

Comparison Between Chinese and Canadian Legislative Procedures

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Outline of the presentation

- ◆ Division of legislative powers
- ◆ Difference in legislative procedures
- ◆ Public participation in China's legislative process (e.g. *Law on Labor Contract*)

Legislative Power

- ◆ Canada: division of legislative powers between federal government and provincial governments
- ◆ China: legislative powers centrally exercised by the National People's Congress and its Standing Committee

China's Legislative Process

- ◆ Drafting procedure
- ◆ Enacting procedure

Drafting Procedure

- ◆ Drafting on the basis of investigation and research (by a ministry of the State Council or a specialized drafting group established by the National People's Congress)
- ◆ Soliciting suggestions from within and other agencies
- ◆ Submitting to the superior body for approval (in case of the State Council, the draft is reviewed and revised by its Office of Legislative Affairs and then adopted by the executive meeting of the State Council after discussion; in case of the NPC, the draft is reviewed and adopted by relevant special committees).

Enacting Procedure

- ◆ The Chairperson's Council of the NPC decides whether to list the proposed bills on the agenda of the Standing Committee;
- ◆ If listed, the sponsor's explanation is heard at the plenary session and the whole standing committee membership is divided into six groups for review;
- ◆ Review by special committees;
- ◆ Put the bills to vote;
- ◆ Promulgate.

National Institutions Authorized to Make Laws

- ◆ Canada: House of Commons, Senate
 - Two-chamber system, review by two houses one after another
- ◆ China: NPC and its Standing Committee
 - One chamber
 - The Standing Committee is subordinate to the NPC, responsible to it and supervised by it;
 - The NPC is responsible for making criminal and civil laws, state organ laws and other basic laws;
 - The Standing Committee is responsible for making laws other than those within the responsibility of the NPC. When the NPC is adjourned, the Standing Committee is responsible for supplementing and revising the laws made by the NPC without going against the basic legal principles.

Types of Bills

- ◆ Canada: public bills and private bills
- ◆ China: no division between public bills and private bills, mostly public bills

Who has the power to propose a (public) bill

◆ Canada: Cabinet and backbenchers

◆ China

- 1. The Presidium of the NPC
- 2. The Standing Committee of the NPC
- 3. The 35 delegations when the NPC meets
- 4. A minimum of 30 deputies to the NPC when it meets
- 5. The State Council
- 6. The Central Military Commission
- 7. The Supreme People's Court
- 8. The Supreme People's Procuratorate
- 9. The nine special committees of the NPC
- 10. The Council of Chairpersons of the Standing Committee of the NPC
- 11. A minimum of ten members of the Standing Committee of the NPC.

Forms of Meeting Review

- ◆ Canada: plenary review at every sitting day
- ◆ China:
 - NPC
 - ◆ Plenary meeting
 - ◆ Plenary meeting of Delegations
 - ◆ Group meeting of Delegations
 - Standing Committee
 - ◆ Plenary meeting
 - ◆ Group meeting
 - ◆ Joint-Group meeting

Review Procedure

- ◆ Canada: three readings
- ◆ China Three Rounds Examinations
 - The Standing Committee deliberates the bill on sitting days, and sends them to special committees for detailed examination, the special committees report back to the Standing Committee (one round)

Features of Committee Composition

- ◆ Canada: most members of parliament belong to at least one standing committee; all members of standing committees are members of parliament.
- ◆ China: members of the Standing Committee and members of the special committees are separately elected by the NPC. Most but not all of the Standing Committee members are members of a special committee; most but not all of the members of special committees are members of the Standing Committee. It's required by law that the members of special committees must be deputies to the NPC.

Voting Procedure

- ◆ Canada: the quorum of the House of Commons meeting is 20. Theoretically, as long as 11 members of parliament vote for the bill, the bill will be adopted.
- ◆ China: the bill is adopted when more than half of the NPC (or the Standing Committee) membership vote for it.
 - In case of the NPC (2985 members), a simple majority of, namely 1493 members vote for the bill, it will be adopted.
 - In case of the Standing Committee (176 members), if 89 members vote for the bill, it will be adopted.

Mode of Vote

- ◆ Canada: voice vote, rising vote, vote by open ballot
- ◆ China: vote by acclamation, vote by show of hands, electronic voting and secret ballot

The reviewing and voting rights of the speaker

- ◆ Canada: the speaker must keep neutral and refrain from debate and can only vote when there is a tie.
- ◆ China: the Chairperson presides over the plenary sessions. Group sessions have their own presiders and the Chairperson participates in review as an ordinary member. The Chairperson has complete right to vote.

Bill Signing

- ◆ Canada: there's a formal royal Assent ceremony by the Governor.
- ◆ China: there's no formal ceremonies. The bill is promulgated in the form of Presidential Order.

Process of Making the *Law on Labor Contract*

- ◆ Not long after the *Labor Law of the People's Republic China* was promulgated in 1994, the Ministry of Labor planned to make a law on labor contract and started to draft
- ◆ After its establishment in 1998, the Ministry of Labor and Social Security made a medium-term plan on labor legislation and social security legislation for the first decade of the 21st century. *The Law on Labor Contract* was listed in the plan.
- ◆ While drafting the Law, the Ministry encouraged local administrations to promulgate local regulations or government rules on labor contract so as to accumulate experience by implementing those regulations or rules.

Process of Making the *Law on Labor Contract* (Continued)

- ◆ The Law was listed on the 2003 legislation agenda of the State Council. It aimed to improve regulations on procedures of signing labor contracts, time limit of contracts, procedures of changing and rescinding contracts, and economic downsizing of enterprises, and impose heavier punishment upon the phenomenon of not signing labor contracts and infringing upon the legitimate rights and interests of employees. In light of the emerging new forms of employment, regulations on hourly employment and part-time employment.
- ◆ Based on China's experience in implementing labor contract systems and learning from some developed countries, the Ministry of Labor and Social Security drafted the *Law of the People's Republic of China on Labor Contract* and submitted it to the State Council for approval in January 2005.

Process of Making the Law on Labor Contract (Continued)

- ◆ The Office of Legislative Affairs of the State Council organized many workshops and symposiums for discussions and revisions. It also participated in meetings held by some associations and ask for suggestions from experts. For example, the Department of Labor and Social Security of the Office asked for suggestions from experts at the seminar on labor and employment dispute cases held from 26 to 28 August of 2005 (organized by the Sub-Society on Labor Law and Social Security Law of the Beijing Law Society).
- ◆ The draft was adopted at the 110th executive meeting presided over by Premier Wen Jiabao of the State Council on 28 October, 2005.

Process of Making the Law on Labor Contract (Continued)

- ◆ The draft was officially submitted to NPC for review on 6 November, 2005.
- ◆ The *Law of the People's Republic of China on Labor Contract* (draft) was officially submitted for deliberation to the 19th session of the Standing Committee of the 10th NPC on 24 December, 2005.

The Minister of Labor and Social Security Tian Chengping explained the Law (draft) to the Standing Committee of NPC



Wu Bangguo participated in group review on the Law



The Standing Committee reviewed the Law in groups.



Process of Making the Law on Labor Contract (Continued)

- ◆ On 9 February, 2006, the Legislative Affairs Commission held a workshop to hear opinions and suggestions on sending labors to foreign countries involved in the draft labor contract law from relevant departments and companies.
- ◆ On 10 February, 2006, the Legislative Affairs Commission heard voices from relevant departments and companies in Beijing. It visited two companies in the Economic and Technological Development Zone in Yizhuang, Daxing District and heard voices from the Zone and the companies.

Process of Making the Law on Labor Contract (Continued)

- ◆ On 15 and 16 February of 2006, the Law Committee and the Financial and Economic Committee of the NPC and the Legislative Affairs Commission of the NPC Standing Committee held a workshop to hear voices from relevant central government departments and experts.
- ◆ On the morning of 17 February, 2006, the Law Committee, the Financial and Economic Committee and the Legislative Affairs Commission held a workshop jointly to hear voices from a number of employers and employees.
- ◆ On 20 March, 2006, the General Office of the NPC Standing Committee openly solicited opinions and suggestions on the law from the public.

Notice on Soliciting Suggestions on the *Law of the People's Republic of China on Labor Contract* (draft)

- ◆ I. The standing committees of people's congresses of provinces, autonomous regions and municipalities are responsible for soliciting and collecting suggestions from local NPC deputies and relevant departments and law teaching and studying institutions and reporting the suggestions to the Legislative Affairs Commission of the NPC Standing Committee before 20 April, 2006.
- ◆ II. All citizens are encouraged to discuss and express their opinions. They can send their suggestions to the standing committees of people's congresses of provinces, autonomous regions and municipalities or to the Legislative Affairs Commission of the NPC Standing Committee or express their suggestions on the website of the NPC. The post code of the Committee of Legislative Work is 100805. The NPC website: www.npc.gov.cn.

Notice on Soliciting Suggestions on the Law of the People's Republic of China on Labor Contract (draft) (Continued)

- ◆ III. The NPC Law Committee and the Legislative Affairs Commission of the NPC Standing Committee will further solicit suggestions from relevant departments and persons.
- ◆ IV. The central and provincial newspapers, radios and televisions will publicize articles on the law and report on relevant discussions and suggestions.

Statistics on Suggestions

- ◆ April 20, 2006 is the deadline for soliciting suggestions. Up till then, 191, 849 pieces of suggestions are received, among which 145 were publicized on newspapers and 1,280 were sent by letters, including were 24,170 overlapped suggestions.

Characteristics of Soliciting Public Suggestions

- ◆ Extensive participation. Participants include employers, social bodies, experts and common labors from all over the country including Hong Kong and Macao.
- ◆ Grassroots labors fully expressed their voices, accounting for 65% of suggestions.
- ◆ Many suggestions and opinions were put forward after careful thought and preparation, very constructive.