

Gender Equality--How to improve gender discrimination in employment in China under the background of "comprehensive two-child" policy

Preface

The reason why to choose gender equality as the topic of this proposal is that, from my perspective, eliminating gender discrimination and empowering women is crucial to achieving the Sustainable Development Goals. Although countries around the world have made significant progress in promoting gender equality and women's empowerment, the issue of gender equality has not been completely solved. Under the influence of some policies and implicit biases, women are still marginalized groups, and their interests are not guaranteed. Taking China as an example, the "universal two-child" policy has positive significance for effectively coping with the aging trend of the population and maintaining the demographic dividend. However, this policy also intensifies the employment discrimination against women, making the phenomenon of employment discrimination against women more prominent. I would like to take this opportunity to conduct an in-depth study on the empowerment of Chinese women in the workplace and hope that more people will pay attention to this issue. I chose the employment situation of women in Shenzhen and Guiyang as the representatives of developed and underdeveloped areas for empirical research. This paper analyzes the characteristics and causes of employment discrimination of Chinese women under the background of "comprehensive two-child" policy, and puts forward some concrete suggestions from the aspects of labor legislation, labor inspection, judicial relief, family welfare policy and public childcare services.

Participating in the UN Spotlight project made me feel that it was an unforgettable academic experience. I have the opportunity to communicate and learn directly with officials of many international organizations, and systematically understand the institutional setup under the United Nations system, the purposes and main functions of various international organizations. At the same time, it inspires me to seriously think about what I can do as a citizen of the world to achieve the goal of sustainable development.

1 Introduction

1.1 Concepts

By comparing the contents of women's employment discrimination in the United Nations Convention on the Elimination of All Forms of Discrimination against Women and the British Sex Discrimination Act, the concept of female employment discrimination is defined, that is, any distinction, exclusion or restriction taken by employers based on gender factors without justifiable reasons, or ostensibly giving women the same treatment as men, which makes female workers suffer substantial inequality in employment and occupation opportunities or treatment.

1.2 Current situation of female employment discrimination

For a long time, gender discrimination in employment has been a stumbling block for women to find jobs. Even if women are equal to their male competitors, they will lose their fair chance to get jobs because of their gender. At present, the employment discrimination of Chinese women is still grim, which is mainly manifested in employment, salary, occupation category, promotion space, marriage and childbearing, etc.

a) Employment discrimination. Some employers will explicitly require that only men be recruited, or exclude women from recruitment for gender reasons under the guise of some unreasonable

reasons. In addition, when major public emergencies such as COVID-19 pandemic occur, women's income stability is relatively weaker and they face higher occupational risks.

b) Wage discrimination. This kind of discrimination is most obvious in the unequal pay for equal work between men and women, that is, male employees and female employees are in the same position or in the position of creating the same value, and female employees are often paid less than men. According to statistics, in 2020, the average salary of employed women in cities and towns in China is 6,847 yuan, which is 3/4 of the average salary of men.

c) Discrimination by occupational category. Leadership positions, positions with higher technical requirements and scientific research positions in some units tend to hire men and even exclude women. As a result, this biased atmosphere has forced many outstanding female science and engineering graduates to switch to other industries such as catering, education and social welfare.

d) Promotion discrimination. Compared with men, the proportion of women in managers, especially senior managers, is obviously lower.

e) Discrimination in marriage and childbearing. Because female workers have to bear more reproductive responsibilities, their working time is relatively reduced, especially during pregnancy and maternity leave, female workers even leave their jobs, which depreciates their existing work experience and skills and reduces their labor efficiency. Therefore, in order to reduce costs, employers often hire fewer or no women who have not given birth and plan to give birth again.

2 Case Study

2.1 Analysis of the Differences of Female Employment Discrimination between Developed and Underdeveloped Regions in China

The research objects of this paper are working women in Shenzhen and Guiyang, Guizhou Province, excluding unemployed women. The electronic questionnaires were collected in anonymous form, and 200 copies were distributed and 183 copies were effectively collected in Shenzhen. Guiyang distributed 200 copies and recovered 179 effective copies. By comparison, it is helpful to understand what new challenges women in developed and backward areas are facing in the workplace under the comprehensive two-child policy.

2.1.1 Impact on entry

Job hunting pressure increases. Most respondents in Shenzhen and Guiyang believe that the two-child policy will make it more difficult for women to find jobs, of which 57.53% and 64.78% respectively believe that the impact is profound; Only 3.5% and 2.33% believe that the implementation of the two-child policy has no impact on women's job hunting. In addition, respondents generally believe that this policy has the greatest impact on employees of enterprises, and it shows that employers have a high proportion of different treatments for women, among which the proportion of respondents in Guiyang who think there is discrimination is much higher than that in Shenzhen. The reason is that the post nature of enterprise employees leads to their studios being malicious, and some units will make various regulations on attendance rate, thus affecting personal performance and year-end rewards. Therefore, if female employees in enterprises have family planning, it will have a greater negative impact on their career development and income sources.

In addition, there are still serious gender discrimination in the labor market. Although employers do not explicitly refuse to hire women when recruiting, they will secretly do so, which is obviously biased towards men, mainly due to the hidden job-seeking pressure brought by

childbirth to woman-211 respondents were asked by employers about their willingness to have two children. It can be seen that employers decide the employment of women by their willingness to have two children, which sets an invisible threshold for them to achieve the first step of employment. Compared with men, employers are too strict in recruiting female employees, which means that women are at a disadvantage. Compared with Shenzhen, women in Guiyang are facing more serious job-seeking pressure and more employment discrimination.

2.1.2 Impact on promotion

It is difficult for women to have sustainable career development after giving birth. According to the survey, there are more and more women in the middle or high level, but most of them have a lower employment level. Even 13.45% of the respondents in Shenzhen said that they are often forced to transfer their posts by enterprises due to fertility reasons, especially in Guiyang. Because of the vacancy caused by female fertility, the employer must find someone to replace the original position or cancel the position directly. After a period of blank time in the workplace, women will have a series of conditions, such as reduced work ability, disjointed work progress and high mental stress. Therefore, enterprises will take compulsory post transfer or excuse to expel women to maximize their interests, while ignoring the protection of women's rights and interests. This also shows that the implementation of the "comprehensive two-child" policy makes it more difficult for women of childbearing age to be promoted generally, and the inequality of career promotion opportunities will increase with the rise of women's hierarchy, which will directly affect women's economic status and labor participation rate.

2.1.3 Universality of rights protection

When employment is discriminated against because of fertility problems, 36.32% and 26.39% of Guiyang respondents are more inclined to "change their work units or find other jobs" and "accept lower wages to keep their job opportunities" than most Shenzhen respondents who choose to use legal weapons to protect their legitimate rights and interests.

2.2 General Cause Analysis

In terms of legislation and labor inspection, Although China's existing anti-employment discrimination provisions are scattered in the Constitution, the Law on the Protection of Women's Rights and Interests, the Labor Law, the Labor Contract Law and the Employment Promotion Law, However, these provisions on discrimination against women in the workplace still remain at the principle and superficial level, lack of uniform legislation, difficult to implement, and have not yet issued a special anti-employment discrimination law and set up an authoritative anti-employment discrimination agency.

In the aspect of judicial relief, there are problems in mediation subject, rules and personnel quality. Specifically, as a statutory mediation organization, the enterprise mediation committee should be a third-party organization independent of enterprises and workers; However, in fact, most of the main members of the enterprise labor dispute mediation committee are managers of enterprises, and the funds also come from enterprises. Therefore, the adjustment subject itself does not have neutrality. At the same time, the staff of most mediation organizations have low professional quality and lack of relevant specific training. In addition, different from arbitration and litigation, there are no specific procedural rules and substantive rules in labor dispute mediation, which also leads to the lack of fairness in labor dispute mediation. Moreover, at present, employment discrimination is not an independent cause of action, and many local courts have not set up effective specialized labor courts.

In terms of family welfare policy, due to physiological differences and long-term social division of labor, women need to bear more family responsibilities. Under the comprehensive two-child policy, female workers have to go through two pregnancies and childbirth, so their work continuity, working hours and work efficiency will be reduced. However, the current family welfare policies on paternity leave, parental leave and flexible working system are imperfect, which aggravates the employment discrimination against female workers.

2.3 Analysis of the causes of differentiation

There are also some differences in social and cultural environments under different levels of development. On the whole, In the process of spiritual and cultural construction, the promotion of women's work concept is slightly weak, especially in underdeveloped areas, where women's own concept of equality is relatively weak, and employers' concept of discrimination is also stronger. It is necessary to further eliminate the existing gender prejudice, build an excellent work culture environment for them, and then lay the most solid foundation for their fair work.

2.4 The impact of the "comprehensive two-child" policy on women's employment discrimination

The implementation of the comprehensive two-child policy aggravates women's employment discrimination and expands the scope of women's employment discrimination. Regarding maternity leave, it is generally stipulated that female employees enjoy 98 days of maternity leave, of which 15 days can be taken before childbirth. With regard to paternity leave, the minimum period is 7 days and the maximum period is 1 month. According to the above comparison, employers intuitively think that the economic cost and time cost required to hire male are less, so in order to maximize benefits, employers will consider female positions again and again. In the first step of women's employment, that is, when applying for an interview, the employer will take some measures, which virtually raises the threshold of women's employment, or the occupation tends to recruit men. For employed women, because of the fertility problem, the employer's resources for cultivating women will decrease, which will lead to the reduction of women's promotion opportunities and bring some obstacles to women's career development. At the same time, because employers will discriminate against women themselves, it deepens the unequal treatment of women, such as unequal pay for equal work between men and women, and only a few women are in the executive ranks.

3 Recommendations

We can learn from the experience of the United States, Germany, Britain and Japan in opposing gender discrimination against women in employment.

3.1 Legislation

a) Improve the legislation guaranteeing women's employment in various regions, especially in underdeveloped areas, It is clear that both sexes have fair rights and interests in the political, cultural, educational and cultural fields. Draw up rules and regulations, define gender discrimination as illegal, discuss the problems existing in the process of job advertisements, promotion benefits and maternity protection in China, and build sustainable and feasible rules and regulations. For example, improve the Equal Pay Law. Although Chinese law stipulates that men and women receive equal pay for equal work, it does not publicly disclose the wage requirements of employees, so it is difficult for workers to know whether they receive the same salary while doing the same work as themselves in reality. Another example is to improve the Labor Contract

Law and give dismissal protection to pregnant women.

b) Promulgating the Anti-Employment Discrimination Law, which provides relevant provisions on the concept, main points and forms of employment discrimination, as well as the legal responsibilities for violating the Employment Discrimination Law, and continuously expands the scope of employment gender discrimination and refines regulations with the development of society. For example, we can refer to the relevant laws of the United States: the Employment Age Discrimination Act of 1967 protects people over 40 years old from age discrimination; The Pregnancy Discrimination Act, 1978, which included the period of pregnancy as a gender-based discrimination and ensured the protection of pregnant women; Thus, the negative impact of the "comprehensive two-child" policy on employment and re-employment of pregnant Chinese professional women is alleviated, and their equal employment opportunities and employment treatment are guaranteed.

c) Establish a flexible working system so that employees can arrange their working hours reasonably according to their own needs, and reduce the conflicts between workers' family and work. Referring to the relevant experience of Germany, the flexible working system can be roughly subdivided into four categories:

① The mode of working on demand, that is, the shortest working hours of employees per week or day are agreed in the labor contract in advance, and on this basis, the employer can arrange the solid working hours of employees according to the work needs;

② The mode of overtime work on demand, that is, after determining the working hours of employees, employers can arrange employees to work overtime according to actual needs, but limit the total amount of overtime work;

③ The mode of sharing jobs, that is, two or more part-time employees share the specific work content and time of a job, and if one of the employees cannot go to work, it will be replaced by other "sharers";

④ Annual total working time mode, that is, the employee and employer agree on the total working time, but the specific working time arrangement is uncertain.

3.2 Labour Inspection

Establish a special anti-employment discrimination agency like the Equal Employment Opportunity Commission (EEOC) in the United States. Compared with the judiciary, this institution can be more flexible, time-saving and effective in supervising and managing the implementation of the legal system and the complaint process of various discrimination cases, thus saving the economic cost and time cost of victims. At the same time, it generally resolves disputes by such modest means as mediation, after privately investigating and accurately assessing allegations of employer discrimination covered by the law; If it is impossible to mediate the contradictory parties, they have the right to bring a lawsuit. The members of this institution are mainly composed of government cadres, law commissioners, enterprise representatives and other professionals, which can provide efficient consultation and solutions for employment discrimination cases with professional status.

3.3 Judicial Remedies

a) Establish a relief model of separation of adjudication and employment discrimination as an independent cause of action. We can learn from the Employment Tribunal Act of 1996 to set up special employment tribunals and employment appeal tribunals, and set up institutions similar to the Equality and Human Rights Commission (EHRC) in Britain to promote and protect everyone's

right to equal opportunities in the workplace as stipulated in the Act.

b) Establish the rules of inversion of burden of proof in labor litigation, and support the compensation for mental damage in employment discrimination cases. We can learn from the experience of the United States. Chinese judicial departments require relevant enterprises or institutions to implement employment discrimination relief and compensate victims of discrimination. The type of remedy depends on the discriminatory act and its impact on the victim, and the relevant remedies include compensatory damages and punitive damages. For example, if a person is not selected for a job or promotion because of discrimination, the relevant remedies include the allocation in the job and/or the remuneration and benefits that the person should have received.

3.4 Family Welfare Policy

a) Increasing the coverage of the maternity insurance system, especially with regard to the welfare of the female workforce. China's maternity insurance system is characterized by fragmentation and small coverage. In addition, there are great differences in the payment level and treatment of maternity insurance in different regions. Therefore, in order to effectively protect the medical needs and basic living treatment of childbearing women and families, it is necessary to improve the payment level of maternity insurance treatment and make its content and payment scope clear and transparent.

b) Enhance male reproductive responsibilities and improve the male paternity leave system. Maternity leave, maternity allowance and paternity leave allowance vary from region to region. Regarding maternity leave, it is generally stipulated that female employees enjoy 98 days of maternity leave, of which 15 days can be taken before childbirth; With regard to paternity leave, the minimum period is 7 days and the maximum period is 1 month. Therefore, from the time point of view, employers generally believe that men put into work time and can create more value than women. According to the experience of sharing parental leave in Britain, the Chinese government should appropriately extend the paternity leave for men and improve the paid maternity leave system for women, so as to make the leave time of childbearing parents more flexible. This can not only balance the working time of men and women and reduce the probability of reproductive discrimination, but also strengthen men's sense of family responsibility, and change the content of fatherhood from the previous perspective of economic support to full participation in family roles, thus reducing women's family pressure.

(c) Change the cost of maternity insurance for women to a model shared by the government and enterprises. In promoting women's equal employment, China lacks incentive policies for enterprises. If we only emphasize the responsibilities and obligations of employers, the phenomenon of gender discrimination in employment will only become more and more prominent with the increase of employment cost burden of enterprises. Therefore, the Chinese government needs to increase subsidies to enterprises, reduce their employment costs and reduce their economic burden, so as to slow down the exclusion of employers from women and have a stronger willingness to hire female workers.

3.5 Public Child Care Services

a) Set up a platform for women's employment guidance, and set up psychological counseling and re-employment skills training institutions for women after giving birth. Because some women will have negative emotions such as depression after giving birth, and if these emotions are not intervened and combed in time, women's physical and mental health and re-employment will face

new challenges. In addition, after giving birth, women will have problems such as employment information gap and reduced working ability, and such institutions can better provide more professional employment assistance for women, and promote women to actively and smoothly enter the labor market at all stages.

b) Adding public child care centers, paying attention to the quality of education and safeguarding children's health and safety, and appropriately adjusting the expenses of such centers, so that women can devote themselves to the workplace more attentively.

4 Conclusion

At present, there are some problems in China's female employment discrimination, such as over-protection and over-principle legislation. The duty of labor inspection is unclear and there is a lack of professional supervision institutions; Judicial relief rights protection cycle is long, procedures need to be improved, and relief costs are high. However, the implementation of the "comprehensive two-child" policy has further worsened the employment situation of Chinese women in the workplace. Therefore, how to eliminate gender-based employment discrimination is an unavoidable and urgent problem to be solved in safeguarding workers' rights and interests and building harmonious labor relations. By comparing the discrimination of women in the workplace in developed and underdeveloped areas of China under the background of the "comprehensive two-child" policy and drawing lessons from the advanced experience of other countries in this regard, the following suggestions are summarized:

- a) In terms of legislation, a unified Anti-Employment Discrimination Law was promulgated to clarify the concept of employment discrimination and its constituent elements, especially highlighting the content of female employment discrimination;
- b) In terms of labor inspection, it is necessary to clarify the scope of supervision, establish a scientific system and strengthen supervision;
- c) In the aspect of judicial relief, we should establish a relief mode of separation of adjudication and trial, take employment discrimination as an independent cause of action, establish the rules of inversion of burden of proof in labor litigation, support employment discrimination cases to file compensation for mental damage, and establish a public interest litigation system for employment discrimination;
- d) In terms of family welfare policy, extend maternity leave, add paternity leave and parental leave, change the payment mode of maternity insurance and the payment mode of maternity insurance benefits, raise the payment standard of maternity allowance, and establish flexible working system;
- e) The government should take active responsibility, vigorously develop young public nurseries and strengthen the supervision of private nurseries and kindergartens.

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Questionnaire

(Chinese Version)

第一部分 基本信息

- 1.你的性别
 - A. 男
 - B. 女
- 2.你的就业现状
 - A. 未就业过
 - B. 正在工作中
 - C. 已失业
- 3.你的职业
 - A. 教师
 - B. 公务员
 - C. 农民
 - D. 企业职工
 - E. 个体工商户
 - F. 学生
 - G. 其他
- 4.你的工作年限
 - A. 1年以下
 - B. 1-3年
 - C. 4-6年
 - D. 7-10年
 - E. 10年以上
- 5.你的生育现状
 - A. 已经生育一个孩子
 - B. 已经生育两个孩子
 - C. 未生育

第二部分 二孩政策对女性在职场上的影响

- 1.二胎政策对导致女性求职难度加大的影响程度
 - A. 影响程度较大
 - B. 影响程度较小
 - C. 没有影响
- 2.二孩政策下常见的女性不平等的就业现象（多选）
 - A. 企业招聘倾向于男性
 - B. 被强制调岗
 - C. 企业以生育为借口开除女性

- D. 女性被迫更换另一份工作
 - E. 同等条件下晋升机会和受培训机会减少
 - F. 其他
- 3.哪个职业受二孩政策影响最大
- A. 教师
 - B. 公务员
 - C. 农民
 - D. 企业职工
 - E. 个体工商户
 - F. 学生
 - G. 其他
- 4.为什么上述职业受二孩政策的影响最大?
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- 5.你在求职过程中有无遭受过性别歧视
- A. 有受到过多次歧视
 - B. 有受到过歧视但次数较少
 - C. 没有受到过歧视
- 6.你是否被用人单位询问过生二孩意愿
- A. 是
 - B. 否
- 7.你所在的工作单位中大多女性的职位等级分布
- A. 高薪岗位或高级管理层
 - B. 中层工作者
 - C. 底层劳动力
- 8.你所在的工作单位中的女性因生育原因被强制调岗的现象
- A. 经常出现
 - B. 偶尔出现
 - C. 从未出现
- 9.你所在的工作单位中经历生育或再生育后的女性的主要工作状况（双选）
- A. 继续生育前的工作
 - B. 由于原工作被他人顶替而接手其他工作
 - C. 离开原工作单位，另寻其他工作
 - D. 辞职后成为全职母亲
 - E. 其他

第三部分 遭受歧视时的维权情况

- 1.你身边的朋友在因生育受到就业歧视时选择的做法（双选）
- A. 用法律武器保障自己的合法权益
 - B. 到有关部门投诉该单位
 - C. 更换工作单位或寻找其他工作
 - D. 接受降低薪资来保住自己的工作机会
 - E. 没考虑过这个问题
- 2.你如果因生育受到就业歧视时的做法
- A. 用法律武器保障自己的合法权益

- B. 到有关部门投诉该单位
 - C. 更换工作单位或寻找其他工作
 - D. 接受降低薪资来保住自己的工作机会
 - E. 没考虑过这个问题
3. 你希望国家建立或完善一系列哪些方面的法律法规（多选）
- A. 就业保障方面
 - B. 女性权益保障方面
 - C. 二孩生育保障方面
 - D. 性别平等方面
 - E. 公共幼托服务方面
 - F. 其他

(English Version)

Part I Basic Information

1. Your gender
 - A. Male
 - B. Women
2. Your employment status
 - A. Unemployed
 - B. In progress
 - C. Unemployed
3. Your career
 - A. Teachers
 - B. Civil servants
 - C. Farmers
 - D. Employees of Enterprises
 - E. Individual Businesses
 - F. Students
 - G. Other
4. How many years have you worked
 - A. Less than 1 year
 - B. 1-3 years
 - C. 4-6 years
 - D. 7-10 years
 - E. Over 10 years
5. Your fertility status
 - A. Has given birth to a child
 - B. Has given birth to two children
 - C. Non-fertility

Part II the influence of the two-child policy on women in the workplace

1. The influence of the two-child policy on the difficulty of women's job hunting
 - A. Greater impact
 - B. Less impactful
 - C. No impact

2. Common unequal employment of women under the two-child policy (multiple choices)
 - A. Recruitment in favor of men in enterprises
 - B. Forced post transfer
 - C. Enterprises expel women on the pretext of childbirth
 - D. Women are forced to change jobs
 - E. Reduced opportunities for promotion and training under equal conditions
 - F. Other
3. Which occupation is most affected by the two-child policy
 - A. Teachers
 - B. Civil servants
 - C. Farmers
 - D. Employees of Enterprises
 - E. Individual Businesses
 - F. Students
 - G. Other
4. Why are the above occupations most affected by the two-child policy?

5. Have you ever been sexist in your job search
 - A. Multiple cases of discrimination
 - B. Previous but less frequent discrimination
 - C. No discrimination
6. Have you been asked by the employer about your willingness to have two children
 - A. Yes
 - B. No
7. Job level distribution of most women in your work unit
 - A. High-paying jobs or senior management
 - B. Middle-level workers
 - C. Bottom workforce
8. The phenomenon that women in your work unit are forced to transfer jobs due to childbirth
 - A. Frequent occurrences
 - B. Occasionally appearing
 - C. Never appeared
9. The main working conditions of women who have given birth or re-given birth in your work unit (double choice)
 - A. Continuation of pre-childbearing work
 - B. Taking over other jobs because the original jobs were replaced by others
 - C. Leaving the original work unit and looking for another job
 - D. Resignation as a stay-at-home mother
 - E. Other

Part III Rights Protection in Case of Discrimination

1. What your friends choose when they are discriminated against in employment because of childbirth (double choice)
 - A. Protecting one's legitimate rights and interests with legal weapons

- B. Complain to the relevant department about the unit
 - C. Changing work units or finding other jobs
 - D. Accept lower pay to keep your job
 - E. Haven't thought about it
2. What you do if you are discriminated against in employment because of childbirth
- A. Protecting one's legitimate rights and interests with legal weapons
 - B. Complain to the relevant department about the unit
 - C. Changing work units or finding other jobs
 - D. Accept lower pay to keep your job
 - E. Haven't thought about it
3. What kind of laws and regulations do you want the country to establish or improve (multiple choices)
- A. Employment Security
 - B. Protection of Women's Rights and Interests
 - C. Maternity protection for two children
 - D. Gender Equality
 - E. Public Child Care Services
 - F. Other