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Maternity Policies and Working Lives in China and Vietnam

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Summary

This policy brief provides a comparative overview of the maternity policies in China and Vietnam and analyses their implications for workers in these countries. By examining a series of issues related to maternity protection in both countries, including the criteria for leave eligibility, the duration of leave, and child-care policies and their implementations, we found that while current maternity policies in China and Vietnam appear to provide adequate protection in terms of leave duration and benefits, female employees and their families in both countries still struggle greatly in accessing and benefiting from the policies. This brief thus uncovers the paradoxes of maternity regimes under market socialism where market principles, neoliberal governing logics, and the commodification of labour, contradict the socialist ideology of well-being for all. It subsequently calls for an unconditional maternity benefit scheme with equal access and benefits to parents and stronger reinforcement for better maternity protection.

Introduction

Maternity policies are one of the most important pillars of China and Vietnam's social security systems. While contributions to the general social insurance schemes are made by both employers and employees, the maternity insurance contribution component is bound to employers' responsibility. The contribution rate is 1% and 3% of the employee's monthly salary in China and Vietnam, respectively. This means that only working people under a formal contract with their employers are entitled to maternity leave and benefits. These maternity leave and benefits are similar across Vietnam while having different regulations besides the basic maternity leave stipulated by the State Council at the national level in China. Although each country has its own rules on maternity insurance, including the length of leave, the amount of financial allowances, and the eligible criteria, both states claim to prioritize equal security rights (Article 22, China's Law on the Protection of Women's Rights and Interests) or women's maternity rights (Article 137, Vietnam's Labour Code 2019). The maternity policies meet the International Labour Organization's (ILO) proposed general requirements for maternity leave policies including the length of leaves and the level of compensation.ⁱ This policy brief will provide an overview of the maternity policies from a comparative perspective and analyze to what extent these policies contribute to maternity protection in both countries.

Eligible criteria:

Inclusion or Exclusion?

The maternity leave policies of both China and Vietnam primarily benefit working people under formal contractual relationships in which both employers and employees contribute to the mandatory social insurance system. Women and men who are self-employed, unemployed, flexibly employed, or informally employed in agricultural activities and other informal businesses are generally not eligible for maternity leave (Luong and Tran, 2024; Wu, 2023). Consequently, 60% of Vietnamese women, on average, are not covered by maternity insurance. This number even reaches 80% in 22/63 provinces in Vietnam ("Maternity allowance during childbirth", 2023). In China, only 15% of the total female population, equivalent to 105 million women, were enrolled in the maternity insurance scheme by the end of 2021 (National Bureau of Statistics of China, 2023). For a long time, Chinese workers who are not in a formal employment contract relationship or who are unemployed do not receive any state support. However, recently, as the central government encourages childbirth in response to demographic aging, 20 provinces and cities (excluding Hong Kong, Macao, and Taiwan) have allowed women who qualify for unemployment benefits—namely those previously in formal employment relations—to receive both maternity allowances and maternity medical coverage. However, in other provinces, such as Fujian, Hunan, and Liaoning, unemployed women are only eligible for a one-time payment for maternity medical assistance and/or maternity leave support.ⁱⁱ

This one-time maternity payment is similar to a new revision of the 2024 Social Insurance Law in Vietnam which provides women under the state's voluntary insurance scheme with 2,000,000 VND (\approx €74) payment per child-birth from the state fund.

The legally mandated link between maternity benefits and formal contractual employment reveals three key pieces of logic in the states' welfare policies. First, both states define only formal contractual job as "work". Reproductive health policies primarily served population control purposes such as family planning in Vietnam or one-child policy in China in the past while the recent changes in maternity leave policies, such as childbirth promotion in China, are aimed at facilitating the development of productive economy. These policies give significantly low support to reproductive needs for people outside of formal work settings, except in cases of disability and, in Vietnam, for people with revolutionary merits. In similar ways that Fraser (1989) characterizes Western welfare states through the notion "politics of need interpretation", the care needs of workers and the reproduction of their labour are interpreted as private rather than public matters. This politics of need interpretation leads to the third logic in welfare policies: since social reproductive needs are private, care responsibilities can be outsourced to the employers and the individual workers through insurance contributions. Although the states are constitutionally committed to the broad-based care of the people, the practice they strictly follow is the market principle of "pay-as-you-go". Social insurance including maternity is linked to workers' formal work-based contributions only,

the socialist states leave the social reproduction costs of labour to the people who assumably contribute little (flexible labour, agricultural or informal sectors) or nothing (unemployed) to the country. At the same time, responsibilities of care from the state are transferred to families through an ethics of care emphasizing familial responsibilities the excellence of individuals. It is different from the Bismarckian welfare system where the state and religious principles of family care play a major role (Goodman and Peng, 1996; Walker and Wong, 2005).

In addition, female employees, especially migrant workers who come from agricultural-based areas to work in factories, face additional pressure to secure the entitlements due to an eligibility criterion about the length of previous contributions. In China, employees typically need to contribute from 6-12 months of maternity insurance to be entitled to maternity benefits, depending on provincial regulations (Zhou, 2024). For instance, in Shanghai, female employees become eligible for maternity benefits if they have contributed to the insurance scheme consecutively for 9 months or cumulatively for 12 months. While in Wuhan, the capital city of Hubei Province, local regulation asks for 6 months of contributions.ⁱⁱⁱ

The policy in Vietnam requires at least 6 months of social insurance contribution within 12 months before the delivery date (Article 31, Social Insurance Law). As many factory workers cannot have maternity coverage when they return to agricultural work or take informal jobs, they often try to give birth during their period of employment to ensure access to maternity benefits. Given the instability of the factory employment, female workers can easily be

fired or their contracts are discontinued with short notice. Female workers, therefore, have to bear the heaviest burden of child-bearing and negotiate between child-birth schedule, temporal contribution requirements of maternity insurance, factories' contract renewal or termination deadlines (Luong, 2024). Many of them end up without any maternity protection as in the story of Mai, a migrant factory worker in Vietnam.

Three days after Mai was informed her contract would not be renewed after five years of working for the company, she found out she was four weeks pregnant. According to the Social Insurance Law, Mai would need to contribute at least six months during the 12 months before her delivery to entitle her to maternity benefits. Although discrimination against pregnant women in recruitment is prohibited by law, finding a new job is nearly impossible as “no vendor (sub-contracting) company would hire a pregnant woman”, as Tuan, a labour agent director explained. Mai, therefore, would not be able to accumulate the required six months of social insurance contribution. The limits would apply regardless of how many years she had contributed to the system (Luong, 2024).

The discordance of those time planes reflecting in Mai's story both obstructs workers' access to entitlements and increases their vulnerability to the factory time discipline. As the next sections will show, even those who are entitled to these benefits face difficulties in actually accessing them.

Maternity leave length: Longer leave, better protection?

The length of maternity leave in both countries is relatively high in comparison with other countries around the world, with more generous provisions. According to Chinese national policies, eligible female employees are entitled to 98 calendar days of leave (15 prenatal days and 83 post-natal days). They are also entitled to an additional a 15-day-leave for each additional birth. Female employees who have a miscarriage are also entitled to a number of maternity leave days (Article 7, 2012 Special Provision on Labour Protection for Female Workers). All provinces in China, however, increase the length of maternity leave according to their specific conditions and budgets. For example, the length of leave is 128 days in Jiangsu, 158 days in Beijing, Hebei, Hubei, Guanxi, or Shanghai, 178 days in Guangdong, 188 days in Henan, Jiangxi, and up to one year in Tibet. The extended leave for a twin and triple-let birth is an additional 30 days in Hebei, Inner Mongolia, and Zhejiang (Wu, 2023). Meanwhile, Vietnamese female employees are entitled to 180 calendar days of pre- and post-natal leave and an additional 30 days for each additional birth nationwide. Besides maternity leave, female employees are also entitled to other types of paid leaves such as breastfeeding leave, pre-natal check-up leave and convalescence and health rehabilitation after maternity.

The requirement to take maternity leave aiming at a full recovery of the mother is stricter in Vietnam. Vietnamese mothers must take at least four months of

leave and can only return to work with an agreement from the employers and a certified health institution. Meanwhile, taking maternity leave is not obligatory in China. Female employees in China, therefore, tend to return to work earlier than their Vietnamese counterparts. According to a survey in 2021 in China, 78% of mothers take the full length of maternity leave but 22% take less than 98 days of maternity leave (Wu, 2023). One explanation for the early return to work can be attributed to financial reasons given that some provinces grant only maternity allowance for the standard 98 days and not extended leave periods (Liu, 2020). A survey of 378 Vietnamese mothers on paid maternity leave shows a smaller percentage of mothers return to work earlier than 180 days (16.5%). Yet, the survey finds that half to two-thirds of the mothers do not see maternity leave as beneficial to their income, career, or employers (Nguyen et al., 2022). This survey also confirms a common practice by many mothers who either return to work early or take on different informal work during their maternity leave for extra income given the low maternity allowance as shared by many of the migrant factory workers in Vietnam (Luong, 2024).

The concerns over the loss of income and job opportunities of mothers are also shared by fathers of newborns who are eligible for paternity leave. Paternity leave has been officially introduced to the social security system in Vietnam in 2016 and in different China's provincial policies earlier. The policy, which aims at promoting gender equality by encouraging fathers to share child-care responsibilities with their wives, is clearer in Vietnamese

policies while there is no specific provision for paternity leave in China at central level. In contrast, each Chinese province stipulates its own regulations and provides longer actual leave, ranging from 10 days (Shanghai) to 30 days of leave (Henan, Guangxi, or Tibet) whereas the average is 15 days. There is no regulation on when the leave should be taken (Wu, 2023). Eligible male employees in Vietnam are entitled to 5 days to 14 days of leave depending on the types of child-birth (natural, premature, caesarean, or multiple births) respectively. The leave time must be taken within one month after the child-birth.

The actual uptake of paternity leave is still limited in both countries. According to the Third Survey of Chinese Women's Social Status, 49.3% of eligible fathers did not have paid leave in 2010 (Wu, 2023). A much smaller number of fathers in Vietnam have taken paternity leave regardless of its availability. Only less than 5.4% of eligible fathers have used paternity leave annually since the introduction of the policy in Vietnam in 2015 (Pham et al., 2023). In their survey of 1,000 fathers, Pham et al. (2023) explain the four key reasons for this low rate: the loss of income (54%), the fear of losing reputation and promotion at work (32%), gender stereotype of weakening masculinity by doing care work (9%) and the self-doubt of their capacities to take care of the newborns (5%). Although employees will receive 100% of their contributory salary during maternity/paternity leave paid by the Social Insurance Fund according to the law, the loss of income is the main cause that urges fathers not to take leave and mothers to return to work earlier.

Although both states have

increased the number of leave days, for example through policies in China since 2022 or the introduction of paternity leave in Vietnam in 2016, the impacts of these policies on employees and their families are insignificant due to several reasons. The length of leave in Vietnam seems to be generous but employees either want to find additional work during the leave for extra income or do not want to take it for financial, career development, and cultural reasons (Pham et al., 2023). Similarly, in a study of China's 2016 Maternity Leave Reform (MRL), the authors conclude that the extension of maternity leave days results in no significant changes in women's employment status. On the contrary, the MRL "reduces women's satisfaction with job promotion opportunities, heightens expectations for the number of children, and increases time allocated to household duties" and contributes to reducing women's (production) working hours. The authors attribute these shortcomings to different structural, cultural, and social conditions such as discrimination in the labour market, the family's expectation of having more children, or the burden of house responsibility on women (Shen et al., 2024). These findings are confirmed by the 2023 Women's Career Development Report which concludes that women face a "motherhood penalty" in the workplace, with each additional child causing approximately a 10% decrease in their wage rate due to reassignment, pay cuts, or lost promotion opportunities (Liang et al., 2023). A longer leave might not necessarily be better for employees, especially those who have a precarious financial status. The next section will further discuss the financial implications of maternity leave and

unpack additional institutional reasons that hinder the effectiveness of maternity policies.

Maternity allowance: 100% salary or the loss of income?

Employees in both countries, in principle, are entitled to 100% of their salary (before they give birth) during their entitled maternity leave. However, who will fund maternity allowance and for how long varies in different places. The Social Insurance Fund in Vietnam is in charge of paying six months of maternity allowance, equivalent to their contributory salary to the social insurance scheme which should be under the ceiling of 46,000,000 VND (\approx €1,700) per month, equal to the maximum of 20 times of the national basic salary in 2024. However, a common practice by employers in Vietnam to reduce their contributions to social insurance is to use the employees' basic salary. The basic salary, often ranging from 4.5 to 5 million VND (\approx €160-185), is lower than the actual salary which is commonly topped up by overtime payment, performance bonus, lunch, housing, or commuting subsidies. The contributory salary to social insurance fund is calculated based on the basic salary without any top-ups. This salary structure also applied by many Chinese employers affects workers' income as they will lose bonuses and performance-based subsidies by taking the maternity leave. Without overtime work payment or any bonuses, it is hardly enough for the mothers, the newborn babies, and the families after delivery. Consequently, many mothers have to take on

extra jobs or fathers refuse to take leave as shown in the previous section.

In many cases, many employees even do not receive maternity allowance as their employers either fail to contribute to social insurance schemes on time or evade compulsory social insurance. The delayed and evaded social insurance contributions by of employers in Vietnam by October 2023 amounted to 14,650 billion VND (\approx €542 million) and increases yearly (Employers' evasion of insurance, 2024).^{9F} However, employees, by-laws, would need to pursue a civil lawsuit to request the repayment from their own employers, which is beyond the financial and legal capacities of individual workers. Currently, many small companies use verbal agreements or seasonal and daily labour schemes to avoid social insurance contributions. For example, Ho Chi Minh's labour authority records 348,249 companies reporting zero employees to social insurance contributions and 57,345 employers do not contribute or partially contribute to social insurance in 2024 (Tung Nguyen, 2024).^{11F} Without yet any effective legal mechanisms against these problems, thousands of working women are dispossessed of their maternity benefit at the time they need it the most.

The payment of maternity allowance in China witnesses different dynamics in financial arrangements between the state and the employers. Firstly, the regulations ask for more responsibilities from employers and bring maternity allowance closer to the actual salary. The national basic leave days will be covered by the maternity insurance fund and/or the employers depending on the employee's salary and contribution situations. If the employees' maternity allowance (based on actual

salary) is higher than the contributory salary, the employers have to cover the difference. If the employees do not contribute to the maternity insurance, the employers will cover 100% of the maternity allowance. The payment requirements to employers in China can, in theory, ensure the better benefits for employees Vietnamese regulations. The employers in Vietnam, on the contrary, do not have to pay maternity allowance in both cases. Yet, similar to their Vietnamese counterparts, Chinese employers can find ways to avoid paying social insurance by hiring flexible labour (without social insurance contributions, such as a form of seasonal labour, called *fengfei* (literally seasonal bonus) (Tian, 2024). Workers without formal contracts may be able to cover some medical costs related to birth and dystocia through their residence-based health insurance, but given the limited provisions, their care is dependent on the family.

Secondly, the actual payment for the extended leave days stipulated by local provinces is varied as there is no rule requesting local governments to cover the allowance of extra maternity leave. For example, the maternity insurance fund will cover both basic and extended leave days in Shanghai and half of the 60 extended days in Beijing. This fund only covers the basic (national) maternity leave days in Shenzhen and Guangzhou (Huang, 2022). The employers will cover the extra allowance that is not paid by the maternity insurance fund in these provinces (Chinese Briefing, 2022). Still, maternity allowance for extended leave days for female employees is not mentioned in the policies of many other provinces (Liu, 2022). As a result, employees have to deal with financial

distress due to the loss of income together with increasing costs associated with pregnancy, including registration and documentation fees, prenatal checkups, nutritional supplements, and other costs associated with childbirth and postpartum care expenses in China (Liang et al., 2024) and Vietnam alike.

Child-care after maternity leave: Who provides care?

Caring for young children after maternity leave is another struggle for many mothers in China and Vietnam, especially those who are migrants, have low income, or have little care support from the family. The maximum period of post-natal leave in China is around 4.7 months on average while the mandatory early childhood education and care age for children is three years old. Only 4 percent of children under three years old were reported to be in early childhood education in 2015; employees have to be dependent on informal care (Wu, 2023). In Vietnam, where most female workers return to work after six months of maternity leave, and ensuring care for the young child is similarly challenging. Finding a kindergarten for six-month-old children has been a long-standing issue. Although Vietnam's Ministry of Education and Training has a policy that public preschools are encouraged to care for children from three months of age, the majority of public preschools only take in children from the age of 12–18 months (My Dung, 2013). Mothers with young children can only choose from quitting their

jobs, seeking for any help from their families or sending the children to private caregivers. Low-income mother like factory workers in Vietnam mostly choose the former (Luong, 2024) due to additional institutional barriers such as the household registration system.

The household registration system in Vietnam and China regulates access to public care facilities: one of the criteria for children to receive a placement at a public institution is to have a local household registration. Temporary residents, such as migrants who do not have their hukou/hộ khẩu at the work site, can only register their children in schools that are not fully occupied; in many cases, their children will not be accepted to urban schools (Siu & Unger, 2020). Many families need to find private home-based care groups or retired female neighbours to look after their children. Even if a private caregiver can be found, the monthly fees of around €60-100 in Vietnam or the average 993 euros monthly salary for a domestic worker (Domestic service industry, 2021) 12 (are still high for low-income families. Turning to unpaid kin for childcare is the choice of most female employees including both migrants who leave their children in the countryside (Jacka, 2018; Luong, 2024; Tian 2024) and local female residents who live with their children at home (Luong, 2024; Tian, 2024) if they want to go back to work.

The challenges faced by female employees in providing care for their children reinforce how the states' maternity policies cast the care responsibilities on individuals and their families. By doing that, the states not only avoid the care burden but also contribute to further cheapening

production labour by appropriating family care labour (Lin and Nguyen, 2021). This maternity governing strategy works perfectly to lower labour costs to attract foreign investment in both countries.

Conclusion

The maternity policies in China and Vietnam through different revisions appear to provide working people with decent maternity protection: considerable length of leaves according to international standards, 100% of salary and health insurance coverage during maternity period. Yet, female employees and their families in both countries still struggle greatly in accessing and benefiting from the policies. The employment-based maternity policies both exclude informal and flexible labour who are entitled to little or no benefits during their maternity period and working people who fail to meet the contribution requirement before their delivery date. Meanwhile, the gaps between the policy intentions and rhetoric and the actual implementation expose eligible employees to financial and organizational barriers to gain substantial maternity benefits in both countries. Employees can only receive a modest actual allowance (based on contributory salary) while losing income from performance bonuses or overtime work and from non-compensated leave due to local government policies (China) or ineffectiveness of policy (Vietnam). Many fathers and mothers prioritize work to avoid these losses and maintain their promotion opportunities at the cost of their children and their own health. The challenges for working parents are intensified by the

inadequate childcare support policies, the household registration system and unaffordable private care. Quitting jobs and relying on kin-based care are the solutions for many working people, especially those with low income.

The paradoxes of maternity regimes lie in the contrast between the socialist states' claims of well-being for their people and market principles and neoliberalised governing logics that delegate care and reproductive responsibilities to individuals and their families. These logics align with state priorities of growth-based economic development through the commodification of labour in these countries. An unconditional maternity benefit scheme with equal access and benefits to all mothers and fathers as well as strong mechanisms must be in place not only for better maternity protection, but also for the future of working lives.

ⁱ Providing at least 14 weeks of leave, ensuring at least two-third of income and paying maternity leave costs from social insurance or public funds (ILO, 2020).

ⁱⁱ Compiled and organized by Yueran Tian in accordance with the unemployment insurance regulations, maternity insurance measures, and other relevant policies, laws, regulations, and notices of various provinces, municipalities, and autonomous regions.

ⁱⁱⁱ Compiled by Yueran Tian:

Notice on Further Improving Maternity Insurance Related Work

Issued on August 12, 2021, Document No. 9 of the Shanghai Medical Insurance Regulations (2021). 关于进一步

做好生育保险有关工作的通知 印发日期：2021-08-12 沪医保规〔2021〕9号 <https://www.shanghai.gov.cn/rksyj2/20230327/64f81747ee39485082a4333a3426a4c6.html>

Wuhan Maternity Allowance Application and Processing Procedure 武汉市生育津贴办理

<https://www.hongshan.gov.cn/gzfw/cjsfw/syjtbl/>

Hubei Province Fully Promotes the Merging of Maternity Insurance and Employee Basic Medical Insurance Implementation Opinion Document No. 42, issued by the Hubei Medical Insurance Bureau in 2019.

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