

The Personal Information and Privacy Protection of Employees in China

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I. Introduction

In the past 30 years, China has experienced great unexpected changes in economy, politics, society, as well as in legislations. The rapid economic development under the background of globalization has transformed China from a mainly agricultural economy to an industrialized economy in a relatively short time. According to the study, China has entered into the middle period of industrialization.¹ In this process, the population in the city grew from 19% in 1980 to 51% in 2011 of the whole population, which is a huge figure especially considering the growth of the population. It has never happened in Chinese history, even in the world history that some many people have moved to live in the city in such a short period. Such a big change has made the situations that the culture of the city is a mixture of rural and urban cultures. For example some migrant workers still keep the habit of greeting each other with “Where are you going?” as farmers do, which sounds like inquiring the privacy of others.

While it is true that people’s consciousness of privacy in the cities is actually growing, it is very far from that of the industrialized countries. Investigations show that the general Chinese public is still not very sensitive about their personal information and privacy protection, which maybe relates to the social background of China. A research conducted by “Research of Development of Rights of Citizen” showed that in answering the question that “do you think that it will influence you much if others make public of your personal information which you do not want the public to know?” Only 10.1% answered that it would substantially influence their lives; 35.4% answered that there would be some influence; 24% answered that there would not be much influence; 12.5% answered that there would be no influence; the rest said that they were not clear whether there would be any influence. This shows that the public need time to get to understand the importance of privacy right.²

The social background of China undoubtedly has greatly influenced the legislation and enforcement of law. In labor law, the protection of personal information and privacy of employees is so neglected that there are no specific regulations regarding to it. Chinese labor laws currently focus more on material benefits of the employee; while not much attention is paid to the protection of personal information and privacy, which is closely

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¹ Fang Cai (Chiefly Editor), *30 Years of Economic Transformation of China*, Social Sciences Academic Press (China), first ed., 2009.

² Zhong Shen & Wenjie Xu, *On the Right of Privacy — Also on Personality Right*, Shanghai People’s Press, July, 2010, p. 263.

related to personal dignity of workers.³ The protection of personal information and privacy of employees mainly depends on the regulations in constitution, civil laws, criminal laws and other laws relating to it. In practice, there are lots of infringements on the rights of personal information and privacy of employees, which have been largely reported by newspapers, TV news broadcastings, radios, internet news, and other mass media.

From the reports, it could be concluded that infringements on personal information and privacy of employees are very serious in labor fields. In most circumstances the collection and application of personal information are closely connected with the economic interests of employers. In the workplaces, electronic surveillance is widely used because of its convenience and easy availability, which makes it a very easy job for employers to keep an eye on employees. Of course, employers have legal reasons to get the job applicants' personal information with the purpose of hiring the right employees and to watch over the workplaces so as to ensure that they are well organized, efficient and safe etc. However, speaking from the side of employees, they need to protect their personal information to prevent them from being abused and also they need to have their own privacy in the workplaces.

This essay will first introduce the regulations and laws concerning personal information and privacy protection in China. Second, the essay will discuss the problems in three different periods, the period of recruitment, the period of employment and the period of post-employment. The essay will also introduce and discuss some typical cases so as to demonstrate the current situations and find out that the existing problems. At last the essay will summarize the problems and look to the future of the protection of personal information and privacies in China.

In writing this paper, the author faces the following difficulties: (1) there is no basic systematic statistics on this topic so as to help give us an exact evaluation of the current situation in China; (2) there is no access to the relevant cases heard by courts in China because they are not disclosed on the internet and open to public because of the concerning of privacy; (3) this topic has not been very much researched by the academics, therefore only limited research papers have been published about the protection of personal information and privacy of employees. Other discussions are all about the civil law protection of personal information and privacy of citizens. Nevertheless, the author would try his best to piece out the information from internet, newspaper and other resources and answer the questions raised by the topic.

II. Regulatory schemes for protection of employees' personal information and privacy

Personal information refers to the identifiable symbolic systems which are related to individuals and which can reflect the individual's characteristics, including a person's personal identity, work, family, property, health, and etc.⁴ Privacy refers to personal private secrets that are not related to public interests, which include personal information, personal activities and personal space.⁵ In China, there are laws and regulations concerning the protection of personal information and privacy, which are contained in

³ Feng Pan, *On the Protection of the Right of Privacy of Employees: An Analytical Frame*, Hebei Law Review, July, 2008.

⁴ Liming Wang, *On the Statue of Right of Personal Information in Personality Right*, Journal of Suzhou University, No. 6, 2012.

⁵ Lixin Yang, *On Several Problems Relating Right of Privacy and Its Protection*, People's Procuratorial, No. 1, 2000.

constitution, civil laws, criminal laws and other regulations. The relevant regulations are introduced as follows.

A. Constitution

In the *Constitution of China*, there are no direct regulations concerning the protection of personal information and privacy of employees. However, Chinese Constitution protects the personality rights of citizens, in which the right of personal information and privacy of citizens are included.

Generally, there are three articles that are relating to the protection of personal information and privacy of employees. Article 37 *Constitution of China* provides that unlawful search of the person of citizens is prohibited, and article 38 provides that the personal dignity of citizens is inviolable, and that insult, libel, false accusation or false incrimination directed against citizens by any means is prohibited. Article 40 provides that the freedom and privacy of communication are protected by constitution.

Thus, in accordance with the regulations, the personal information and privacy are protected by *Constitution of China*. However, in practice, in China the constitutional regulations have never been applied to protect the rights of citizens. Some scholars comment that the constitutional rules are like tigers without teeth, which only have some symbolic meanings. It is the application of constitutional rules that make it function.⁶ No application means that the constitutional rules have no practical use. Therefore, in China the personal information and privacy of employees are only protected by Constitution in theory, but not in practice.

B. Civil law legislations

In current China, the protection of personal information and privacy of employees mainly depend on the civil law regulations. In the early civil law legislations, *General Principles of the Civil Law of China* enforced from 1987, there are no direct protections for personal information and privacy. However, there are protections for the reputation and personality of citizens⁷, from which it could be inferred that personal information and privacy were protected by Chinese civil laws. An employee could get protection from civil law legislations if personal information and privacy are infringed, resulting in the damages in reputation and personality.

In 1988 Supreme Court of China issued *Interpretations concerning Enforcement of General Principles of the Civil Law of China* on January 26, article 140 of which provides that anyone who in written or verbal form publicizes the privacy of others, or concoctive fact to openly demonize others personality, or insult, libel to damage the reputation of others, shall be regarded as the behavior of the citizens' reputation, where serious results occur. That was the first direct protection on the right of privacy in China.

In 1993, Supreme Court of China issued *Some Answers to the Questions concerning Trials of Cases of Infringements of the right of Reputation*, in which the answer to question 7 that “How to identify the liability of infringement of right of reputation?” explains the identification shall base on three elements: the infringing facts, violations of law and results. In accordance with the regulations, anyone who insults or libel others in written or

⁶ Yuerong Yao, *The Protection of Personal Information in the Field of Constitution*, Law Press China, first ed. 2012, p. 306.

⁷ Article 101 of *General Principles of the Civil Law of China* in 1982 provides that citizens and legal persons shall enjoy the right of reputation and the personality of citizens shall be protected by law, and the use of insults, libel or other means to damage the reputation of citizens or legal persons shall be prohibited.

verbal forms shall be liable for the infringements to the reputation of others. Anyone who publicizes the privacy of others without their consent, resulting in the damage of reputation of others, shall be liable for the infringement.

In 2001, it was firstly provided that spiritual damages could be claimed for the damages in case that the right of privacy and other personality rights are infringed. Article 1 of *Some Interpretation concerning the Spiritual Damages for Civil Torts* issued by Supreme Court of China on Feb. 26, 2001 stipulates that the victim is entitled to bring a lawsuit in court to claim for spiritual damages in case that his/her rights of privacy and other personality rights are infringed by others in violation of public interest and social public morals. People's court shall accept the case.

The recent new principal civil legislation, *Tort Liability Law of China in 2009*, also provides protections for the rights of personal information and privacy, article 2 of which provides that the privacy of citizens is protected. Besides the protection of constitutional law and civil laws, other laws also mention the protection of the rights of personal information and privacy. Article 39 of *Women's Rights Protection Law* stipulates that reputation and personal dignity of women are protected. Article 21 of *Provisions on HIV/AIDS Monitoring and Management 1987* stipulates that the names and addresses of patients of HIV/AIDS shall not be open to public.

C. Labor law

In Chinese labor and employment laws, there are no specific regulations regarding to the protection of personal information and privacy of employees. However, in *Labor Contract Law of China* enforced from 2008, there is a general limitation on the collection of personal information of job applicants. Article 8 of *Labor Contract Law of China* stipulates that "The Employer has the right to learn from the Employee some basic information which directly relates to the employment contract, and the Employee shall truthfully provide the same."

Obviously, this article admits that an employer has some justifications to get to know employees' personal information, even some private information if it is related to work, but it does not establish any concrete rules to protect the privacy right of an employee. Therefore, an employer may abuse the right in practice, which may result in the infringements of an employee's privacy rights.⁸

In practice, Article 8 functions well to limit the collection of personal information and infringement of privacy of employees. For example, in applying for the position of human resources manager, Ms. Li was asked to fill out a form to give the required information. In the column of marriage status, she put unmarried because of afraid of being discriminated as a married woman. Later, she got the position. However, several months later, the employer got to know that Ms. Li was married, and then fired her for lying about the marriage status. Ms. Li brought a lawsuit against the employer for illegal dismissal. The trial court held that as a job applicant Ms. Li did provide false information to the company. However, considering marriage status was not relevant to the position, the court held that the employer constituted illegal dismissal in firing Ms. Li and the employer shall pay compensation.⁹ According to *Labor Contract Law of China*, the compensation she could get is one month wage according to her average monthly wages.

⁸ Feng Pan, *On the Protection of the Right of Privacy of Employees: An Analytical Frame*, Hebei Law Review, July, 2008.

⁹ Chonggao Hu, *Something Women in the Work Needs to Know*,

http://court.gmw.cn/public/detail.php?id=2089&k_title=&k_content=&k_author=&keyword=职场半边天.

Also, there are some other regulations that are related to personal information collection and protection. Article 33 of *Prevention and Treatment Law of Occupational Diseases of China* provides that employers shall set up occupational health records for employees and keep them safe. Employees are entitled to have copies of the occupational health files when leaving the employers, which shall be provided by the employers free of charge. But that rule is only applied to some specific employees, those who work under environments which have some healthy dangers.

D. International conventions

China has acceded to *Universal Declaration of Human Rights* and *International Covenant on Civil and Political Rights* and *Universal Declaration of Human Rights*, which both provide protections for personal information and Privacy. Article 12 of *Universal Declaration of Human Rights* and Article 17 of *International Covenant on Civil and Political Rights*, in which China participated on Oct. 10, 1998, stipulates that no one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honor and reputation. Everyone has the right to the protection of the law against such interference or attacks.

The above international conventions are legal resources in China, and the contents of the regulations are very similar with the domestic laws in China. However, what is more important in practice is the liability of the infringer and the mechanism of claiming for damages when the personal information and privacy are infringed, which would depend on domestic laws to resolve. Chinese legislation has a lot to be improved in these two aspects.

E. Criminal laws

As for criminal punishments, there are no criminal punishments for infringements of personal information and privacy of employees.¹⁰ However, there are several criminal law regulations relating to the protection of personal information and privacy. According to Criminal Law of China, the searching of human body and private property shall only be conducted by policemen and any illegal search shall be punished as a crime¹¹. Illegal wiretapping and illegal photographing and illegal interference with the communication shall be punished as crimes¹². An employer shall be criminally punished where he/she violates these criminal laws.

F. Remedies and punishments

In accordance with the civil legislations, any person who suffers from infringements of personal information and privacy is entitled to bring cases in court and claims for compensation, and has the right to demand that the infringement be stopped, his reputation be rehabilitated, the ill effects be eliminated and an apology be made; he may also demand compensation for losses.¹³

According to the interpretations, the infringement on the privacy can be categorized as reputation damages. In *Replies to the Questions Relating the Trial of Right of Reputation Cases in 1993* by the People's Supreme Court of China, it is explained that any person who

¹⁰ Lizhi Wang, *Criminal Law Protection for the Right of Privacy*, Procuratorial Press China, first ed. 2009, p. 309.

¹¹ Article 245 of *Criminal Law of People's Republic of China*.

¹² Article 284 of *Criminal Law of People's Republic of China*.

¹³ Article 120 of *General Principles of Civil Law of China*.

publicizes the documents concerning the privacies of others, or propagates other's privacy in oral or written forms, infringing other's reputation, shall be deemed as reputation infringement¹⁴.

The victim is also entitled to damages for spiritual distress. *Interpretations on Some Civil Tort Liability Problems concerning Spiritual Distress Compensation* by the People's Supreme Court of China in 2001 stipulates that any person who infringes on the privacy or other personality interests in violation of public interests and social morality, the victim of the infringement is entitled to bring the case in a people's court and claim for compensation for spiritual distress, and the people's court shall accept it according to law.¹⁵

The remedy procedure is different for employees and non-employees. When the rights of personal information and privacy are infringed in the process of application for jobs, the applicants shall sue in accordance with civil procedure and pay court fees as required for there are no labor relations between applicants and defendants. After the formation of labor relations, applicants could claim for damages in arbitration tribunals, which are swift and free of charge.¹⁶

Generally, crimes concerning personal information and privacy are misdemeanors. Article 245 of *Criminal Law of People's Republic of China* provides that a person who unlawfully subjects another person to a bodily research shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention. Article 284 provides that any person who illegally uses apparatus for special purpose of wiretapping or photographing secretly shall be sentenced to a fixed-term imprisonment of not more than two years or be subject to detention or control. Article 246 provides that a person who insults in public another person by violence or any other means or fabricates facts to slander another person shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention, public surveillance or deprivation of political rights if a serious result is caused. In practice, criminal punishments are barely applied for the infringements of personal information and privacy of workers.

III. The protection of personal information and privacy in the hiring process

In the application for the job, applicants need to give their information required by employers. Although article 8 of *Labor Contract Law of China* stipulates that an employer is only allowed to collect information relating to the employment, it is not enough to stop employers from abusing their favorable positions in the labor markets in the collection of the personal information of job applicants. Job applicants who are in great need of the work opportunities are especially in the vulnerable situation, which makes it quite easy for employers to obtain any information they need. In practice, an employer could infringe the rights of the workers in the following phases:

A. Job advertisement and interview process

The recruitment for public servants and employees of non-profitable organizations, like public schools, public universities and hospitals, are mainly conducted through several

¹⁴ Article 7 of *Replies to the Questions Relating the Trial of Right of Reputation Cases in 1993* by the People's Supreme Court of China.

¹⁵ Article 1 of *Interpretations on Some Civil Tort Liability Problems concerning Spiritual Distress Compensation* by the People's Supreme Court of China.

¹⁶ Article 2 & 52 of *Labor Dispute Mediation and Arbitration Law of China*.

strict procedures: examinations, interviews, and medical checks. Problems exist in terms of personal information and privacy protection, but they are not as serious as the situation in the commercial working units, because the social security systems for public servants and employees of public organizations are different. For this reason, the situations in the commercial employer units will be primarily introduced and discussed here.

Basically, a company employer recruits employees in two ways. The first way is to put advertisements in labor markets or local news papers, in which the detailed requirements for the position are listed. Those who are qualified will contact the employer and the employer can select from applicants and arrange interviews. Then the employer will pick from those who are qualified to do the medical check. Based on the result of medical check and other information, the employer makes the final decision on who will be hired. At present, employers enjoy such a great freedom that it seems that the employers could ask for any information without worrying about being sued. Usually, we can see that from the job advertisements, there are usually strict requirements of the job applicants' detailed information, such as age, gender, nationality, education, former working experience, hometown, marriage status, family back ground etc. The advertisements which specify detailed requirements for the job applicants are very common.

The second way to recruit employees is to make a simple description of the job and requirements, and then let applicants to fill out the application form to provide detailed information employers need. This way is seemingly impartial and justified, but in fact it collects more information from more people compared with the first method. Because the labor law regulation about collect information limited to "information directly relating to the employment" is not very clear, the employers usually do not worry about the limits in information collection. Often applicants are required to provide information, such as birth date, gender, nationality, ID number, marital status, family background, education, working experience, expected wages, etc., as detailed as possible. Applicants are required to promise that the information provided is true and to sign them. The favorable aspect of the second way is that it avoids the risk of being sued for discrimination and also the information from applicants can be used for future recruitment. In the more developed area, the second way is common while in the less developed area the first way is common.

After the information is collected, employers will decide how many applicants will be interviewed. There are no requirements in law that employers shall provide travelling fees for the interviewees in China, therefore, the employer can interview as many as they like to without worrying about the costs. There are lots of reports that in the process of job interview, some interviewers even ask questions concerning the privacy of applicants. For example, an investigation finds out that the inquiry into the privacy becomes common in the job interview. For example, this dialogue happened in an interview. An interviewer suddenly asked "Do you have a boyfriend?" Faced with such a question the interviewee answered "Yes." "Is he here in Guangzhou or in another city?" The question continued. The interviewee honestly answered "he is preparing for going abroad to continue his research work." "Will you go with him to a foreign country in the future?" "I have not seriously considered this question." "Does this mean that you two would break up in the future?" ".....".¹⁷

According to the internet reports, there are some unusual extreme cases. For example, an interviewer may ask a female applicants questions like "What would you answer if a client of yours asked for sexual benefits?", "What would you do if your boss sexually harassed you?". An investigation found out that in ten woman university graduates, 7 were

¹⁷ *The Privacy Infringement in the application for Jobs.* <http://news.sohu.com/65/92/news148099265.shtml>.

asked questions like “do you have a boyfriend” and other questions relating to privacy information. Six of them said they felt embarrassed and uneasy.¹⁸

Such questions often embarrass interviewees and infringe their rights to privacy. Although attorneys suggest that interviewees could take a recorder in an interview and use the recording for evidence to protect the right of privacy and sue the interviewers and their companies, the suits against interviewers for the violation of privacy protection seldom happen in China due to multiple reasons, which would be introduced later.

An interviewer of an employer explains that the questions are for the interests of enterprises because an employer hopes the staff needs to be stable. If a woman applicant has a boyfriend in another city, the possibility for her leaving the enterprises would be greater and the enterprise would have to recruit another one to start from the beginning to train the new employee, which would result in loss of the enterprises.¹⁹ Actually, this explanation only partly explains one aspect of the personal information collections, more other economic reasons would be discussed later.

With the purpose of acquiring more information that job applicants do not want others to know or do not want to disclose, including drug-taking, sexual orientation and aids, some enterprises start to use high-tech electrical testing methods, such as polygraph, psychological stress evaluation and integrity test. The use of such equipments furthers the infringements of the privacy rights of the employees, because, facing such equipments, employees have to tell the truth even concerning the questions that will infringe their rights.²⁰ However, no concrete rules are established on whether or when such equipments could be used.

B. Medical check

Usually, after the interview, employer will pick up the prospective employees and have them medically checked. Usually, the hospitals where the medical checks are carried out are arranged by employers. Since there are no special regulations for the contents of the medical check for non-governmental organization and companies²¹, the checking items are usually decided by hospitals or employers, or both of them. The fees of the medical checks are usually paid by job applicants themselves. Also, the medical checks tend to be thorough and detailed because hospitals also want to make more money. The purpose of the medical check is to collect the health information of job applicants, which would be of great help for the employer to avoid certain risks in the following several aspects.

First, if an employee gets ill and asks for sick leave during employment, an employer shall pay the sick employee in accordance with the standard that is not less than 80% of the local minimum wage²². Also, an employer needs to hire someone else to replace the sick employee, which will increase the cost of an employer. According to total working years of an employee in the current working unit and other working units, the sick leave period may vary from 3 to 24 months.²³

Second, if an employee is seriously ill or injured out of job and could not get back to

¹⁸ *Privacy Inquiry in the Process of Job Application of University Woman Graduates*, South Metroplis, March 9, 2002. <http://finance.sina.com.cn/g/20020309/178492.html>

¹⁹ *The Privacy Infringement in the application for Jobs*. <http://news.sohu.com/65/92/news148099265.shtml>.

²⁰ Jinlong Wang, *Privacy Protection of Employees from the Perspective of Harmonious Organization*, Journal of Human Resource Development in China, No. 7, 2006.

²¹ As for the recruitment of public servants, there is *Unified Standards for Recruitment of Public Servants (trial implementation) 2005*.

²² See article 9 of *Rules on Wage Payment of Enterprises in Shanghai*.

²³ Article 3 of *Rules on Medical Periods of Ill and Injured Employees of Enterprises*.

work after the sick leave period expires, an employer is entitled to terminate the labor contract on the condition that (1) it shall notify the sick employee of the termination one month earlier²⁴; (2) it pays the sick employee severance fee according to the standard of one month's average wage for a year's working; (3) it pays medical subsidy no less than 6 month's wage, if an employee is fatally ill, the medical subsidy shall be another no less than 6 month's wage.²⁵

Third, according to *Regulations on Industrial Injury Insurance of China*, if an employee has sudden illness in the workplace and he/she dies within 48 hours from the time the illness occurs, it shall be deemed a death resulting from work.²⁶ Also, if an employer does not pay the industrial injury premium, the employer shall pay all the compensation, which would be a big sum of money.²⁷ If an employer has paid the premium, it still needs to pay wage and nursing fees during the period when an injured employee could not work and the wages paid by an employer, normally shall be less than one year.²⁸ Due to the risks mentioned above, an employer has very strong motives to have the health of job applicants checked thoroughly in order to prevent the subsequent risks.

The former analyses are based on the assumption that an employer abides the law and pays the social insurance premium as required by the laws. But actually, according to the past investigation, lots of employers did not pay social insurance premium. Statistics shows that after the enforcement of *Labor Contract Law in 2008*, the income of social insurance premium has increase a lot, from 1081.23 Billion in 2007 to 2404.32 billion in 2011.²⁹

The problem of an employer refusing to pay social insurance premium is deeply rooted in the current social security system. Most of the social insurance funds are operating in the county level. There are over 2000 counties in China and there are five kinds of social insurances, including pension, medical care, industrial, unemployment and birth. All together, there are over 10,000 individual social insurance funds.

Currently, the social insurance premium is quite high in China. For example, in Hefei, capital city of Anhui Province, whose economic status is in the middle in China, its monthly minimum wage in 2013 is 1260 CNY. However, employers and employees are required to pay the social insurance premium according to the local social average wage, which is 2,305 CNY monthly. According to this standard, an employer shall pay 736.47 CNY monthly and an employee shall pay 253.55 monthly for the social premium, even if an employer pays the employee minimum wage.³⁰ The monthly the social insurance premium is about 60% of the minimum wage, which may be the highest in the world.

In the developed areas along the southeastern coast areas, the workers mostly migrate from the countryside of other cities, and mostly from other provinces. Because the workers often migrate from one city to another, the labor inspections do not enforce the social insurance law very strictly so as to create more relaxed environment for the enterprises, which is of benefits to improve the enterprises' principle positions in the market. Also the profitable operation of the enterprises will bring tax income for the local government, while the strict enforcement may kill enterprises or force them to move to other places

²⁴ Article 6 of *Rules on Medical Periods of Ill and Injured Employees of Enterprises*.

²⁵ Article 6 of *Regulations on Economic Compensations for Breaching and Terminating Labor Contracts*.

²⁶ Article 15(1) of *Regulations on Industrial Insurance*.

²⁷ Article 62 of *Regulations on Industrial Insurance*.

²⁸ Article 33 of *Regulations on Industrial Insurance*.

²⁹ See: *Yearbook of Labor Statistics of China*, p.359.

³⁰ See: *Some Regulations on Improving the Rapid and Steady Economic Development* by Hefei Municipal City on July 3.

where the law enforcements are loose. Therefore, local governments have impetus, and local enterprises have the interests and needs in enforcing social insurance regulations loosely.

However, the employers would take the risks for not paying social insurance premiums. According to the current regulations, an employer needs to reimburse the money if the social insurance expense occurs and an employer has not paid the premium. If an employee becomes ill, his employer needs to reimburse the medical expense according to the standards of the medical insurance regulations. If an industrial injury occurs, an employer shall compensate the injured worker according to the standards of the industrial compensation laws. Now the industrial compensation standards are quite high. If a worker dies in the process of work or resulting from work, an employer shall pay over 518,000 CYN in 2013 according to the standard. The high compensation standards and high social insurances fees have put great burden on employers, which force them, especially those who do not pay social insurance premiums, to screen out applicants who are potentially of great risks for employers based on the personal information collection and medical check.

C. Discrimination in the process of hiring

Because of the risks and pressures employers are facing and the relaxed environments of getting the personal information or even privacy of the workers, an employer has chance to abuse the situation and maximize their interests. Thus, lots of discrimination problems occur in present China. Also, lots of bias exists towards a certain type of people which aggravates the situation of discrimination because the general public is not well educated.

1. Discriminations relating to sex and age

For the reason of worrying about the cost resulting from hiring women of childbearing age, especially married or unmarried women who have no children, the employers would try their best not to hire women of childbearing age. An investigation conducted by Women Legal Research and Service Center of Beijing University showed that 23.6% of the women university graduates investigated had the experience of being refused of the job opportunities for the reason of being women; 16% had the experiences of being refused even if they had better academic performances in the university than men graduates.³¹ The existing problems result from the imbalance between the protection of women employees³² and the insufficiency in the protection of personal information and privacy in civil and labor laws.

Another common discrimination relating to it is age discrimination. Because an elderly worker has more chances of getting ill or suffering from the dangerous disease of high blood pressure and heart attack. Therefore, applicants who have potential possibilities of disease occurrence, for example, those who have high blood pressure, heart disease, etc., would be difficult to get employed. Often it could be seen that the job advertisements in which specific age period is listed as a requirement.

³¹ Hong Liu, *Serious Sex Discrimination in the Applications for Jobs of Females*, http://www.legaldaily.com.cn/bm/content/2009-06/15/content_1104870.htm

³² *Labor Contract Law of China* and *Special Protections of Woman Workers of China of 2012* provides detailed and extensive protections for woman employees, including training (article 3), scope of work (article 4), wage & labor contract (article 5), workload (article 6), leaves (article 7), maternity subsidies (article 8), baby nursing time (article 9), facilities (article 10), which would greatly increase the expense of employers.

2. Discriminations relating to diseases

All employers would like to create a safe environment for employees. However, employers would screen out some job applicants because of bias. A common discrimination in China is hepatitis B discrimination. After the medical check, if job applicants are identified as carriers of hepatitis B, many employers, including government agencies, would refuse to employ them. Some lawyers of non-profit organizations have been devoting to fighting this kind of discrimination. In 2005 Ministry of Personnel and Ministry of Health issued *Unified Standards for Recruitment of Public Servant (trial implementation)*, which makes clear that hepatitis B carriers could be recruited as civil servants. However, this regulation does not apply to the employer of non-government agencies. Often, this kind of discrimination occurred. For example, in *Sheng Lei v. Nokia Guangzhou Company*, Lei was denied of the job because he was a hepatitis B carrier.³³

Another group of people that are greatly biased are HIV carriers. In current situation in China, there is nearly no chance for a person with HIV positive to get a job. Although we have had some pioneering suits concerning anti-discrimination for AIDS patients and advocating equal employment opportunities for them, the suits are doomed to fail. For example, in a lawsuit against an employer for AIDS discrimination in Anqing City, one of major cities in Anhui Province, the court of the last appeal holds that HIV positive is a contagious disease, that the job applicant is denied of the job is justified.

3. Genetic discrimination

According to the research, genetic test includes genetic screening and genetic monitoring. Genetic screening is mainly done to job applicants so as to find out the tendency of getting a specific disease, while genetic monitoring is done to find out the possibility of getting a certain type of industrial disease.³⁴ The genetic information is possibly misused and resulted in genetic discrimination without proper regulation. There is no regulation regarding genetic discrimination in labor law or other laws. However, genetic discrimination has already occurred in China. In the medical check arranged by governmental agency during civil servant recruitment, an applicant was identified to have thalassemia and was eventually refused of the job. The applicant brought a lawsuit and still lost the case. The court of the final appeal held that the employer did not disclose the information to the public and therefore no right of privacy was infringed.³⁵

At present, the genetic test is used for the interests of employers to screen out the job applicants for the reasons including: health of employees would influence their work performance; the sick leave of employees would cause the problems of work arrangement; the illness of employees would increase the cost of employers; the resignation of employees would increase the cost of recruitment and training; employers would suffer great loss if employees get industrial injuries due to the reason of genetic problems.³⁶

Of course, genetic test and monitoring has several advantages: management efficiency could be improved; the possibility of getting occupational diseases could be greatly

³³ Ten Famous Labor Disputes in 2007 Ranked by Legal Daily, http://news.ifeng.com/mainland/200801/0120_17_371631.shtml

³⁴ Shenghua Luo, *Legal Protection of Genetic Privacy Rights*, Science Press, first ed. July, 2010, p. 184-185.

³⁵ Yong Wei, *Some Questions and Thinking on the First Case concerning Genetic Discrimination of China*, Journal of Medical Science and Philosophy (Humanistic & Social Medicine Edition), No. 8. 2011.

³⁶ Shenghua Luo, *Legal Protection of Genetic Privacy Rights*, Science Press, first ed. July, 2010, p.185.

reduced; the efficiency of human resources management could be advanced.³⁷ However, in order to prevent the abuse of genetic information, it is suggested by academics that the following rules should be enforced: the genetic test should be legal; the extents of getting genetic information of employers should be limited; employees should be notified that the genetic testing would be taken when applying for the jobs; the genetic information should be only used for safety and health of workers and strictly controlled; employees are entitled to check their own genetic information and to rectify it if wrong.³⁸

There is no systematical investigation to show how serious the situation of all form of the discriminations is because only individual cases are repeatedly reported. Generally speaking, two factors will influence the whole situation. The first is whether employers know how to make full use of the current legal environment and willingly to take advantage of the favorable situations. The second is that how many employees clearly know their rights in personal information and privacy and fight for the rights willingly and bravely. Though we do not know the exact situation, from the repeated reports, it could be concluded the whole situation could be serious.

IV. The protection of personal information and privacy during employment

A. Personal information collection during employment

1. Annual medical check

During the period when the labor relations exist, many employers would demand that the employees take annual medical check arranged by employers. Different employers take different attitude towards the medical check, and the requirement and operation modes are also different according to ownership, scale and social insurance backgrounds of the companies.

In the state-owned enterprises, the core employees usually enjoy permanent employment. The annual medical check is a welfare provided to them by the companies. Generally, the time used for the medical check is considered the working time. For the companies, the information obtained from the medical check is also very useful for the human resource management. Also, if an employee is found to be ill of some specific diseases, the employee could take medical treatment earlier, which would help to save money for the companies. Of course, the results of medical checks could be an element for the promotion decisions. However, no disputes concerning this have been reported to public so far.

However, for the non-core employees, especially for the dispatched employees, annual medical check may become a method of screening out some unhealthy employees. The relationship between the health of employees and the cost risk of employers has been discussed in detail previously. A dispatched employee who suffers from serious illness or fatal illness, or suffered from some form of seizure and is pronounced dead, will greatly increase the expenditure for an employer.

As for the private enterprises, especially small enterprises that do not pay social premium, annual medical check could be an important way to screen out the employees whose health could bring risks to companies. Otherwise, a serious industrial injuries or death could bring down small enterprises that have not been covered by social insurance

³⁷ *Ibid.*, 186.

³⁸ *Ibid.*, 191.

for they do not pay the social premium.

There are frequent privacy infringements and unfair dismissals resulting from annual medical checks. For examples, one case is about the protection of privacy of medical check reports, in which a company put all the unclosed medical check reports in the office and asked employees to go to the office to take their own reports. Therefore, employees had chances to read and spread the health information of others.³⁹ In *Wen Wang v. Guangzhou Baiyun International Conference Center*, the company even publicized the results of the medical check by putting the names of who were checked out to be hepatitis B carriers on a blackboard in the company.⁴⁰ Those cases show in some degree that the legal conception of protection of personal information and privacy are quite limited in some companies.

There are many other reports on the internet concerning unfair dismissals because of hepatitis B found out in medical checks arranged by the company. Because there are no systematic studies and wide investigation, we do not have detailed statistics as far as the medical check and infringements to personal information and privacy are concerned. But from the great economic interest of employers relating to such information and the situation that employees are not adequately protected, it could be concluded that the situation could be very serious throughout the whole China.

2. The collection of other information

Apart from the collection of health information, in the period when the employment relationship exists, employers also collect other information of the employees. A very common practice in China is that employees are required to fill out an Annual Employee Evaluation Form every year. Usually, the form is designed very carefully, which requires employees to refresh their personal information, such as mailing address, residence, telephone number, email, family information, work accomplished, comments of the leaders, contributions and evaluation.

There are justifications for the collection of the information. First, the information, especially those regarding to the work evaluation and comments of the leaders are very important basic information for rewarding, promoting and arranging the positions of the employees. Also, the mailing addresses of employees are of importance in dismissing the employees. In accordance with *Some Interpretations Regarding the Applications of Laws in the Trials of Labor Dispute Cases* issued by People's Supreme Court of China (II), for the labor disputes arising from terminating or ending an employment, if an employer cannot prove the time when an employee receive the notice of such termination or ending, the date on which an employee claims his/her rights shall be deemed the date on which the labor dispute occurs. If the employer terminates the contract but the employee refuses to sign on the notice, the employer needs to post the letter of notice so as to meet the requirement of the law.

B. Surveillance in workplaces

1. Surveillance

In the workplace, many employers put the employees under surveillance. According

³⁹ *Employers Should Pay Attention to the Protection of Privacy of Employees in Distributing Medical Check Reports*, Yanzhao Metropolis, <http://roll.sohu.com/20110918/n319692955.shtml>

⁴⁰ *Sunling Wu & Yinyue Li, Court Held that Company Infringed the Rights of Employees by Putting the Names hepatitis B carriers on Public Blackboard*, Southern Metropolis, August, 27, 2013. <http://news.sina.com.cn/s/2013-08-27/033928054266.shtml>

to an investigation conducted by sina.com, a famous website of internet service, the answers to the question—"According to your knowledge, are you under surveillance of the employers you work for?" are collected. 23.35% answered that they were under surveillance but not including the surveillance activities on the internet. 30.61 % answered that they were under surveillance, including the email and communication tools. 46.04% answered that they were not sure whether that they are under surveillance.⁴¹ For those employees who work outside of the premises of employers, some employers also try to put them under surveillance. For example, it is reported that an express delivery company equips employees with cell phones and tries to monitor the employees by stocking the positions and time of stops of them.⁴² The other surveillance methods also include wiretapping and recording, which are very common for the on-line service industries.

2. Reasons for controlling

According to the research of a Chinese scholar, in the process of work, employer needs to observe the work process of the workers for many reasons: preventing the theft (including invisible property like trade secrets); finding out malfeasance or self-profiting of employees by take advantage of their positions so as to protect the economic interests of the employers; finding out the behaviors like being lazy, going slow, or even sabotaging so as to improve the efficiency and ensuring the quality of products, finding out the unsafe elements with the purpose of improving work safety; finding out the unreasonable arrangements of work so as to improve the managements; finding out unreasonable and unsafe operation for the improvement of the future training.⁴³

Another researcher points out that there are four aspects for the justification of personal information collection and surveillance. First, it is for the efficiency of the workplace.⁴⁴ Due to some unfavorable elements, such lack of skills, psychological problems or physical defects, workers' ability to accomplish the jobs will be influenced. Therefore, an employer has justifications to get relevant information. Second, it is for the avoidance of vicarious liability. If an employer puts an employee under surveillance, it will actively watch over the behaviors so as to control employees in the prevention of infringements. Third, it is for the protection of the property of employers. Employers provide jobs for employees. However, the properties of employers are under control or management of employees. Therefore, employers need to keep a close look at workplaces by the use of advanced apparatus. Fourth, it is for the abidance by law. For example, article 19 (4) of Prevention and Control Law of Occupational Diseases of the PRC stipulates that the employer shall keep files on occupational health and files on monitoring and protecting the workers' health, and improve the practice for the prevention and control of occupational diseases.

The purpose of investing to operate enterprises and organizing managements of employers is to make profits, which is of justice and should be protected. Therefore, the employers are entitled to install video cameras so as to protect their own property and to improve the management. However, the personality of the employees should be respected

⁴¹ Yulang Hu, *Email Monitoring and the Legal Protection of Privacy of Employees*, No. 3, Legality Research, 2009.

⁴² Guangan Li, *A Company Provides Employees with Cell Phones Used for Employee Tracking*, <http://www.daynews.com.cn/stock/193604.html>.

⁴³ Xinbao Zhang, *The Protection and Limitation of the Privacy Right Protection of Employees*, Journal of Modern Law, No.5, 1996.

⁴⁴ Feng Pan, *On the Protection of the Right of Privacy of Employees: An Analytical Frame*, Hebei Law Review, July, 2008.

and protected at anytime at anywhere, including the workplaces. At the workplace, employees need some privacy: they need feel safe when they use toilets as they are at home. They maybe need feel at ease to talk with colleagues about their own family matters; they need feel secure to keep some personal things, such as mails and photos; they need feel free to make or receive private telephone calls in their spare time⁴⁵.

3. Balance of interests

It is true that employers have justification to watch over the workplace. However, if their rights are not properly limited, the rights of employees will be infringed. In China, there are already some reports regarding it. In the lawsuit of *Xiaoyan Chen v. Donghai Co.*, Jinhuang Lin and Chunming Chen, Xiaoyan Chen and Yingfang Jiang are employees in Accounting Department of Donghai Company Ltd. At the end of April, 1996, general manager Chunming Chen bought wiretapping equipments and installed in the office of Xiaoyan Chen and Yingfang Jiang with the purpose of finding out whether the two employees were loyal to the company. General Manager Chunming Chen wiretapped the talks between Xiaoyan Chen and Yingfang Jiang in his own office. Later, vice general manager Jinhuang Lin participated in the wiretapping. When Xiaoyan Chen got to know that she had been wire tapped, she became very depressed and then sued the company and the two managers. The trial court held that Xiaoyan Chen's rights of personality were protected by law, and Donghai Company should apologize to Xiaoyan Chen in the company and compensate 3000 CNY for damages. Xiaoyan Chen was not satisfied with the damages and appealed to the Intermediate Court, which affirmed the judgment of the trial court.⁴⁶ In another case in Shenzhen, Guangdong Province, there occurred several thefts in a private watch factory, a strongbox was broken with more 600,000 CNY stolen, and also watches were often reported stolen. In the prevention of future thefts, surveillance cameras were installed in the workshops, canteens, on the road in the premise of the factory, and even in men's toilets. The workers felt insulted and some workers called to tell the mass media. After that the cameras were removed under the pressure of reports.⁴⁷

As to the justice of video surveillance, there are different opinions. Some thinks the private property owners are entitled to protect their own property. Other believes that the rights of the privacy of the workers are infringed by installing video surveillance in the toilets.⁴⁸ As to the balance between the protection of the properties of the owners and the privacy of the workers, a researcher summarizes several points. First, the purpose of video surveillance must be legal, such as protecting the property, increasing the work efficiency, ensuring work safety. Second, the employers should notice the workers of the installment of video surveillance. Third, the premise of the employers should be divided into public area and privacy areas, it should be prohibited that surveillance cameras are installed in privacy districts, such as toilets in above cases. Fourth, the video records should be kept in safe place out of the reach of irrelevant persons.⁴⁹

Generally, in China, there is no more surveillance after the working time. However, the off-work activities of employees are still related to employment. An employee can get

⁴⁵ *Ibid.*

⁴⁶ He Huang, *On the Conflicts and Coordination Between the Rights of Privacy of Employees and the Right to be informed of employers: the lawsuit of Xiaoyan Chen v. Donghai Co., Lin Jinhuang and Chen Chunming*, Journal of Yunnan University (Law Research Version), Volume 18, No. 2, 2005.

⁴⁷ Surveillance in the Toilets and Workers Sued for the Protection of Privacy, <http://news.sohu.com/34/01/news148300134.shtml>

⁴⁸ Daqing Liu, *Legal Rules of the Protection and Limitation of the Privacy rights of Enterprise Employees*, Journal of Liaoning Business Institute (Social Science Version), No. 3. 2003.

⁴⁹ *Ibid.*

disciplined if he/she is committed to immoral activities after working time. There are some reports concerning that. For examples, there are two cases in 2013. One is concerned with that a head of Health Bureau of a city had an affair with a head of a local public hospital, and the video record of the two going into a hotel room was put on the internet, and later both of them were removed from the administrative position.⁵⁰ In another case, a chief judge in a supreme court has an affair with a lady and the video record of the two going into in a hotel a room was also put on the internet, and then he was discharged of from the position of chief justice. An article criticized that the punishment was too light. As a judge, he should be further punished in accordance with *Law of Judges of China*.⁵¹ It should be noted that the persons involved in that above cases are public servants. The results may be different as for private employees. However, no relevant cases have been reported for private employees.

V. Personal information and privacy protection in post termination period

In China the protection of personal information and privacy is closely connected with personnel file management and the liabilities of employers to protect the private information of the employees.

A. Personal information protection

During the planned economy period, strict rules regarding personnel file administration were practiced. However, in nowadays, under the market economy, employers' attitudes towards records management are quite different. The government agencies, along with public non-profit organization, such as schools, universities, research institute and hospitals, still enforce very strict personnel file management rules. In the state-owned enterprises, the management of personal files of employees is still very strict. The annual results of evaluation of individual employees are kept in the personal individual files as record as basic information for future rewards, grade classification, promotion and social insurance, etc. But in the private enterprises, the personal file management system would be quite loose, especially in small enterprises, which usually do not keep the detailed records of employees because of that employees turn round quickly in such working units.

In practice, in some employer unit, especially the public non-profit organization and some state-owned enterprises, the personnel files are very important to employees. In transferring from one employer to another, an individual employee shall have his/her personal file record transferred to the new employer. The new employer could not accept the transferring without the personnel file coming together with the employee. Therefore, some employers would try to refuse the transferring of the personal files so as to stop the employees from leaving.

But market economy demands that all resources be allocated through markets, including human resource market. To block the transferring of personnel file is an action against the mechanism of market mechanism. In order to deal with this abnormal phenomenon in the transferring of personnel files, *Labor Contract Law of China* stipulates

⁵⁰ *Weekly Figure, Exposure of the Video of Hotel Room Renting by A Bureau Leader and Head of A Hospital*, <http://hjsb.hj.cn/Read.asp?NewsID=891841>

⁵¹ Editorial: *Hotel Room Renting by Chief Judge May Be not a Private Business*, The Beijing News, December 11, 2013.

that within 15 days from the termination or end of labor contract, the employers should transfer the personal files to the employee's new employers (article 50).

Another problem about personnel file administration is that no individual has the rights to check the information of his personnel file and knows nothing of the information in the file.⁵² This problem often causes disputes when workers argue that information in the file are not correct and influence their pensions.⁵³ Therefore, the protection for rights concerning personal information in the personnel files need to be improved.

B. Privacy protection

Some employees have the obligation of non-competition after employment relationship ends. In practice, employers always expect employees to abide such an obligation and in order to meet the expectation they sometimes maybe infringe the privacy of employees. For example, it was reported Gamigo Online Entertainment in Shanghai published the names, identity numbers and photos of six former employees who were bound by non-competition agreements with the purpose of protecting their own interests, and notified the public that companies who would employ the employees would bear legal liabilities.⁵⁴ Undoubtedly, Gamigo Online Entertainment infringed the privacy of the six employees.

New prospective employers would often like to get information about the job applicants from their former employers. However, there are no regulations on what former employers should provide to new employers; whether the former employers should provide all the information, including the punishments by former employers; whether a job applicant has the right to know what information the former employer has provided to the new prospect employer. Undoubtedly, the negative evaluation by former employers would greatly influence the chances of job application. However, in China there are no regulations regarding it.

VI. Comments and foresights

A. Comments on the current protection of personal information and privacy

From the current legislations, it could be concluded that China has already had initial systems on personal information and privacy protection. The regulation for the protection of personality of citizens in Constitution lays a foundation for the construction of the protection system, which could be applied when the rights of personal information and privacy are infringed. Also, criminal punishments have been provided where personal information or privacy is very seriously infringed or serious consequences are resulted from the infringements. However, from the wide-spread infringements of personal information and privacy rights introduced above, it could be said that the current regulatory scheme in China has not provided effective regulations and remedies. As discussed above, the essential regulations for the protection of rights of personal information and privacy of the employees are in the civil laws. But the current situation makes it clear that the civil law protections are not enough. The limitations of the civil law protections are in the following aspects:

⁵² Jinsong Sheng, *The Protection of the Right to Know the Information in Personnel File and Legislation Improvements*, Social Science Forum, No. 2, 2006.

⁵³ Jinrong Li, *Who Changed My Personnel Files*, Sichuan Labor Security, December, 2006.

⁵⁴ Shuiyuan Luo, *Gamigo Online Entertainment Company Published the Information of Employees Leaving Office and Accused of Infringements by Employees*, Newspaper of News, September 1, 2006.

First, the remedies for the infringements of personal information and privacy are far from enough for the awards of damages. The judgments of the lawsuits showed that the employees who had won the cases of suing for the infringements of personal information and privacy and could only get very limited awards. For example, in *an applicant v. Decang Dynamo (Shenzhen) Co. Ltd.*, the applicant entered into the defendant's company after graduating from a university. In a medical check arranged by defendant, the applicant was found to be carrier of hepatitis B and thus was fired by defendants. The applicant brought a civil litigation and only won 3000 thousand CNY for spiritual distress. In most of the cases, the applicants could only get apologies from employers and less than 10000 CNY for damages and mental distress. Sometimes, the damages are less than the attorney fees, not to mention the waste of time and mental suffering in the process of trials.

Second, the procedures are long and the cost is high for the civil lawsuits. Generally, it needs at least one year to finish the lawsuits of two trials, and the attorney fee cost would be over 10000 CNY for a simple common case. Even, an employee wins the case; the attorney fees he/she pays could not be recovered. Considering the limited rewards and the long high cost of the lawsuits that are usually full of hardship. Nearly all employees will choose to eat the humble pies and give up the legal efforts to claim for remedies when thinking of the difficulties and high cost of lawsuit in the protection of personal information and privacies. Such situations would in return encourage the employers to abuse the favorable situations.

Third, the protection of personal information and privacy has not been paid its due attention by the governmental agencies. In the current social background it would be quite difficult if an employee turns for help from the labor inspections for the infringement of personal information or privacy. Normally, the labor inspections pay more attentions to the material interest protection like back pay problems.

Forth, the cases that have been won have not produced great social influence due to the civil litigation structure. In China, normally a civil law case ends at the intermediate court and the judgments are not open to the public because they are related to privacy. Therefore, outside the jurisdiction of the intermediate court, the public would not know the case and the results. Such a system has greatly limited the influence of the cases, making it difficult for improving the consciousness of rights of personal information and privacy.

The current situations of personal information and privacy protection are decided by several factors.

First, current Chinese labor law system started from 1995 and it could not be comprehensive in such a short time. China maybe needs another 30 year to accomplish industrialization, during which the labor law protection for employees would be gradually improved.

Second, it is quite normal that the legislation focuses more on the material interests than personality interests at such a development stage. From the damages awarded by court, it could be inferred, personality interests including personal information and privacy is now despised.

Third, the existing problems are partly resulted from the imbalance between the protection of employees, especially for the ill, industrially injured and women workers, along with the problems existing in the social insurance mechanism and district interest conflicts. All of the above factors combine together to result in the current situations.

B. The future legislation and directions

1. Protection would be strengthened in civil laws.

At present, the protection for personal information and privacy has not been paid enough attention. But the civil scholars have been studying this field and advocating new legislations on it. The Draft of Civil Code of China (DCCC) prepared by scholars suggests more clear regulations on privacy, which provides that “natural person is entitled to enjoy the right of privacy, and privacy is prohibited to be stolen, wiretapped, recorded or filmed secretly. It is prohibited to publicize or make use of the life secrets of others or act in other ways which would infringe personal privacy without consent unless otherwise provided by law. Also, Article 376 of DCCC provides that an employee’s right of privacy in the workplace shall be protected by law, and an employer shall take actions to control workplaces which would not do damages to the privacy of employees by using video-taking, recording, surveillance, testing or other measures, and such measures should be limited to necessity. Base on the researches and advocates, personal information and privacy protection would be strengthened in the future.

2. Labor law protections would get more attentions.

Some Chinese scholars have studied the specialty of employment relations and pointed out that labor relation is different from the civil relation. Labor relations contain social elements in which the employees are subordinated to the employers economically and personally.⁵⁵ Therefore, special rules need to be set up for the protection. It has been suggested that more and clearer regulations on the collection of personal information and workplace surveillance should be put into practice in order to stop the abuse of personal information and the improper work surveillance.

With more and more cases and researches coming out in the future, the legislators would pay more and more attention to the imbalance of the interests between the protection of women and senior workers and the risks and costs of employers, from which they would try every possible means to avoid. Also with the development of economy, the courts would be paying more attention to the personality rights of employees. As for the problems existing in the social insurance systems, China has just proposed to establish nationally unified social insurance system which covers all the farmers and employees.

In all, China is a big country that has been in the process of rapid transformation. In the process of quick economic, social, political development, the existing problems including the problems in the protection of personal information and privacy could be hopefully solved gradually along with the deepening of political reforms and development of labor laws, social security laws and the reforms of judicial system.

⁵⁵ Feng Pan, *On the Protection of the Right of Privacy of Employees: An Analytical Frame*, Hebei Law Review, July, 2008.