drawing on Canada's experience, the paper proposes several recommendations for improving China's legal framework, including clarifying legal definitions, establishing independent enforcement agencies, strengthening protections for victims, and promoting gender equality through public education and workplace accountability. The aim of this research is to provide practical suggestions to help strengthen China's system for regulating workplace gender discrimination and to contribute to broader efforts to promote gender equality in the labor market.

1 INTRODUCTION

Gender discrimination in the workplace has long been a central issue in the pursuit of gender equality between men and women. With the development of legal systems and rising social awareness, this issue has received more attention and some improvements in recent years. However, in reality, gender discrimination remains widespread and deeply rooted. More people around the world have started paying attention to gender discrimination at work because it continues to be a serious and complex problem. It shows up in many ways—such as unfair pay, biased hiring and promotion practices, sexual harassment, and the underrepresentation of women in leadership positions. These issues not only harm individuals but also hinder broader social and economic progress.

China has made some positive efforts in regulating workplace gender discrimination, but significant challenges remain. On the positive side, China has introduced a range of laws, such as the Labor Law, the Employment Promotion Law, and the Law on the Protection of Women's Rights and Interests, all of which explicitly prohibit discrimination based on gender (National People's Congress 2021; 2015;

2023). The legal framework has continued to expand in recent years, and courts have started to recognize claims related to sexual harassment and unfair treatment during pregnancy. For example, in a 2024 court case, a pregnant worker who was demoted successfully won her case based on labor protections, showing that some victims can achieve justice through the courts.

However, there are still major problems with enforcement. A 2020 report by Human Rights Watch found that more than half of civil service job advertisements in China included gender-based restrictions, often preferring male candidates (Human Rights Watch 2020). In addition, government-run trade unions rarely provide independent support for workers facing discrimination. Many women are afraid to report unfair treatment because they fear losing their jobs, lack knowledge of their legal rights, or distrust the system's ability to protect them. It is clear that gender discrimination in China continues to struggle under difficult conditions. Traditional cultural views, which emphasize that women should focus on family life, further contribute to workplace inequality. At the same time, China's centralized legal and political system makes independent enforcement and public accountability more difficult. Even though laws prohibit practices like gender-based hiring,

advertisements stating "men only" or "men preferred" remain common in both private and public sectors.

China still has room for improvement in regulating workplace gender discrimination. Different countries around the world take different approaches to this issue, and international experiences can offer useful lessons for China. For example, Canada provides a valuable reference point. However, Canada also faces ongoing challenges. Wage gaps persist, women remain underrepresented in leadership roles, and subtle forms of discrimination, such as biases in hiring and promotion, continue despite legal protections. Nonetheless, with a longer history of regulating workplace gender equality, Canada has developed relatively complete legal protections. Its system features independent enforcement agencies, strong public education campaigns, and clear anti-discrimination policies in both government and private workplaces. Canada's experience—especially in building independent institutions and raising public awareness—offers important ideas that China can adapt to its own conditions to strengthen its fight against workplace gender discrimination.

For example, in Canada, a strong focus on individual rights and democratic values has helped create a relatively complete system of anti-discrimination laws. Courts have played an important role in making sure these laws are effective. In *Janzen v. Platy Enterprises Ltd.* (1989), the Supreme Court ruled that sexual harassment counts as sex discrimination (*Janzen v. Platy Enterprises Ltd.*, [1989] 1 S.C.R. 1252). In *Fraser v. Canada (Attorney General)* (2020), the Court decided that job-sharing policies that unfairly hurt women's career opportunities could be considered discriminatory (*Fraser v. Canada (Attorney General)*, 2020 SCC 28). In addition, Canada has independent organizations such as the Canadian Human Rights Commission and the Pay Equity Commissioner, which help individuals file complaints, investigate discrimination, and make sure employers follow the law (Canadian Human Rights Act, R.S.C., 1985, c. H-6).

This paper examines gender discrimination in the workplace by comparing Canada and China. In both countries, gender-based unfair treatment still occurs, even though protective laws exist. In China, visible problems such as the demotion of pregnant employees and gender limitations in job postings are still frequent. In Canada, the legal system is stronger and better enforced, but hidden issues like the gender pay gap and the underrepresentation of women in leadership roles continue to exist.

This study uses a qualitative legal comparison to explore how Canada and China address workplace gender discrimination. It analyzes laws, major court cases, enforcement practices, and the roles of government institutions to identify the strengths and weaknesses of each system. Through this comparison, the paper hopes to offer practical suggestions for improving China's regulation of workplace gender discrimination.

The significance of this research lies in the potential to draw lessons from comparative legal practices. By identifying common challenges and differences in legal design, enforcement, and cultural attitudes, the study seeks to inform ongoing reform efforts, particularly in China, where implementation lags despite comprehensive statutory language. This research aims to contribute to the global conversation on gender equality, offering actionable insights that align with evolving societal norms and economic imperatives.

This study uses a qualitative legal comparison to look at how Canada and China handle workplace gender discrimination. It examines laws, major court cases, how rules are enforced, and what government institutions do in each country. The research is based on official legal texts, court rulings, and government reports to understand the strengths and weaknesses of both systems.

The main goal is to clearly compare the laws and practices in Canada and China. By showing how Canada's legal system is more thorough and better enforced, the paper suggests that China could learn from Canada's approach. The study will also offer suggestions to help improve legal protections for women and others in Chinese workplaces.

2 COMPARISON OF WORKPLACE GENDER DISCRIMINATION IN CHINA AND CANADA

2.1 Comparison of Workplace Gender Discrimination Laws and Regulations in China and Canada

China and Canada both claim a strong commitment to promoting gender equality in the workplace, but they have developed very different systems for addressing discrimination due to differences in their legal traditions, political structures, and cultural values.

In China, several important laws regulate workplace gender discrimination. The Labor Law, the Employment Promotion Law, and the Law on the Protection of Women's Rights and Interests all state that women should be treated equally in employment. These laws ban discriminatory practices such as unequal pay, unfair dismissal during pregnancy, and gender restrictions in job advertisements. Special provisions also exist to protect maternity rights, including job security during pregnancy and postpartum periods.

However, enforcement of these protections is inconsistent. Although the laws state clear principles, many terms, such as "equal employment rights" or "gender-based discrimination," remain vague without detailed guidelines for courts or regulators to follow. This makes legal standards difficult to apply uniformly across different regions. For example, in Guiding Case No. 181, a manager was found liable for ignoring repeated sexual harassment complaints, creating a legal precedent for employer responsibility (Supreme People's Court n.d.). Similarly, a 2024 case ruled in favor of a woman demoted during pregnancy, invoking protections under labor regulations. While these rulings are positive signs, they remain exceptions rather than the norm.

In practice, most labor disputes related to gender discrimination are handled by government-affiliated labor arbitration committees, which often prioritize social stability over individual justice. Courts, which are not fully independent, rarely accept or rule in favor of discrimination cases unless they are of high public interest. Moreover, victims largely rely on state-controlled unions like the All-China Federation of Trade Unions, which often side with employers rather than supporting individual workers. Many women are discouraged from filing complaints due to fear of retaliation, lack of legal knowledge, or distrust in the system's fairness. These challenges—vague laws, weak independent enforcement, and cultural resistance—make it difficult to turn China's anti-discrimination laws into real protections in daily working life.

In Canada, workplace gender equality is treated as a fundamental human right, deeply rooted in the country's democratic and legal culture. The Canadian Human Rights Act prohibits discrimination based on sex, gender identity, and other personal characteristics (Canadian Human Rights Act, R.S.C., 1985, c. H-6). The Employment Equity Act complements this by requiring public employers and federally regulated industries to actively promote

fairness for historically marginalized groups, including women (Employment Equity Act, S.C. 1995, c. 44.).

Judicial interpretation has played a major role in strengthening workplace protections. In *Janzen v. Platy Enterprises Ltd.* (1989), the Supreme Court ruled that sexual harassment amounts to sex discrimination. In *Brooks v. Canada Safeway Ltd.* (1989), excluding pregnant workers from benefits was deemed discriminatory (*Brooks v. Canada Safeway Ltd.*, [1989] 1 S.C.R. 1219.). More recently, in *Fraser v. Canada (Attorney General)* (2020), the Court ruled that certain job-sharing policies disproportionately disadvantaging female RCMP officers could be challenged as discriminatory under constitutional equality protections.

Canada also has strong independent institutions like the Canadian Human Rights Commission and the Pay Equity Commissioner, which not only investigate complaints but also educate the public, monitor employer compliance, and help victims seek redress. Victims of workplace discrimination can access multiple avenues for justice, including independent commissions, courts, and legal aid services (Canadian Human Rights Act, R.S.C., 1985, c. H-6). This creates a much more supportive environment for individuals to assert their rights.

Still, Canada's system is not perfect. Gender wage gaps persist, women are underrepresented in senior leadership roles, and subtle forms of bias in hiring and promotion continue. However, the existence of independent enforcement bodies, strong public awareness, and a tradition of active judicial oversight mean that Canada's laws are more consistently applied and better enforced than in many other countries.

In summary, while both China and Canada have established legal frameworks to address workplace gender discrimination, Canada's system benefits from clearer legal definitions, independent institutions, and stronger enforcement practices. In contrast, China's legal framework, though expanding, struggles with vague language, weak enforcement, and limited protection for victims. Understanding these differences is important for identifying ways that China could further strengthen its workplace gender discrimination regulations in the future.

2.2 Difference in Workplace Gender Discrimination Laws and Regulations Between Canada and China

2.2.1 Workplace Realities and Social Contexts

While Canada's legal infrastructure is strong, gender discrimination persists in more subtle forms. Wage gaps remain, women are underrepresented in leadership, and caregiving responsibilities often impede career advancement. Courts have been instrumental in acknowledging these systemic biases, but cultural norms and institutional inertia slow progress. Deeply rooted expectations about gender roles—such as the assumption that women should be primary caregivers—still influence hiring and promotion decisions, even if unconsciously. Workplaces often value long hours and constant availability, which can disadvantage women who balance work and family. Additionally, some sectors, like science, technology, engineering, and finance, continue to be male-dominated, making it harder for women to break into senior roles. Despite legal support, change is gradual because shifting workplace culture and long-held social attitudes takes time, continuous public pressure, and sustained political will.

In China, traditional gender roles and entrenched patriarchal norms exacerbate workplace inequalities. Common issues include discrimination during recruitment, unequal pay, and harassment. Women often encounter difficulty filing complaints due to societal pressure, limited access to justice, and weak workplace protections.

2.2.2 Institutional Support and Legal Recourse

Canada's institutional framework provides multiple avenues for legal recourse. Victims can access legal aid, lodge complaints with independent commissions, and seek redress through courts that have a history of progressive rulings. Furthermore, widespread awareness campaigns and transparent legal processes help normalize reporting and legal action.

In China, although legal structures exist, access to justice is often hindered by bureaucratic obstacles and fear of retaliation. The absence of strong, independent legal institutions results in underreporting and limited accountability. While pilot programs and some high-

profile cases offer hope, they remain exceptions rather than the rule.

2.2.3 Corporate Practices and Private Sector Engagement

Canadian companies are doing more to support gender equality because society expects it and the law encourages it. Many workplaces now offer training, check how fair their practices are, and support employees with family needs. The public and media also push companies to do better (Employment Equity Act, S.C. 1995, c. 44.).

In China, some international companies have adopted gender-inclusive policies, but many local businesses still don't have clear rules to deal with gender issues. It's still common to see unfair job ads and hiring practices, especially in smaller companies.

2.2.4 Policy Implementation and Cultural Factors

Canada takes a decentralized approach to fighting gender discrimination. This means different groups and levels of government work together. Public education, detailed data about gender, and working with international partners all help make its system stronger. Schools, civil groups, and a strong legal culture also keep progress moving forward.

China uses a more centralized system, with laws mostly made and enforced by the government and labor unions. It runs education and awareness campaigns, but these don't do much to change long-held gender beliefs. The system is also less flexible and slower to respond than Canada's. Without independent groups to monitor enforcement, the laws are harder to trust and follow.

3 IMPROVING CHINA'S WORKPLACE GENDER DISCRIMINATION REGULATIONS FROM A COMPARATIVE LEGAL PERSPECTIVE

Drawing from the comparative study of Canada and China, this section proposes three major areas where China can improve its legal framework and enforcement practices to better protect workers against gender discrimination. While China has made

progress in establishing anti-discrimination laws, meaningful change requires clearer definitions, stronger enforcement mechanisms, and broader cultural and institutional support.

3.1 Clarify Legal Definitions and Expand the Scope of Protection

Currently, China's laws on workplace gender discrimination, such as the Labor Law and the Employment Promotion Law, prohibit practices like unequal pay and dismissal during pregnancy. However, many of the legal terms are vague. Expressions like "equal employment rights" and "prohibition of discrimination" are not clearly defined, making it difficult for courts and regulators to apply these standards consistently. As a result, even when workers bring claims of discrimination, enforcement is unpredictable, and courts often hesitate to rule decisively in favor of victims.

In contrast, Canada's legal system provides much more detailed and specific definitions. The Canadian Human Rights Act and relevant court rulings clearly outline what constitutes direct and indirect discrimination, including forms like sexual harassment, pregnancy-related penalties, and systemic bias in job structures. Canadian courts have developed a rich body of interpretations that help victims and employers understand their rights and obligations more clearly.

China should revise its anti-discrimination laws to offer precise definitions of key terms such as "gender discrimination," "indirect discrimination," and "sexual harassment." Specific guidelines and judicial interpretations should be issued by the Supreme People's Court to guide lower courts and labor committees. Clear legal standards would not only strengthen the predictability of judgments but also empower workers and employers with better knowledge of their rights and responsibilities.

3.2 Strengthen Independent Enforcement Mechanisms and Victim Support

While China has a legal framework to prohibit workplace gender discrimination, enforcement remains a serious challenge. Most complaints are handled by labor arbitration committees and courts that operate under strong government influence. These bodies often prioritize social stability over protecting individual rights. Furthermore, state-

controlled unions like the All-China Federation of Trade Unions typically do not actively advocate for victims, and workers often lack effective channels to seek justice.

In comparison, Canada has built independent institutions like the Canadian Human Rights Commission and various provincial human rights tribunals. These bodies operate separately from employers and political authorities, allowing them to investigate complaints impartially. They provide victims with access to formal complaint procedures, free legal advice, and public education campaigns, greatly increasing trust in the system and reducing barriers to filing complaints.

Suggestion for China: To improve enforcement, China should create independent agencies at the regional or national level dedicated to handling workplace discrimination cases. These agencies should operate autonomously from local government influence and have clear authority to investigate, issue decisions, and impose remedies. Additionally, China should strengthen legal aid services by providing free or low-cost legal support to victims of gender discrimination, especially in rural or underserved areas. Ensuring strong protection, including the right to anonymous complaints, would also encourage more victims to come forward without fear of losing their jobs or facing social stigma.

3.3 Promote Gender Equality Through Public Education and Workplace Accountability

Beyond legal reform, cultural attitudes continue to slow progress in combating workplace gender discrimination in China. Traditional views about gender roles, particularly the belief that women should prioritize family over career, remain strong. Without broader public education and employer responsibility, legal changes alone cannot fully eliminate workplace inequality.

In Canada, public education efforts have been central to promoting gender equality. Awareness campaigns, school-based gender equality education, workplace training programs, and transparent reporting practices, such as mandatory wage gap disclosures, have all helped reshape public attitudes and corporate behavior. Canadian companies are often expected to implement internal equity audits and demonstrate commitment to diversity and inclusion as part of their corporate reputation.

Suggestion for China: China should intensify public education campaigns to challenge traditional gender stereotypes and promote equal opportunities for women. The government, media, and educational institutions can work together to raise awareness about gender rights starting from an early age. Employers should be required to create clear internal anti-discrimination policies, offer regular workplace training, and report on gender equality performance metrics publicly. Integrating gender equality indicators into corporate social responsibility evaluations, especially for large state-owned and private enterprises, would also help embed gender equality into business practices.

4 CONCLUSION

This paper explored the issue of workplace gender discrimination through a comparative analysis of the legal frameworks and enforcement practices in Canada and China. The goal was to understand how different legal systems address similar challenges, and what lessons might be drawn to strengthen protections for workers, particularly in China. By examining laws, court rulings, institutional practices, and cultural influences, the study provided a multi-dimensional view of how gender discrimination manifests and is regulated in each country.

The findings show that although both Canada and China have legal provisions aimed at promoting workplace gender equality, the effectiveness of these provisions varies widely. Canada's relatively complete system benefits from clearly defined laws, independent enforcement bodies, and strong public engagement. These elements work together to create an environment where legal rights are more likely to be respected and discrimination can be addressed through accessible legal recourse.

In contrast, China's legal framework, while broad in coverage, suffers from vague terminology, weak enforcement mechanisms, and limited institutional independence. Cultural norms and deeply ingrained gender roles further complicate enforcement, as many victims are reluctant to file complaints due to fear of retaliation or social stigma. Although some landmark cases show signs of progress, they remain the exception rather than the rule. Without stronger institutional support and clearer legal guidelines, the gap between law and practice in China is unlikely to close.

To improve, China can draw on lessons from Canada, such as adopting clearer legal definitions, building independent enforcement bodies, and encouraging public and corporate accountability. These changes would not only enhance legal protection for women and marginalized groups, but also help modernize the labor market in line with international human rights standards.

Looking to the future, true workplace gender equality in China—and globally—cannot be achieved through legal reform alone. It requires a cultural shift in how society views gender roles, career expectations, and work-life balance. Public education, media representation, and civic engagement will be crucial in reshaping attitudes and reducing stigma. As more individuals and institutions recognize the value of gender equality, legal systems can become more responsive, and workplaces more inclusive.

In this evolving landscape, continued research, cross-national dialogue, and advocacy will play essential roles. By learning from successful practices in other countries and adapting them to local contexts, China can make meaningful strides toward a more equitable and just society for all workers, regardless of gender.

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