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Dispatch

China's Reform on Gradual Delay of the Retirement Age

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KEYWORDS: Gradual Delay of the Retirement Age, Voluntariness and Flexibility, Gender Differences, Retiree Rights, China

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I. INTRODUCTION

APPROXIMATELY A DECADE AGO, China began considering postponing the retirement age, and this concept has now been officially implemented. On 13 September 2024, the Standing Committee of the National People's Congress passed the "Decision on the Implementation of Gradual Delay of the Retirement Age, 关于实施渐进式延迟法定退休年龄的决定," (the "Decision on Retirement Age"). Concurrently, the State Council issued the "Measures to Gradually Delay of Statutory Retirement Age, 关于渐进式延迟法定退休年龄的办法," (the "Measures on Retirement Age") providing detailed provisions. This marks the first instance of China raising its retirement age in several decades. Prior to this reform, the retirement age in China was 50 years for female workers, 55 years for female cadres, and 60 years for male individuals (without a distinction between male cadres and workers).

This dispatch analyses the background of the reform, the specific provisions regarding retirement age, labour protections for retirees, and the pension benefits that currently lack implementation details. With a population of 1.4 billion, China is the world's second-most populous developing nation. China's exploration into the postponement of the retirement age may potentially serve as a reference for other countries.

II. BACKGROUND

A. IMPACT OF RETIREMENT AGE ON THE ECONOMY

1. THE SUPPLY OF LABOUR

By the end of 2023, the population aged 60 and above was 296.97 million, accounting for 21.1% of the national total. 216.76 million are 65 and above, accounting for 15.4% of the national total (National Bureau of Statistics of China, 2024a). Meanwhile, the average life expectancy in China will reach 78.6 years in 2023, an increase of 10.8 years from 67.8 years in 1981 (Zhao, 2024). Consequently, due to the continuous decline in the working-age population and the steady increase in life expectancy, the delay in retirement age can enhance adequate labour supply and promote economic development.

Two additional factors contribute to the rationale for delaying the retirement age. The first factor is education. According to national statistics, the average years of education for the working-age population increased from just over eight years in 1982 to 11.05 years in 2023 (National Bureau of Statistics of China, 2024b). Therefore, their entry into the labour market is postponed, and it is

necessary to extend the retirement age to maximise the utility of human capital. Furthermore, certain knowledge-based and technical occupations enable older individuals to continue utilising their expertise.

For instance, with the advent of mechanisation and digitisation of industrial equipment, employment opportunities are no longer exclusively characterised by physical labour. Older individuals can pursue occupations (such as engineering roles) that rely on experience and expertise but do not demand substantial physical labour. In addition, educational institutions, healthcare facilities, and research organisations also welcome these knowledgeable workers.

2. PENSION FUNDING PRESSURE

The escalation in pension funding pressure is correlated with the demographics of age. From an expenditure perspective, elderly individuals will receive increased pension benefits due to extended life expectancy. Furthermore, China is currently experiencing a declining birth rate. In 2022, the birth rate was 6.77 births per 1,000 people (National Bureau of Statistics of China, 2023), and in 2023, the birth rate was a record low 6.39 births per 1,000 people (National Bureau of Statistics of China, 2024c). Thus, a low birth rate implies a reduction in the number of individuals contributing to the age pension premium. Consequently, extending the retirement age will assist in balancing the income and expenditure of the pension insurance fund.

B. IMPACT OF RETIREMENT AGE ON THE INDIVIDUAL AND FAMILY

From an individual and family perspective, postponing retirement and extending one's working years can potentially increase personal income, thereby enhancing the quality of life and facilitating better self-actualisation. Furthermore, the augmented income can alleviate the financial burden on the entire family unit.

The "Retirement and Reemployment Survey Report for the Old People," published by "51job" (a human resources service provider) in October 2022, revealed that 68% of older individuals express a strong inclination towards post-retirement employment. Of this group, 46.7% seek personal and social value; 19% aspire to utilise their skills and continue their career development; and 34.3% of job seekers aim to meet higher-level consumption needs by supplementing their household expenses and increasing their income through re-employment (Xie, 2022).

III. DETAILS ABOUT THE NEW RETIREMENT AGE

A. KEEP THE CAP ON THE RETIREMENT AGE

While China is anticipated to implement a gradual increase in its retirement age, the upper limit has not yet been eliminated. Article 1 of the “Decision on Retirement Age” stipulate the following: commencing 1 January 2025, the statutory retirement age for male workers will be incrementally extended by one month every four months, ultimately reaching 63 years of age. The statutory retirement age for female cadres will be incrementally extended by one month every four months, ultimately reaching 58 years of age, while the retirement age for female workers will be incrementally extended by one month every two months, ultimately reaching 55 years of age.

B. THE PRINCIPLE OF “VOLUNTARINESS AND FLEXIBILITY”

This reform instituted the principles of “voluntariness and flexibility.” According to Article 2 of “Measures on Retirement Age,” upon reaching the minimum retirement age, workers may voluntarily opt for flexible early retirement, stipulating that the advance period should not exceed three years. An additional requirement specifies that the retirement age must not be lower than the original statutory retirement age of 50 years for female workers, 55 years for female cadres, and 60 years for male workers. Furthermore, employees may, in agreement with their employers, flexibly delay retirement for a maximum of three years.

This dispatch argues that the rationale for implementing a flexible and voluntary retirement age is to accommodate the diverse needs of different groups. Individuals who experience unemployment prior to reaching retirement age may oppose the postponement of their retirement age. China’s absence of legislation addressing age discrimination creates significant challenges for individuals over 35 seeking re-employment. These individuals typically rely on non-standard forms of employment, such as platform-based or casual work, for their livelihood (Lin, 2023). A uniform delay in retirement age would be detrimental to these groups. Conversely, highly skilled individuals may opt to extend their careers in response to delayed retirement policies, and implementing greater flexibility in retirement age regulations may prove beneficial in stimulating their professional motivation.

C. UNRESOLVED: THE RETIREMENT AGE ISSUE FOR WOMEN

1. DEFINITION OF FEMALE CADRES

As mentioned, China's retirement age distinguishes between female workers and female cadres. The concept of "cadre" is related to the personnel structure (bianzhi, 编制) of state-owned enterprises. Because the leaders of state-owned enterprises are often transferred to government agencies, they must be assigned an administrative rank. For example, the president of the Bank of China is equivalent to a vice-minister, such as the vice-minister of Human Resources and Social Security. Below the president, leaders at all levels within state-owned enterprises also have corresponding ranks.

Contemporary state-owned enterprises have abandoned their traditional administrative hierarchies.¹ Private and foreign-funded enterprises have never had such an administrative-level system. Nevertheless, the concept of female cadres persists in retirement legislation, and certain jurisdictions are exploring methods to define this category. For instance, the "Implementation Measures for Basic Pension Insurance for Enterprise Employees (企业职工基本养老保险实施办法)," promulgated by the Jiangsu Provincial Government in 2022, attempted to establish criteria for identifying female cadres. Article 13 (1)(a) stipulates that female employees occupying management and technical positions at age 50, or those who have held such positions for five years and continued in these roles after age 45, shall be subject to the retirement age regulations for female cadres. Article 14 grants decision-making authority to enterprises. It mandates that companies develop a job catalogue (encompassing job titles and descriptions). Upon approval by an employee general assembly (zhigong dahui, 职工大会) or employee representative conference (zhigong daibiao dahui, 职工代表大会), the company submits this catalogue to the local bureau of human resources and social security as one of the criteria for determining the retirement age of female workers and cadres. The company determines whether an individual qualifies as a female cadre based on the labour contract signed by both parties and the company's job catalogue. However, it is regrettable that the current retirement age reform does not address this issue comprehensively.

1. Please see the Opinions on Deepening the Reform of Persons, Labor, and Distribution Systems within State-owned Enterprises, issued by the State Economic and Trade Commission in 2001. Article 2 stipulates that state-owned enterprises should no longer implement the administrative-level system and that managers should no longer receive the administrative-level benefits accorded to government officials.

2. THE PURSUIT OF GENDER EQUALITY

As previously noted, the retirement age for women is lower than that for men. When retirement policies were initially formulated in the 1950s, a differentiation was established between the retirement ages of men and women, and subsequent retirement policies continued to maintain this gender-based distinction. The initial distinction could be attributed to the prevalence of agriculture and heavy industry during that decade, when numerous physically demanding occupations were less conducive to female participation. Furthermore, China's fertility rate was elevated during that period. From 1950 to 1957, the birth rate was generally above 30 per 1,000 and peaked at 37 per 1,000 (National Bureau of Statistics, 1999), resulting in a substantial childbearing burden for women. Nevertheless, as the proportion of light industry, handicraft, and service sectors continues to expand, the gender disparity resulting from the physical requirements of the labour market has decreased substantially. Furthermore, women generally exhibit higher life expectancy than men, and China's fertility rate is experiencing a decline (Yuan et al., 2024). These factors render the justification for the earlier retirement of women no longer valid.

The government's previous initiatives to equalise male and female retirement ages have primarily focused on government officials and knowledge workers. In 2015, the government issued a "Notice on the Retirement Age of Senior Female Cadres at the County and Department Level in Government Agencies and Public Institutions and Female Professional and Technical Personnel with Senior Titles (关于机关事业单位县处级女干部和具有高级职称的女性专业技术人员退休年龄问题的通知)." This document stipulates that senior female cadres (Chuji, 处级) at the county and department levels and corresponding positions in the Communist Party of China, government, and affiliated organisations, as well as senior female cadres at the county and department levels and corresponding positions in public institutions responsible for party affairs and administrative management, could retire at the age of 60 years. Regarding experts, the "Notice of on Retirement of Senior Experts (《关于高级专家退(离)休有关问题的通知》)," issued by the Ministry of Personnel in 1990, stipulates that female senior experts who are physically capable of maintaining normal work functions may voluntarily retire at 60. However, implementing a uniform retirement age for both men and women across all industries remains a distant objective.

This dispatch argues that early retirement also presents disadvantages for female workers in other aspects. First, female workers lose labour protections at an earlier age than male workers. In addition, the basic pension benefit is determined based on factors such as the individual's cumulative payment years.

Consequently, the benefits are lower for female employees who retire early (Wang, 2022). Furthermore, for highly skilled female workers, an earlier retirement age necessitates premature exit from the labour market, preventing the full realisation of their professional potential compared with their male counterparts.

IV. THE RETIREE'S RIGHTS

A. THE LABOUR CLASSIFICATION OF THE RETIREE

The term “retiree” in this context refers to individuals who have reached retirement age, regardless of gender or previous occupational status. Retirees retain the right to engage in employment post-retirement; however, they are no longer classified as “persons who engage in labour,” consequently losing labour law protections. It is noteworthy that the Labour Contract Law (LCL) delineates an additional circumstance in which retirees lose their status of “persons who engage in labour” in China. Upon receipt of pension benefits, labour contracts are automatically terminated, thereby the labour law will not apply.

The provision of two sets of criteria in legislation warrants examination. Article 16 of the Social Insurance Law of the People's Republic of China stipulates that an employee will receive monthly pension benefits upon reaching the statutory retirement age if the employee and work unit have made cumulative contributions for 15 years. Consequently, if employees' cumulative contributions do not meet this requirement, they cannot obtain pension benefits even upon reaching retirement age. Regarding the applicability of the labour law in cases where pension benefits are not obtainable, there are no uniform rules within the judicial system. Fan (2020) summarised that many courts strictly adhere to the retirement age as a criterion for employment termination. The labour law will not apply to individuals who have reached the retirement age but continue to work, irrespective of whether they can obtain pension insurance benefits. Nevertheless, numerous judicial bodies maintain that, for those who have reached retirement age but have not commenced receiving pension benefits, their relationship with the employer could be recognised as a labour relationship. Nevertheless, this dispatch found that due to potential implications for the revision of the LCL in the future, this current retirement age reform has not yet proposed a solution for unifying the standards.

B. RETIREE RIGHTS

As introduced in the above section, retirees have not been afforded protection under labour laws. However, this reform extends certain fundamental labour

rights to retirees. Section 1 of Article 6 in the “Measures on Retirement Age” stipulates that: “Employers who recruit workers over the legal retirement age should ensure that the workers obtain fundamental rights such as labour remuneration, rest and vacation, occupational safety and health, and workers’ compensation protection.” Consequently, retirees may be considered a distinct category occupying a position between employees and self-employed individuals.

Among these labour rights, workers’ compensation programmes for retirees have experienced rapid development in response to pressing needs. Retirees cannot be classified as employees and are therefore ineligible to participate in workers’ compensation programmes. Without workers’ compensation benefits, individuals who sustain work-related injuries may face a significant risk of financial hardship due to substantial medical expenses (Chen, 2023). In recent years, several provinces and municipalities in China, including Zhejiang,² Shanghai,³ Hunan,⁴ and Shandong,⁵ have implemented ordinances to explore alternative avenues for workers’ compensation. Employers have the option to voluntarily purchase the premium of workers’ compensation insurance for retirees. Take the “Measures for Employers to Participate in Workers’ Compensation Insurance for Specific Employees Who Do Not Meet the Conditions for Establishing Labor Relations (Trial) (用人单位招用不符合确立劳动关系情形的特定人员参加工伤保险办法 (试行)),” issued by Zhejiang Provincial Human Resources and Social Security Bureau in 2023, as an example. According to Article 7, in the event that a covered retiree sustains a work-related injury in an accident, the identification of injuries, the assessment of labour capacity, and the disbursement of benefits by the workers’ compensation fund shall be conducted in accordance with the

2. “Guiding Opinions on Piloting the Participation of Students of Vocational and Technical Schools in Workers’ Compensation Insurance During Their Internship Period and Persons Over the Statutory Retirement Age in Their Continued Employment Period”(关于试行职业技工等学校学生在实习期间和已超过法定退休年龄人员在继续就业期间参加工伤保险工作的指导意见), 2018; “Measures for Employers to Participate in Workers’ Compensation Insurance for Specific Employees Who Do Not Meet the Conditions for Establishing Labor Relations (Trial)” (用人单位招用不符合确立劳动关系情形的特定人员参加工伤保险办法 (试行)), 2023
3. “Trial Opinions on the Participation of Workers’ Compensation Insurance for Persons Over the Statutory Retirement Age and Interns” (关于本市超过法定退休年龄就业人员和实习生参加工伤保险的试行意见), 2023.
4. “Measures for the Participation of Persons Over the Statutory Retirement Age and Other Specific Employees in Workers’ Compensation Insurance (Trial)” (“超龄人员等特定人员参加工伤保险办法 (试行)”), 2024.
5. “Measures for Participation of Persons Over the Statutory Retirement Age and Internship Students and Other Specific Employees in Workers’ Compensation Insurance (Trial)” (“超龄人员和实习学生等特定从业人员参加工伤保险办法 (试行)”), 2024

workers' compensation law. To enhance employers' incentives for voluntarily purchasing workers' compensation insurance premiums, these ordinances also stipulate two measures. First, according to Article 1, employers are not required to simultaneously purchase other social insurance premiums (pensions, medical insurance, and unemployment insurance). Furthermore, according to Article 16, the ordinances explicitly state that voluntary participation in the programme does not serve as a basis for establishing a labour relationship between the two parties. In 2018, the Division of Workers' Compensation in the Ministry of Human Resources and Social Security issued a statement endorsing this approach, citing its potential to address work-related injury risks, and encouraged widespread adoption.⁶ However, definitions vary across jurisdictions. For instance, Shanghai defines retirees as individuals who have reached the statutory retirement age but have not exceeded 65 years of age; Shandong defines retirees as individuals who have attained the statutory retirement age but have not exceeded 70 years of age; Hunan defines retirees as individuals who have exceeded the legal retirement age and have not exceeded 70 years of age for male workers and 65 years for female workers.

V. UNSOLVED: THE BENEFIT ISSUE

Pension benefits are a central issue in retirement planning. The "Measures on Retirement Age" elucidates two key points. The first point pertains to the payment period. According to Article 2, commencing 1 January 2030, the minimum payment period for employees to receive a basic pension monthly will incrementally increase from 15 to 20 years, with an augmentation of six months per annum. The second point concerns the calculation standard. Article 4 stipulates that the underlying principle incentivises employees to accrue greater benefits through extended payment periods, higher premium contributions, and delayed retirement.

However, the government has not yet promulgated detailed regulations concerning the first and second points. The author of this dispatch posits that

6. Please see "Notice on forwarding the "Guiding Opinions on Piloting the Participation of Students of Vocational and Technical Schools in Workers' Compensation Insurance During Their Internship Period and Persons Over the Statutory Retirement Age in Their Continued Employment Period" (关于转发《浙江省人力资源和社会保障厅等3部门关于试行职业技能工等学校学生在实习期间和已超过法定退休年龄人员在继续就业期间参加工伤保险工作的指导意见》的通知)", issued by the Division of Workers' Compensation in the Ministry of Human Resources and Social Security in 2019.

within the next one to two years, China may amend the social insurance law to specify the premium payment and benefit rules.

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