

China's New Civil Code Cracks Down on Sexual Harassment and Protects Individual Privacy Rights

Article By:

Bonnie Puckett

Skye Hao

Amanda T. Quan

Amidst the pandemic, China introduced a civil code—its first-ever compilation of civil laws detailing the rights of private parties. The code's attention to sexual harassment provides another important reminder that even as workplaces focus on virtual workforces, social distancing, and other novel legal issues, workplace respect and inclusion remain essential to a well-functioning workplace.

In China, as in many countries in the region and worldwide, the rise of the [#MeToo movement](#) confirmed a significant pattern of undetected sexual harassment. A defining moment in China's #MeToo movement involved a university student's public accusations against a prominent faculty member in 2018, after which the university removed the professor from his teaching position. Other Chinese women quickly joined the movement, speaking out about sexual harassment committed by other respected male figures.

While Chinese law had long prohibited sexual harassment, its legislation was generally confusing about what behavior constituted harassment—and the absence of a clear liability framework had sometimes left victims and employers uncertain about whether a legal violation had occurred, making it difficult for victims to report harassment and employers to respond to it. As employment terminations are subject to high standards under China's Labor Contract Law (misconduct giving rise to an employment termination must be both egregious and demonstrated through a fair process and clear evidence, with unfairly dismissed employees able to claim reinstatement through a simple labor arbitration process), employers faced with credible claims of harassment had to choose between paying substantial settlements or facing the risk of forced reinstatement.

On May 28, 2020, China took steps to demonstrate a commitment to harassment-free workplaces when its National People's Congress of the People's Republic of China issued as part of its first civil code, Article 1010, which clarifies what conduct may be considered to be harassment, and establishes a civil liability framework to hold harassers accountable. Employers may take note of a few key points:

1. Sexual harassment may occur through words, text, images, physical conduct, or other means
2. Victims may bring claims for civil liability against perpetrators. (The manner of bringing claims and potential damages are not specified.)
3. Employers must take steps to prevent harassment, such as establishing and implementing appropriate reporting and investigating mechanisms.

Article 1010 acknowledges explicitly the role that abuse of power and influence plays in enabling sexual harassment—a remarkable development, particularly given the extent to which the concept of *guanxi* (??, best interpreted as “networks” or “connections”) is embedded in Chinese business culture.

Even though Article 1010 does not lay out specific enforcement guidance, its promulgation marks the first time that employers in China have been required to make affirmative efforts to prevent and address sexual harassment in the workplace. The provision serves as a powerful symbol to harassment victims. Employers may face civil liability for their failure to do so, although it remains unclear whether and how employees can bring private actions against employers. Given that employers must now take preventative steps, neglecting this statutory duty may also constitute a violation of China Labor Law Article 92, the penalties for which can include an order to rectify, financial penalties, or even suspension of operations.

In light of Article 1010, employers with employees and operations in China may want to review their disciplinary regulations and respectful-workplace policies, particularly given that an employer’s failure to observe expected formalities may be construed against it should an employee challenge a termination of employment. For example, employers in China are expected to cite internal policy provisions and/or contract clauses when imposing discipline or employment terminations for cause, and proper policy implementation requires pre-consultation with employee representatives. The new law provides employers in China with an opportunity to implement and enforce policies detailing prohibited behaviors, disciplinary regulations for violations, details on the investigation process, and effective reporting channels.

In addition to the significant developments in China’s sexual harassment law, the new civil code also includes an entire chapter addressing the right to privacy and protection of personal information. This is the first time in China’s history that individual privacy rights have been addressed in this manner. Under the civil code, individual privacy is defined as “private space, private activities and private information which a natural person is unwilling to be made known to another person, and that no organization or individual may infringe the privacy rights of other persons through spying, intrusion, or leakage.”

© 2025, Ogletree, Deakins, Nash, Smoak & Stewart, P.C., All Rights Reserved.

National Law Review, Volume X, Number 241

Source URL: <https://natlawreview.com/article/china-s-new-civil-code-cracks-down-sexual-harassment-and-protects-individual-privacy>