

Advancing Legal Research on Gender Diversity in Chinese Corporate Leadership

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Abstract: At present, with the development of economic globalization, in order to create a better business environment and improve the efficiency of enterprises, the optimization of the gender structure of enterprise leaders has increasingly become our new focus of attention. The leadership composition of Chinese enterprises, whether state-owned or private, is still predominantly male, with significantly fewer female leaders than male. With relatively balanced education levels, women still seem to be excluded from the core power of management for some implicit reasons, making it difficult for them to participate in major decisions in an equal capacity. The purpose of this paper is to analyze the obstacles to women's access to leadership positions in enterprises and to propose legal regulation ideas for gender equality in China's workplace and the optimization of the gender structure of corporate leadership.

Keywords: gender equity, female leader, diversity, board structure, corporate law

1. Introduction

In order to increase gender diversity within companies and change the traditional leadership structure, which is full of male leaders and lacking other genders, many countries have planned and adjusted the proportion and weight of female leaders in corporate leadership. However, progress in increasing gender diversity in business has varied from country to country due to political factors, business traditions and gender culture.

By looking at the leadership members of the vast majority of SOEs and listed companies, it is clear that the leadership is still predominantly male, and female leaders do not seem to be common. Even with the increasingly balanced development of China's education level, it still seems difficult for a woman to occupy a place in the leadership of a company, and even when women are involved in the management of a company, they often take on the role of an "executive" rather than a "decision maker". They seem to be trusted to do the little things, but they are always excluded from the core rights of the company and cannot be the "helmsman" and "guide" of the company.

So the author tried to explore the reasons for the imbalance of gender diversity in leadership in Chinese companies, what is holding women back from becoming powerful leaders? What is holding back the advancement of gender diversity in Chinese corporate leadership? How can people address these issues in the future? Through literature research and comparative studies, the author may be able to obtain some legal regulations to change these situations.

2. The Value of Gender Diversity in Corporate Leadership

2.1. Improving the Economic Efficiency of Enterprises

Based on previous research, diversity is of great practical value in both education and business, and many past empirical studies have shown that diversity in race, gender, and other factors is effective in improving corporate effectiveness. Diversity of gender greatly broadens the ideas and potential of companies, and companies with diversity have a clear advantage in stock price, profit and product sales.

2.2. Building a Positive Corporate Image

Previous studies have shown that the presence of female board members has a dampening effect on internal irregularities, injustice and financial fraud [1].

Female board members also have a significant impact on corporate philanthropy and humanism [2], and companies with gender diversity tend to excel in philanthropy, resulting in a better public perception and many opportunities for promotional advertising.

2.3. Women's Unique Talents in Decision-making

Women are often perceived to be "attentive" and "cautious" as well as "kind" and "loving and compassionate." Past empirical studies have demonstrated that the participation of female board members in decision making has the effect of reducing the risk of failure [3, 4]. At the same time, different gender perspectives can bring new ideas to the company's decision making, and the collision of different thinking is precisely the important value of diversity.

2.4. Talent Cultivation and Future Development

Past studies have proven that female directors are more concerned about employee benefits [5], and the inclusion of female directors has a significant positive impact on the promotion of gender equality in the workplace [6] and the recruitment and cultivation of female talent.

3. The Dilemma We Face in Making Changes to the Gender Diversity in Leadership

3.1. Women Are Hindered in Their Career Development

3.1.1. Overburdened Family Responsibilities

From traditional social perceptions, it seems that the responsibility for childbirth and family care is mostly assumed by the women. People may hear statements such as "What children need most is their mother's company" and "housework is a woman's task". Are these statements correct? If the value of women's work is prioritized in domestic work, then the majority of women workers are expected to "balance work and household chores". The fact that a woman is required to work outside the home and also to take on domestic responsibilities will result in a large number of women having to leave the workplace to devote themselves more, if not exclusively, to the task of caring for their families.

This has led to the loss of many women's talents, and women in the workplace have to work harder to compete with their male counterparts for promotions. When some women finally make the hard work of gaining a place in leadership, they are often asked the classic question: how do you balance work and family? Male leaders, on the other hand, are almost never asked this question.

3.1.2. The Devaluation of Labor Due to Childbirth

Chinese law provides workers with the right to paid maternity leave, it also provides that companies may not discriminate against workers on the basis of gender. Based on this, there are many companies that circumvent the law, so many female employees are excluded hiring by many other reasons when they start applying for positions after graduating from universities. This is because the company fear that maternity leave for female employees will burden the production and profitability of the company [7]. Such a phenomenon not only reduces employment opportunities for female talent, but also contributes to the perception of gender discrimination and stifles many women in the workplace who could be excellent future leaders. At the same time, after women complete their maternity leave, some companies will reduce their original positions and salaries on the grounds that their ability to work has decreased as a result of their leave.

3.1.3. Leadership Trust Crisis of Female Directors

Due to some stereotypes, women are often perceived as "weak and timid", "tearful", "lacking in reason", and even in some regions, women are perceived as intellectually weak. In some areas, women are considered to be intellectually weaker than men.

Classical Chinese literature and mythology also often blamed the fall of kingdoms on the seduction of kings by famous beauties whose beauty deceived them and led them to desert the country. For example, people are familiar with Emperor Xuanzong of Tang Dynasty and his concubine Yang Guifei, Emperor Youwang of Zhou Dynasty and his wife Bao Si, etc. These goblin-like beauties are historically believed to be the cause of the fall of the kingdom. However, it is known very well that these beauties are only people who survive dependent on the emperor, they do not have the actual power to control the direction of the state, but the state's demise is attributed to her. So one can find that the traditional concept tends to define great heroes as men and attribute failure to women.

Reflecting on today, women in the workplace, after working exponentially harder to become leaders, still face distrust. This distrust can, on the one hand, prevent women from becoming truly powerful decision makers, and on the other hand, expose female leaders to a greater cost of failure than male leaders, as the accusations against her will come as flood once she becomes flawed. People's trust in her is shaky, and it is very difficult for her to get a second chance.

3.1.4. Gender Socialization

People have to admit that socializing between people of the same gender is often easier and more straightforward than socializing between people of the opposite one. So unfortunately, because of the long-standing dominance of male leaders in business and the fact that corporate board members tend to join leadership through mutual introductions, leadership tends to develop in a way that men introduce men to join. The close cooperation and relationship between male leaders also made it difficult for later female leaders to have actual decision-making power over the company and to have their opinions valued and supported by the male group when voting or polling.

4. Attempts to Solve the Leadership Gender Diversity Dilemma

4.1. Adjustment Programs in Other Countries

In fact, the lack of female managers in corporate management is a globalized problem, and the United States, Europe and Asian countries have made different attempts and efforts to solve such problems.

4.1.1. Approach Used in the United States

The U.S. has adopted mandatory diversity information disclosure requirements to promote the progress of corporate gender diversity, but due to its business culture and political traditions, the main actors concerned and promoting various measures are social groups, such as organized women's social groups and social organizations with a certain degree of social influence [8].

4.1.2. Approach Used in European Countries

The specific implementation methods vary from country to country in Europe, but the more representative one is the attempt of "quota system", in which some European countries have introduced fixed quotas for gender diversity in corporate boards through government intervention, which has been effective in some countries, but referring to the case of the Dutch quota system attempt. Such quota measures should be accompanied by certain punitive regulations, otherwise they will be ignored and have no effect.

4.2. Difficulties Unique to Chinese Companies in the Process of Adjusting to Gender Diversity in Leadership

4.2.1. Sexist Concepts Rooted in Traditional Culture

Due to cultural and doctrinal influences, with the exception of Empress Wu Zetian in the Tang Dynasty, there have been no other women leaders in Chinese history who legitimately held the central power of the dynasty as women, and records of famous women militarists, literary scholars, and other female pioneers are mostly obscure, even if their names are not completely authentic.

Such a gender perspective continues to create distrust and lack of support for female leadership, a problem that cannot be solved by legal means because there are no laws that can limit or change the prejudices in people's minds.

4.2.2. Young Women Who Are not Encouraged

In fact, not only do companies reject women because of their family responsibilities, but in many underdeveloped regions there are still advice that last throughout a woman's life. For example, during their school years, female students are considered "good for literature" and "not smart enough for math and physics". After college, many women in their twenties are urged to "find a stable and free job to take care of their families", "get married before it's too late", "have your first child earlier". During their career advancement in their thirties, they are rarely promoted as a priority and may be asked by their families to "have a second or third child" or to "quit their jobs and stay home to take care of the elderly and children". They are encouraged to work in order to realize their value in life, but remember to juggle their household and childcare responsibilities. Few women are able to become leaders because not all women have the opportunity and energy to earn their place.

4.2.3. Many Different Types of Businesses

Unlike most countries, Chinese companies are mainly state-owned and privately owned, and the nature of ownership varies, as do the mechanisms for appointing leaders to leadership positions. It is not feasible to regulate all Chinese companies by one rule.

4.3. Problems with China's Attempts to Promote Gender Diversity in Businesses

In fact, China has made various legislative attempts to promote gender diversity, with a focus on the interests of minority groups. The Civil Service Law, the Election Law and the Company Law on shareholders and employees all contain provisions on gender diversity, but do not really address the dilemma of imbalanced gender diversity in leadership for several reasons.

4.3.1. Unclear Regulations and Large Flexibility

First, China's Code of Governance for Listed Companies and the Company Law both have provisions on gender diversity in corporate boards and diversity of employees within companies, but these provisions emphasize that "directors should have the knowledge and skills to perform their duties" without really pointing out the root cause of the imbalance in diversity [9]. Therefore, among two leadership candidates with the same knowledge and skills, the company can still give preference to a male, which does not really solve the problem of diversity imbalance.

Second, China's current legislation uses a lot of flexible terms, such as "appropriate proportion" and "reasonable range", which can be freely understood by companies. The scope of application is limited. Therefore, in practice, it is seen that these flexible, unquantifiable and vague terms do not have the ability to be used in practice, and are difficult to be used in court to decide cases.

4.3.2. Lack of Disclosure System and Supervisory Body

Referring to the attempts of some European and American countries, China currently has low disclosure requirements for enterprises, so the outside world does not know the real situation of gender diversity issues within enterprises, which makes it difficult for supervisors. At the same time, the implementation of legal systems often requires monitoring by specific institutions, but currently only social organizations such as the China Entrepreneur Association are promoting these measures, and their promotion and monitoring are very limited.

4.3.3. Advocacy, Encouragement and Declaration

The Labor Law, the Company Law and the Employment Security Law provide some basic protection for workers, but they do not extend to planning and regulating gender diversity, and the reform of gender diversity within enterprises and at the leadership level is still more dependent on the consciousness of enterprises, with no direct legal provisions and no corresponding incentives or penalties. There are no direct laws, no incentives, and no penalties. Encouragement, advocacy, and corporate declarations alone have little practical effect.

5. The Concept of Regulation to Enhance Gender Diversity in Chinese Corporate Leadership

At present, there are four main reasons why Chinese companies are unable to consciously develop a gender-balanced leadership structure: the inadequacy of existing rules, the lack of monitoring bodies in the implementation of gender diversity measures, the brain drain of women due to the excessive burden of reproductive and family responsibilities, and the rejection and distrust of female leaders due to gender discrimination.

Therefore, some solutions can be envisaged for the above reasons.

5.1. Strict Interpretation of Legal Rules and Establishment of Incentives and Penalties

First of all, the current laws such as the Code of Governance for Listed Companies and the Company Law need to be interpreted in a more detailed and strict manner, with clear criteria and clear conditions of application, narrowing the scope of flexibility and increasing the number of mandatory provisions so that they can be actually used by the courts in cases rather than as an initiative.

Secondly, referring to the precedent of European countries, it is necessary to establish punitive measures, otherwise the inaction of enterprises will not bring them any cost, which will lead enterprises to ignore the relevant regulations. Penalties for corporate gender discrimination in the employment market should also be mandatory to ensure enforcement.

5.2. Modeling by State-owned Enterprises

Take advantage of the richness of Chinese enterprises, which are managed and supported by the state and are also the giants of the industry. For private enterprises in China, the new policies that have worked well for SOEs are worthy of trust and emulation, so SOEs can take the lead in reforming and experimenting with gender diversity in leadership to serve as a model and encouragement for other types of enterprises.

5.3. Increasing Information Disclosure Requirements and Setting Up a Strong Monitoring Body

The implementation of laws and policies requires good supervision. At present, China lacks disclosure requirements for basic information within enterprises and lacks a proper and strong supervisory body to monitor them. Without the support of the government and the power of social organizations, monitoring will not be truly effective.

5.4. Appropriate Distribution of Reproductive and Family Responsibilities

In order to ensure that fathers in the family are truly responsible for childcare and household chores, and to evenly distribute the family responsibilities that women have been overburdened with for years, women should be given the space and opportunity to advance in their careers. For example, regular parental leave for both male and female workers, modeled on maternity leave provisions [10], would allow fathers to share parental and domestic responsibilities and reduce the preference of companies for hiring men because maternity leave is not required.

Such provisions would also require monitoring by women's organizations and communities to enable family members to rationally allocate and perform household tasks and to free women from their long history of overburdening family responsibilities.

6. Conclusion

In summary, this paper proposes legal ideas to address these issues by summarizing the obstacles that currently exist in the process of promoting gender diversity in corporate leadership in China. Overall, there is limited legal and experimental documentation of gender diversity in corporate leadership in China. And socio-cultural issues are almost impossible to address by law or policy.

It can only be hoped that laws and policies will provide as much space and chance as possible for professional women to develop. And the author also wishes that as people work together, diversity and equality in all fields in our world in the future can be achieved.

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