



Canadian International
Development Agency

Agence canadienne de
développement international

China

Governance



CIDA's
program in
China

Canada

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The context

Building and sharing knowledge

The Canadian International Development Agency (CIDA) began working with China in 1982. Initially, CIDA helped China build international linkages and learn from foreign expertise by supporting people-to-people contacts and education programs in Canada and China. Today, CIDA's program objectives in China are environmental sustainability, human rights, democratic development, and good governance.

Canada's development activities in China must be seen within the context of a relationship that has evolved significantly, and will continue to do so. The Chinese people have experienced dramatic political, social, and economic changes during recent decades. They have seen a significant opening of their society to a market economy, new ideas, and new ways of governing. They are pushing ahead with legal and judicial reforms to better adjust to a rules-based international system.



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Canada has been able to share with China some of its experiences and practices. In doing so, Canada has the opportunity to support China in a mutually beneficial manner in the areas of the rule of law, human rights, and democratic development.

CIDA's approach

Canada does not give money to China. Instead, Canadian experience and expertise assist China in undertaking reforms that China itself is implementing and funding. CIDA's approach – dialogue, mutual understanding, and capacity development – has helped build a network of governmental and institutional contacts and contributed to legal reform that fosters respect for human rights and supports good governance. The program focuses increasingly on high-level knowledge exchange between peers. Experts and practitioners from both countries share knowledge and experience in projects that develop customized approaches to address unique Chinese needs related to their reform process.

Good governance requires all three elements – rights, democracy, and governance – to be linked and mutually reinforcing. CIDA programming integrates them within a program of institutional capacity building and the implementation of international agreements. CIDA is cooperating on strengthening the rule of law as a means to uphold the rights of women and men; achieve economic, environmental, and social objectives; and facilitate China's integration into global systems. Special emphasis is being placed on the role of, level of access to, and professional capacity within legal, judicial, and legislative institutions, and the capacity of those institutions to respond to the standards and requirements of international agreements to which Canada and China are parties.¹

¹ This includes the World Trade Organization; United Nations Convention to Combat Desertification; Kyoto Protocol to the United Nations Framework Convention on Climate Change; International Covenant on Civil and Political Rights; International Convention on Economic, Social and Cultural Rights; and Convention on the Elimination of All Forms of Discrimination Against Women. For more information, please consult www.cida.gc.ca and follow the links to the China program.

Economic reform and increased openness to the outside world ...

Economic reform has been the linchpin of the government's program to maintain stability and improve the quality of life for all Chinese people. Since 1978, China has been engaged in a major program of economic modernization that has resulted in widespread improvements in the standard of living for hundreds of millions of people.

As part of these efforts, the Chinese government has begun to introduce significant changes to its legal and judicial systems and has placed a high priority on integrating with the global marketplace and international rules and standards. Since 1978, China has increased its membership in international organizations more than tenfold. It acceded to the World Trade Organization (WTO) in January 2002. China has also signed and ratified close to 200 international treaties and conventions, including several key human rights agreements.

... have had far-reaching implications for Chinese society

These international commitments provide a strong platform for China's reform program by fostering a stable, predictable, and transparent economic environment. However, the legal changes now being carried out to implement these international agreements go beyond the economic sphere, and are gradually changing the relationship among the Chinese state, economy, and society. China is attempting to balance the need for economic growth and change with the need for stability by reforming laws to reflect international standards while addressing quality-of-life issues such as regional disparity, economic equity, environmental sustainability, and transparency and accountability in governance.

In addition, in order to better target its reform policies and programs, the government is creating a measure of new space for individuals and non-governmental organizations (NGOs) to participate in and influence decision-making. For example, public hearings on the revised 2001 Family Law resulted in a decision to make domestic violence and bigamy illegal. Many village officials are now being elected, thereby reducing opportunities for corruption by making local leaders more accountable for their actions. While they remain subject to definite limits on their autonomy through a variety of control measures,

NGOs – increasing in number and advocating on diverse issues ranging from human rights and the environment to access to social services – are nonetheless informing citizens of their rights and interests as well as various new measures to safeguard them.

Highlights

Building the institutions

China is continuing to develop the institutions and regulatory processes it needs to govern a market-based, decentralized system based on the rule of law and is seeking expertise from the international community. Dialogues and exchanges on the Canadian and Chinese legal systems have helped the Chinese explore ways of strengthening their laws as well as conform to international norms. The revision and implementation of laws and regulations have been facilitated by Canada-China cooperation in the areas of criminal law and criminal justice, upgrading skills for judges, and familiarization with Western judicial and legal theory and practices such as independence of the judiciary, gender equality, and approaches to adjudication, procedure, and evidence.



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assistance to victims of pollution, grass-roots training for participation in democratic village committees, training in citizenship and social awareness for women, training and sensitization for police in domestic violence, research on local laws in the Shanghai area from an international human rights perspective leading to policy recommendations, and the establishment of a legal aid centre for migrant workers in Shanghai (see box).

Canada supports migrant workers' rights in China

More than a half-million migrant workers are now more aware of their rights thanks to the Legal Aid Centre for Migrant Workers in Shanghai (now known as the Shanghai Legal Services Centre for Workers). Funded by a contribution from CIDA's Civil Society Program, this centre was established by eminent labour rights specialist Prof. Dong Baohua, Director of the China Institute of Labour Law, in February 2001.

The centre is staffed by volunteers, mostly law students, who work the phones and advise walk-in visitors about the rights of migrant workers. More than 1,400 workers have received legal advice face to face, and another 229 were counselled via the hotline. The centre has also organized outreach activities in public areas, including train stations, town squares, and schools for migrant workers. They have distributed some 20,000 copies of a new publication entitled "A Migrant Labourer's Guide to Protecting Your Rights and Interests." More than 70 articles have been published in local and national newspapers and magazines, and a number of radio and television programs have also been produced on migrant workers' rights.

General awareness of this issue has markedly increased. A number of workers have obtained financial compensation for the abuses they suffered at the hands of employers, and law students who have been working at the centre have acquired the skills and knowledge necessary to defend migrant workers' cases.

Institutional capacity-building initiatives to strengthen the rule of law in China include:

The **Supreme People's Procuratorate**, the body in China responsible for the prosecution of criminal cases, investigation of corruption, and violations of rights within the justice system, is undergoing a major reform and focusing on transparency, upgrading qualifications of prosecutors, administrative rationalization, and a campaign against corruption. CIDA is implementing a cooperation project that is supporting this process of reform, with special emphasis on the protection of citizens' rights and the implementation of due process in the criminal prosecution system.

The **Canada-China Judicial Linkages Project** is underway with the Supreme People's Court of China (SPC) to provide assistance in specific areas of judicial reform. Areas being addressed are the reform of trial procedures, including rules of evidence, simplified procedures, and judgment writing; enhanced judicial management, including case flow management, revisions to functional classifications, and developing options for implementing a judicial code of conduct and discipline process; and augmenting the capacity of judicial



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training colleges to plan, develop, and deliver modern programs and curricula of direct relevance to the needs and operational challenges of the judicial system in China. The project is also enhancing the knowledge of senior judges of the SPC and of the Supreme Court of Canada, and of senior judges at the provincial level in both countries, about the systems in each other's country and about emerging legal issues of common interest.

Legal aid and community legal services in China are now in the early stages of development. The purpose of the **Canada-China Legal Aid and Community Legal Services Project** is to strengthen China's legal aid and community legal services system and to enhance the capacity of China's Ministry of Justice to govern in this area. This project is focusing on integrating and coordinating the legal aid system, providing training and development for legal aid workers, and increasing public awareness and information. The project is expanding access to legal services for the poor, women, and other disadvantaged groups.

Links have also been established between the Canadian legal profession and its Chinese counterparts. CIDA is supporting exchanges between the Canadian Bar Association (CBA) and the All-China Lawyers' Association (ACLA) with a view to promoting the professionalism of the Chinese legal community as well as strengthening capacity and autonomy of their professional association. The CBA's **Criminal Justice Reform and Advocacy Project** in China is a continuing legal education program that covers such issues as understanding the role of lawyers in the adversarial system and in business transactions, developing programs that respond to the needs of ACLA members, and promoting proactive participation by ACLA and its criminal law committees in criminal law reform.

Through the **Canada-China Women's Law Project**, the Association of Canadian Community Colleges is strengthening the ability of the All-China Women's Federation (ACWF) and other Chinese organizations to raise general public awareness and to strengthen the implementation of the 1992 Law on the Protection of Rights and Interests of Women, and of other laws and regulations protecting women's rights in China, to ensure women understand and can exercise their rights. The project includes the upgrading of ACWF legal offices,



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legal aid clinics, and gender training for the judiciary, lawyers, and police. Collaborative research also identifies gaps in Chinese legislation, complementing changes to regulations and policies affecting women's rights.

The **Civil Society Program** directly supports the development of emerging Chinese NGOs to increase the participation of citizens, communities, and NGOs in the development of public policy and decision-making; promote greater acceptance and dialogue between the government, citizens, and NGOs in public discourse; and enhance access to legal reforms that promote the rights of citizens, particularly vulnerable groups such as women, the disabled, and migrant workers.

Now in its second phase, this project has helped NGOs strengthen their skills in project design, programming, management, and evaluation. It has also increased their organizational capacity, enabling them to strengthen human resources, network, and attract financial partners. In many instances, local governments have gained an increased respect for the role of NGOs in China's development. Recent initiatives funded under this program include legal

The **China-Canada Legislative Cooperation Project** is contributing to democratic development through increased citizen participation and the rule of law in China by helping to increase the capacity of China's National People's Congress and selected provincial people's congresses in Yunnan, Zhejiang, Jiangsu, and the Inner Mongolia Autonomous Region. Areas of focus include legislative drafting processes, public consultation mechanisms on legislation, and systems to supervise the implementation of government policies, including strengthened legislative and budgetary oversight.

The **Public Policy Options Program** is linking Canadian experts and policy-makers with key Chinese institutions. The Canadian consultants – coordinated by the Conference Board of Canada and the Institute of Public Administration of Canada – provide technical advice and assistance on priority issues related to China's reform agenda. High-level study tours to Canada have increased the capacity of Chinese officials to formulate and recommend policy options across state and provincial ministries and agencies. Recommendations have resulted in, among other things, the creation of agencies related to small and medium-sized businesses and draft laws on occupational safety and legal aid.

The **Public Sector Reform Program** also increases public-sector capacity to formulate and implement socio-economic policies and regulate relevant institutions. Agriteam Canada Consulting Limited coordinates this project with the Chinese Ministry of Commerce. Sub-projects have dealt with issues such as fiscal expenditure management, local-central government relationships, strategic environmental assessment for policy-making, reform of the notarial profession, and regulation of the financial sector.



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The new **Policy Options Project** combines the best of elements of the above two projects and will continue to bring together Canadian experts with Chinese decision-makers looking for technical assistance in policy reform areas. Its responsive nature to current governance policy needs will ensure a high level of local ownership and relevancy to the Chinese reform agenda.

Implementing international agreements

International agreements, including the Millennium Development Goals, feature prominently in Chinese government plans and priorities. However, the government still has many challenges to overcome in implementing these priorities. China is in the early stages of developing intergovernmental fiscal arrangements and other systems to effectively encourage, regulate, enforce, and monitor actions in support of its policy reforms. In addition, government capacity, environmental problems, economic conditions, and local priorities vary across the country. The Chinese government has asked the international community, including Canada, for advice on how best to meet its new international commitments, and Canada is responding by providing expertise based on its own experience in implementing these agreements.

Projects to assist China in meeting the standards and requirements of international instruments to which China and Canada are party include:

The **Anti-Discrimination and Rule of Law Project**, currently in the planning stage, builds on earlier work of the University of Ottawa to strengthen the capacity of the Human Rights Research Centre at the University of Beijing to promote and contribute to China's implementation of international human rights covenants. This new project will bring together senior



government officials with researchers, academics, practitioners, and civil society organizations for discussions and information-sharing sessions to effect changes in law and policies that will contribute to the elimination of discriminatory practices and promote the implementation of relevant international human rights agreements.

CIDA is also continuing its assistance in criminal law reform in China through the International Centre for Criminal Law Reform and Criminal Justice Policy's **Implementing International Standards in Criminal Justice in China** program. This new program targets the reform and improvement of criminal procedure, substantive criminal law, and the administration of criminal justice in accordance with international standards. Canada will help Chinese legal experts enhance their knowledge of relevant international law and its application in a variety of different legal systems. This knowledge will be disseminated to Chinese ministries and organizations.

The new **Statistical Information Management Program, Phase II**, will help China to monitor and report on its progress in meeting its international commitments. The project will build the institutional capacity of China's National Bureau of Statistics to provide data relevant to international economic, environmental, and social agreements. The project's focus on measures to facilitate transparency, accountability, and compliance is also supportive of broader governance priorities.

In the **WTO Capacity Building Project**, CIDA is providing technical assistance to help China meet its WTO obligations, especially that of transparency, and develop the policy capacity to address the impacts of entry into the global marketplace, particularly in terms of social dislocation, unemployment, and the impact on gender equality. Canadian experts are sharing Canadian experience through training and trade-related technical assistance to enable China in establishing WTO-compliant administrative procedures. Compliance and transparency-related project activities will be focused on the services sector. Canada will also help China develop policy options for social-adjustment mechanisms and coordinate its trade, industrial, and employment policies.

The goal of the **Gansu Women's Employment Project** is to promote China's continuing economic reform, following its accession to the WTO, and to encourage economic linkages and partnerships between Canada and China. The purpose of the project is to strengthen the capacity of the provincial government of Gansu and the municipal governments of Lanzhou and Baiyin to build a sustainable and equitable labour market and unemployment insurance system in Gansu province with a focus on the needs of laid-off and unemployed women workers. The project responds to key and emerging problems as China seeks to meet its WTO obligations, i.e. the growing number of laid-off workers, in particular women, resulting from state-owned enterprise reforms and the growth in rural-to-urban migration.

In the **Small Farmers Adapting to Global Markets Project**, CIDA is supporting China's efforts to build an agri-food safety system that complies with WTO regulations and standards in an environmentally safe manner. Canadian experts will share their knowledge in sanitary and phytosanitary systems through training and exchanges to help their Chinese counterparts develop policies, regulations, and institutions to implement them. The project is also helping China to identify and assist small farmers who might be negatively affected by WTO accession. Policy advice related to this issue is focused on meeting international standards and developing systems to help find employment alternatives for affected farmers.

CIDA is continuing to work with Chinese and Canadian partners to develop new projects related to China's capacity to enhance the rule of law and implement international agreements. We are also looking at the relevance of various international agreements to other elements of CIDA programming in China, including environmental sustainability. Given the extensive use of Canadian experts as a source of policy advice in these areas, it is expected that many of these new initiatives will include **Canada Corps** components to facilitate the involvement of even more Canadians in this important work.

