

The Development and Influence of Western Feminist Theory on the Laws Related to the Protection of Women's Rights and Interests after the Establishment of New China

Ruitong Zhang*

Department of Social Science, Asbury University, Wilmore, Kentucky, 40390, United States

*Corresponding author: ruitong.zhang@asbury.edu

Abstract. The primary research purpose of this paper is to observe the historical process of western feminist theory from entering China to history. Under the influence of Western feminist theories, Chinese scholars perfected and created Chinese women's protection laws and changed social gender issues. This article researches the history of feminist development in China and modern Chinese women's law. The paper analysed the laws related to protecting women's rights and interests in China through the Chinese perspective of Western feminism. This paper aims to explore the development and protection of women's rights and interests in China and then discuss how to optimise and practice feminism-related theories and defend women's rights and interests in China from a legal perspective. The research results show that the western feminist theory has an inseparable enlightenment and construction effect on the Chinese women's protection law. The awakening of China's feminist awareness and China's protection of it are both showing a positive upward trend. The Chinese women's protection law promotes gender equality and comprehensive development of women, raises the importance of all sectors, and strengthens the protection of women's rights and interests.

Keywords: Feminism; Chinese Women's Protection Law; Marxist feminism; New China.

1. Introduction

China faced military and political difficulties both at home and abroad in the late 19th and early 20th centuries. Due to commercial openings prompted by the opium wars, foreign philosophies entered China. Men and women of education living in exile were compelled to start revolutionary groups due to intense political struggle. Western missionaries also brought a sense of human rights and democracy to China, which was very shocking to the society of the time, especially the contempt for women, which was most in conflict with the doctrine of human rights at the time. External forces were weak in changing patriarchy, and even the use of force had little effect, as the idea of male superiority over females was deeply entrenched and could not be changed overnight.

From the perspective of changing the country's fate, Liang Qichao advocated women's education and emancipation. In the early days of the Chinese feminist movement, the New Women's Movement emerged, advocating the ideas of female education, gender equality, and freedom from Confucianism. It also included women writers who also expressed feminism through their literary works, including the Women's Revolutionary Army on the battlefield and the rising of women's voices in political circles.

Liang Qichao was one of the earliest leaders of feminism in China. He published books on feminism in Chinese society in his time, such as *Lun Nvxue* (Of Female Education), and introduced a groundbreaking view of women. Kang Youwei was the founder of the modern women's liberation movement. He addressed the traditional inequality of women in society, for example, the custom of foot-binding, the low status of women in society and the family, and the criticism of the female body.

Many researchers are focusing on the development of the feminist movement in China and studying the social voices of women who think that the new generation of Chinese feminist activists represented by Lupin focuses on social media platforms that popularise the nature of feminism and women's voices in society. She is a Chinese feminist activist and a promoter of the new generation of feminist movements in China. She is the lead author of the newsletter of "Women's Voices," founder

of "Feminist Voices," a writer of current commentaries, and a scholar of gender studies. Her focus is on spreading the idea of Chinese feminist activism through lectures and exhibitions, working with international feminists, and making initial attempts to raise funds for Chinese feminist activism in the United States.

This paper aims to study how women's rights in China have been continuously promoted and protected with the help of laws. It also aims to improve the law to bring Chinese women closer to the concept of gender equality and reduce the impact of gender bias and discrimination from a patriarchal society. It is also hoped that the international community will recognise the progress and breakthroughs of Chinese women's groups in feminism by improving women's protection laws in modern China.

This paper aims to explore the protection and promotion of women's rights and interests in China and then discuss how to best utilize and put feminism-related theories into practice while defending women's rights and interests in China from a legal standpoint in order to analyze the laws related to the protection of women's rights and interests in China from the Chinese perspective of Western feminism. The Chinese Women's Protection Law increases the defense of women's rights and interests while also advancing gender equality and the full development of women.

2. Background Information

The emergence of systematic feminist thought and theory in China came with the Xinhai Revolution, which overthrew the Qing Dynasty and ended the 2,132 years of imperial rule that had begun with the Qin Dynasty in 221 B.C. It ushered in a new era of democracy and republicanism and spread the concept of democracy and republicanism. The revolution not only brought about the emancipation of the 20th century but also prohibited backward ideas and practices, such as foot-binding for women, the concept of virtuous wife and mother (gender role), gender education inequality, and child brides. It also began to introduce Western political institutions and more Western ideas and theories. It opened an era of great change that unfolded for the Chinese feminist movement.

3. Early Chinese Feminist Movement

The Anthology of the Studies on Chinese Women's Movement has addressed that Feminist thought during the Xinhai Revolution was influenced in two ways. Both the League and the bourgeois revolutionaries consciously saw women's emancipation as an essential part of the composition of the new society. One of them was the influence of democratic thought. To further the notion of equality between men and women in society, the doctrine of inherent human rights was introduced. As part of his civil rights philosophy, Sun Yat-sen promoted equal rights for men and women and included provisions for them in the League's political agenda. The concept of male superiority over female superiority has been overturned for thousands of years. The second was the introduction of Western feminist ideas and writings. Such masterpieces of Western feminism as Spencer's *The Rights of Women* and J. S. Mill's *On the Suppression of Women*, were introduced and influenced the intellectual circles of the time. Society also began to criticise and reflect on the feudal ideology of "virtuous wife and good mother," known as the gender role theory in contemporary society [1].

Sun Yat-sen was an early pioneer of women's rights and an intellectual who stayed in foreign countries. Issued the "Great Presidential Decree of the Ministry of Internal Affairs to the provinces to advise against foot-binding" in 1912 when the Provisional Government of Nanking was established, mentioning the need to remove the evil practice of foot-binding and strictly prohibiting the feudal custom of mutilating limbs and veins. In 1916 and 1928, Sun Yat-sen issued several circulars prohibiting foot-binding before it was gradually eliminated from the Chinese landscape. In the same year, Dr Sun Yat-sen pointed out in his "Order forbidding the sale of human beings" that due to the lack of political discipline in the Qing Dynasty, people's livelihood was haggard, and many wives and daughters were sold as concubines in the society. As a result, the role of women in society was

severely underprivileged, and the status of women was not valued. From this order, one can see that Sun Yat-sen was firmly opposed to the sale of women, the taking of concubines, and the slave system and put it into practice [2].

Starting in 1915, a radical anti-feudal ideological movement, the early New Culture Movement, which advocated democracy and science, took place. In September 1915, Chen Duxiu, a Chinese revolutionary socialist, founded the magazine *La Jeunesse* (The New Youth) in Shanghai, and thus the New Culture Movement began. This movement shook the dominance of the long-standing feudal orthodoxy, awakened a new generation of youth, and baptised Chinese intellectuals, especially the youth, with Western democratic and scientific ideas, thus bringing new ideas and various social issues to the fore. The issue of women's emancipation was naturally a significant concern. Under the impetus of the magazine and many international students, intellectuals, and revolutionary socialists, feminist ideas became active again. Feminist thought became active again in China and developed greatly. At this time, Western feminism was introduced in large numbers, along with the doctrine of human rights. For example, in the first wave of feminism in the West, the feminist movement aimed to fight for women's right to vote in the United States. Chinese women called for equality in power and women's participation in governance. Along with this came the diversification of women's professional activities, equality in access to knowledge and education, the opening of separate schools for boys and girls, the oppression of women's mental shackles by purity, and the autonomy of marriage. Under the guidance and advocacy of the culture of the time, women began to be regarded more as independent individuals with their own personalities and not as accessories of men, similar to the status of prostitutes, enslaved people and maids, and concubines of the time [3].

4. Marxist Feminism in China

First, Marx and Engels contended in writings from as early as 1848 that the creation of private property and the subsequent emergence of a class-based society, rather than ideas in men's minds, was to blame for women's subjugation. For them, the struggle for socialism—the fight to abolish all forms of class society—was inseparable from the struggle for women's freedom [4].

In his book *Marx's and Engels' views on women's emancipation*, Chris Harman explains. This new type of feminism is the product of a combination of feminist and Marxist thought, adhering to historical materialism and using the Marxist theory of women's self-emancipation as the methodological cornerstone. Marxist feminism believes that women's emancipation can only be achieved through the abolition of the capitalist system, where they believe that most women's labour is unpaid. While Marxism is concerned with the liberation and development of the oppressed classes and nations, it seeks justice and equality for society as a whole. The emancipation of working women at the bottom of the social ladder is undoubtedly within its horizon. The emancipation of women requires not only spiritual freedom but also material freedom.

Marxism argues that patriarchy allows gender to determine the division of work and prevents women from receiving equal pay and treatment. The goal of gender equality requires that women be allowed to enter more jobs and no longer depend on men for their survival in society. Women had many unpaid jobs in society, and childbirth, childcare, and housework had become a requirement in society whether a woman was "qualified."

Women play a significant role in childbirth or reproduction and are essential in the development and transmission of society. Women need more understanding and respect for childbirth rather than recognising the process as a natural part of a woman's job. Respecting and protecting women's rights and interests is an essential sign of social progress and can better promote gender equality and the liberation of oppression.

With the rapid development of society, Marxist feminist ideas have been spreading freely. The Chinese government has also been using the Marxist view of women as a guiding ideology with its theoretical and practical basis, combined and integrated with the current Chinese reality. Socialism

with Chinese characteristics Women's studies have been developed and integrated under the cornerstone of Marxist feminism.

Based on Marxism, the essence of Marxist feminism is the pursuit of equality and justice, the correct dissemination of feminist ideas and values, and the provision of more opportunities for women to express their voices. Integrating women's consciousness into all fields will promote the sustainable and virtuous development of feminism in China. In promoting the development of feminism and cultivating gender equality awareness, it is also necessary to avoid the emergence of extreme feminism. There should be changes of the stereotypical image of feminism and reconstruct the appearance of contemporary women with Chinese characteristics [5].

5. Legal Protection for Women in China

Before the founding of New China, the family was traditionally a place where men were superior to women, where the patriarchal rule was distinctly reflected. The social status of Chinese women was bound by the feudal marriage system and the deep-rooted gender discrimination that women were subjected to. The feudal marriage system was intertwined with the feudal, patriarchal system and feudal ethics and morality, which hindered the progress of society. It also led to a situation where the treatment and welfare of men and women in society were widely divergent.

The Marriage Legislation was the first fundamental law passed and put into effect following the creation of New China on May 1, 1950, before the New China Women's Protection Law. This law was passed in order to create gender equality in the home, abolish the practice of women being subordinate to their husbands, fathers, and sons, and provide women with the same civic rights as men. The future law protecting women was also made possible thanks to the marriage law [6].

From its foundation to the present, New China has actively promoted gender equality. The first constitution created at the early stages of the creation of New China explicitly emphasised the idea of gender equality, stipulating that woman had the same rights as man in all spheres of social, political, economic, cultural, and familial life.

Articles 48 and 49 of the PRC Constitution demonstrate how vital it is to Chinese society to protect women's rights and interests. Women and men have the same rights as males, according to Article 48. It also prohibits employment discrimination against women, arranged marriages, young marriages, property rights, and inheritance rules. Women and men enjoy equal rights in all domains of the People's Republic of China, including family, political, economic, cultural, and social rights. The gender difference between men and women cannot be used to construct two unique income payout systems. Ensure that men and women are compensated equally for equal effort [7].

Since the founding of New China, the Communist Party of China has attached importance to elevating political ideas on gender equality to the national will, establishing the constitutional principle of gender equality, protecting women's rights and interests through legislation, and elevating the status of women. Since the reform and opening up, the legal system and institutional mechanisms for safeguarding women's rights and interests have been continuously established and improved. The central government is also formulating and implementing a national planning outline to promote women's development. The five-year plans for national economic and social development include women's development, and a sound working mechanism led by the government, with the cooperation of multiple departments and the participation of the whole society, has been established to target gender-equal development and women's development.

The 37th session of the 13th National People's Congress' Standing Committee agreed to accept the newly updated legislation on the Protection of Women's Rights and Interests, which will take effect on January 1, 2023. The newly amended legislation on the Protection of Women's Rights and Interests reacts constructively to contemporary issues of violation of women's legitimate rights and interests in further education and work, property distribution, and personal rights.

According to the recently revised law on the Protection of Women's Rights and Interests, the State must take necessary steps to advance gender equality, and eliminate all configurations of

discriminatory practices against women, but rather prohibit women from being excluded from or restricted from exercising their legal rights and interests. All tiers of populist governments must prioritise and intensify the defence of women's interests and rights.

The newly updated legislation prohibits workplace gender discrimination, stating that the concept of equality between males and females shall be respected in progression, ranking appraisal of professional and technical titles and positions, and training and that women should not be discriminated against.

6. An Overview of Laws and their Developments in Relation to Women's Protection in New China

The Chinese government has always believed that the status of women's achievements marks the scale of the progress of the times and that the protection of women's rights and interests highlights the height of national civilisation. In recent years, the Party Central Committee has made a series of significant and far-reaching decisions and deployments. The level of women's education has been significantly improved. In 2020, the average number of years of education for people aged 15 and above will be 9.91, while the average number of years of education for women will be 9.59. The gender gap in compulsory education would be virtually eradicated, and female students will account for more than half of all undergraduate and university students. In recent years, women's education levels have consistently and progressively increased.

At the same time, the central government is also vigorously promoting the process of gender equality in China and opening up a broad path for the development of women's careers. Institutional protection has become more assertive. Women's participation in economic development has become more profound. Women account for more than 40% of all employed people in society, 55% of entrepreneurs in the Internet field, and 45.8% of science and technology workers in China in 2021 [8]. Gender discrimination in the workplace and pay inequity are also accompanied by a more robust rule of law system that allows women to contribute to China's economic and social development more steadily in the workplace.

The law against domestic violence, which came into effect on March 1, 2016, is also doing its best to protect women's safety. The publication of the law is a landmark law for Chinese women. Since its release, numerous amendments to the criminal law have strengthened women's protection and severely punished related crimes [9]. The publication of this law demonstrates that domestic violence is no longer relegated to a "domestic matter" in China but is a severe social problem. It declares that "the state prohibits all forms of domestic violence" and that when individuals are unable to protect themselves within their homes, the public authorities will protect the victims [10].

7. Conclusion

Throughout human history, women have been the creators of both material and spiritual civilisation and an essential force for social development and progress. The treatment and status of women in China were deficient in the past. Women were also subjected to various feudal ideologies that imprisoned their minds and bodies of women. Although this history of women's rights is so dark, as Chairman Mao famously said, where there is oppression, there is resistance. With the efforts of many pioneers in feminism and the opening of China's doors, Western feminism brought revolutionary changes to the lives and minds of women. The fusion of Western feminist theories with the social conditions of the time led to the germination of feminist ideas in China. The first marriage law passed in China provided a firm foundation for the future legal system. With the support of the Chinese government, a better legal system has been put in place to protect women's rights and interests.

Today in China, women have equal social status and more space for development. With the protection of national laws and the basic state policy of gender equality, they have become more

confident and active in various fields of society. China also draws on its experience to develop new theories and localised feminism. The new Chinese feminist form is more relevant to the current situation and can better develop feminist ideology. There will be adherence to the path of socialist women's development with Chinese characteristics, to the people-centred development ideology, and the deepening of reform and opening-up. Chinese society truly realises women's equality in promoting Chinese-style modernisation. China today cannot do without further implementation of the basic state policy of gender equality at the national level and effective implementation of the law on the protection of women's rights and interests. Promote advanced socialist gender culture.

References

- [1] Li Jingzhi. An Anthology of Research on the Chinese Women's Movement. Social Science Literature Press, 2011.
- [2] Cao Bihong. The world is public. China File Information, 2021, October 6. Retrieved from https://www.zgdazxw.com.cn/culture/2021-10/09/content_325934.htm [2022/12/5]
- [3] Ko, D. Cinderella's sisters: A revisionist history of Footbinding. University of California Press, 2007
- [4] Harman, C. How Marxism works. Bookmarks Publications, London, May 1979.
- [5] Gu Shanshan. The Enlightenment of Marxist Feminism to the Development of Chinese Women. Philosophy Development, 2022, 11(04): 698-703.
- [6] Chinese government website. Marriage Law of the People's Republic of China. Chinese government website 2005, May 5. Retrieved from https://www.gov.cn/banshi/2005-05/25/content_847.htm [2022/12/1]
- [7] Zhu Yu. (n.d.). Law of the People's Republic of China on the protection of women's rights and interests. China.gov.hk. Retrieved from https://www.gov.cn/guoqing/2021-10/29/content_5647634.htm [2022/12/5]
- [8] Ma Wenhua. Stimulating women's aspirations and blossoming brilliance - An overview of the development of women's career in the new era. China.gov.cn. 2022, August 30. Retrieved from: https://www.gov.cn/xinwen/2022-08/30/content_5707498.htm [2022/12/5]
- [9] Song Yan. Law of the People's Republic of China Against Domestic Violence (Presidential Decree No. 37). China.gov.cn. 2015, December 28. Retrieved from: https://www.gov.cn/zhengce/2015-12/28/content_5029898.htm (2022/12/6)
- [10] He Miao. Five years after the implementation of the law against domestic violence, outside intervention still needs to be improved - Society - Rule of Law. People's Daily Online. 2021, February 27. Retrieved from: <https://society.people.com.cn/n1/2021/0227/c1008-32038275.html> [2022/12/6].