

# Labor Rights and Interests Protection for Women in Informal Employment in China—Based on the Perspective of Constructing a Fertility-friendly Society

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## Abstract

Women in informal employment often need to face more risks and responsibilities during maternity, children, and family care. However, informal workers are rarely protected by national labor laws and regulations, and their labor rights and interests are difficult to be protected. From the perspective of constructing a fertility-friendly society, this paper focuses on the impact of COVID-19, maternity, and family care on women in informal employment and discusses the labor rights and interests protection for women in informal employment in China. To protect the lawful labor rights and interests of women in informal employment, the government should improve and formulate labor security policies related to the epidemic to reduce the impact of public emergencies on people's lives; improve the social insurance system and lower the threshold for participation in social insurance for flexible employees; lay the foundation for constructing a fertility-friendly society by emphasizing the collective responsibility for family care.

**Keywords:** informal employment, labor rights and interests protection, a fertility-friendly society

## 1. Relationships Between the Labor Rights and Interests Protection for Women in Informal Employment and the Construction of a Fertility-friendly Society

### 1.1 Definition of Informal Worker

The International Labour Organization has introduced the concept of “informal economy” and defined it as all economic activities of workers and enterprises that are not covered or adequately covered by formal arrangements in law or practice (International Labour Organization, 2015). Workers in the informal economy are informal workers, including but not limited to individually-owned businesses, domestic workers, workers engaged in informal work in formal enterprises, and other workers whose labor relations are difficult to identify or regulate.

Unlike the formal workers who are protected by the national labor laws and regulations, the informal workers are often outside the protection scope of the labor laws and regulations because their work is unstable and labor relations are difficult to identify. Therefore, it is difficult for the informal workers to protect their lawful labor rights and interests through the labor laws and regulations, and the status and level of realization of their labor rights and interests are affected.

### 1.2 Definition of Fertility-friendly Society

In May 2021, the outline of National 14th “Five-Year Plan” clearly stated that the current society should enhance the inclusiveness of fertility policies, promote fertility policies to integrate with economic and social policies (Xinhua News Agency, 2021), further optimize fertility policies, and create opportunities to meet the fertility needs of fertility subjects. A social environment and public services that are conducive to fertility subjects and family upbringing. In July of the same year, the Central Committee of the Communist Party of China (CPC) and

the State Council issued a document to relax the restrictions on the number of children raised by the fertility policy and make a unified policy of marriage, birth, parenting and education, to establish an active fertility support policy system, and to promote the construction of a fertility-friendly society.

There is no clear definition of a fertility-friendly society in academic circles. Combining the above-mentioned documents, this paper defines a fertility-friendly society as one that covers all aspects of family welfare, aims to encourage fertility, is oriented to meet the fertility needs of fertility subjects, and is friendly to fertility subjects, family upbringing, and child growth.

### *1.3 Links Between the Labor Rights and Interests Protection for Women in Informal Employment and the Construction of a Fertility-friendly Society*

The first step in constructing a maternity-friendly society is to establish a maternity security system, and maternity security is usually arranged through social insurance. It is the lawful rights and interests of workers to obtain social insurance benefits, but informal workers are generally outside the protection scope of the social insurance system. Among them, it is difficult for women in informal employment to benefit from the maternity insurance system to protect their maternity rights and interests in maternity. Protecting the lawful labor rights of women in informal employment in family welfare-related events such as maternity and care is in line with the overall trend of promoting the construction of a fertility-friendly society.

## **2. Necessity to the Labor Rights and Interests Protection for Women in Informal Employment**

### *2.1 Impact of COVID-19 on Women in Informal Employment*

Since the outbreak of COVID-19 in China in 2020, each region has adopted different levels of blockade policies to stop the local spread of the epidemic. These blockade policies have significantly affected domestic economic activities, and some private companies have closed down, and companies that have been able to operate so far during the epidemic have also adopted salary cuts and layoffs and other forms of labor cost reduction. Due to the imperfect protection policies for public emergencies such as the epidemic, workers' lawful rights and interests have been infringed to varying degrees.

As workers, formal workers can be protected by labor laws and regulations and the social insurance system. Even if their lawful labor rights and interests are infringed, they can still defend their legal rights and interests through legal channels. However, it is difficult for the informal workers to achieve with formal workers in the same way. It is only because their own labor relationships are difficult to determine and are not within the protection scope of labor laws and regulations. In the face of COVID-19, informal workers are more likely to lose their jobs and livelihoods. Their plight is more severe than that of those in formal employment, and they are in greater need of solid government protection policies to help them.

Also, there are gender differences in the impact of the epidemic on those in informal employment. According to the International Labour Organization, countries have implemented different levels of blockade measures for the purpose of preventing the spread of the virus, and these measures have had a serious impact on informal workers (International Labour Organization, 2020). There are two reasons that women in informal employment are more affected than men. On the one hand, Women are overrepresented in hard-hit sectors; On the other hand, the epidemic increased the demand for care, which increases the amount of time women spend in unpaid care work and prevents women from remaining in paid work (International Labour Organization, 2022). In other words, COVID-19 has had a serious impact on women's employment.

### *2.2 Impact of Fertility Events and Maternity Insurance on Women in Informal Employment*

Regarding the impact of fertility events and maternity insurance on urban women, Chinese scholar Zhuang Yuxia concludes, based on relevant Chinese data, that fertility events have a negative impact on women's employment, and that the number of children born is directly proportional to the likelihood of mothers choosing informal employment forms; The higher the number, the more likely the mother is to take up informal employment. Maternity insurance policies were originally introduced to protect women's employment, but they had a negative impact on women's employment, prompting more women in counties and towns to choose informal employment (Zhuang Yuxia, 2020). In conclusion, fertility events and maternity insurance have a negative impact on women's employment, leading to an increase in the number of women in informal employment. This also implies that, due to fertility events and maternity insurance policies, and the fact that the informal workers are not protected by social security, the group of women in informal employment will gradually expand with the current trend of promoting maternity, and the number of unprotected women will also increase. This is obviously not conducive to promoting the construction of a fertility-friendly society.

In 2019, China comprehensively promoted the combined implementation of maternity insurance and basic medical insurance for employees, with the maternity medical expenses of women workers covered by the employee medical insurance fund, simplifying the reimbursement procedures for maternity insurance and further

protecting the lawful labor rights and interests of women workers related to fertility events. However, there are still problems that women in informal employment face when they give birth, that is, some of them are not covered by the medical insurance for employees, and some of them do not even have medical insurance coverage. Thus, they have to pay for the medical expenses of childbirth by themselves, which increases their financial burden. At the same time, maternity insurance policies provide for maternity leave and maternity benefits to which workers are entitled, in addition to medical expenses for childbirth to be covered by the insurance fund. These benefits ensure that female workers can recover and return to work in a timely manner. However, women in informal employment are not entitled to this benefit, and they cannot receive the necessary life security in fertility events. They are workers, but they do not have the labor rights that workers are entitled to.

In recent years, China has adjusted the social insurance payment for flexible employees, so that women in informal employment can obtain the protection of the basic medical insurance system for employees by participating in the social insurance for flexible employment, and reduce the economic burden caused by maternity medical expenses on them. However, due to the different social insurance policies in different regions, the higher payment base and stricter participation conditions of social insurance for flexible employees in some regions make it difficult for informal employees to participate in social insurance as flexible employees. Even if informal workers can choose to participate in social insurance for flexible employees, they may still not be covered by the social insurance policy because of high costs or not being eligible to participate.

Furthermore, most women in informal employment have low income and are more inclined to focus on current livelihood issues and subsistence, without having extra funds available to prepare for potential future risks (Ren Ailin, 2018). If the current social insurance system cannot make changes to the characteristics of the informal workers so that social insurance coverage is extended to the informal workers, a vicious circle will be formed: “the more vulnerable the informal employment group is, the more unprotected it is against risks; the higher the income, the better the welfare coverage of the formal employment group who are more able to withstand risks” (Ren Yuan & Peng Xizhe, 2007).

### *2.3 The Impact of Family Care on Women in Informal Employment*

August Bebel, the Marxist feminist, argued that domestic labor and child rearing were mostly performed by women, which laid the social foundation for women’s oppression (August Bebel, 1995). The prerequisite for realizing women’s liberation is the collective sharing of responsibility for family care and the liberation of women from the bondage of domestic labor and child rearing. Women’s employment in China is affected by family factors. Based on traditional gender ideology, women tend to take more responsibilities for family care and need to devote more energy to family care, which leads them to choose to enter informal employment with more flexible working hours or even give up employment.

Available data show that women’s employment in China is affected by both child rearing and family elder care. They are not only “mothers” but also “daughters” and “daughters-in-law”. As society gradually moves into the aging stage, the demand for elderly care increases and various alternatives for family elder care has emerged in the society, but they have obvious pro-rich disparity and inequality (Liu Bohui, Yu Wei & Kou Enhui, 2012), and suffer from high price and limited quantity, which can hardly meet the care needs of most elderly people. Therefore, women in the household are still burdened with the responsibility of family elder care, which significantly reduces their labor hours and may even lead them to opt out of the labor market (Wu Yanhua, Liu Bo & Li Jinchang, 2017). In the future, when society is aging, the impact of family elder care on women’s employment will become more evident. The current society needs to adjust the security policy of family care to better protect women’s employment rights and interests of women workers.

Family care affects women’s employment to some extent, and as the informal workers, they need to work even more to make ends meet. In order to protect the lawful labor rights and interests of women in informal employment, China should adjust the existing policies or formulate new policies to adapt to the social trend of the increasing demand for family care.

## **3. Policy Recommendations on Improving the Labor Rights and Interests Protection for Women in Informal Employment**

### *3.1 Improve Epidemic-related Labor Policies*

First, the central government should make further instructions and refine policies to protect workers’ lawful labor rights and interests in the post-epidemic era. In 2018, the central government proposed the “stability in six areas” as the basic requirement to achieve steady progress in China’s economy. In 2020, the outbreak of COVID-19 in China had a serious impact on the domestic society. In response to the current prominent contradictions and potential risks, the central government proposed “six priorities” as the focus and support for the “stability in six areas”. With the overall plan and requirements, there is currently no more complete and detailed policy that

echoes it. Therefore, there are problems in the implementation of policy, and the policy still needs to be further improved and supplemented.

Besides, women in informal employment need more targeted protection policies. There are obvious gender differences in China's informal employment market. Women's employment tends to be informal, with most of the female labor force concentrated in so-called "women's occupations" and "women's industries" (Bu Naipeng, Kong Haiyan & Yi Shun, 2020), which are characterized by low quality and marginalization. Under the influence of public emergencies such as COVID-19, women in informal employment are more likely to be affected than men. The implementation of the "six priorities" policy should also focus on the needs of women in informal employment and reduce the impact of public emergencies on employment and people's livelihood.

### *3.2 Improve Social Insurance and Maternity Insurance Policies*

In essence, social insurance is a social security designed for workers in the formal sector. In terms of its application to informal workers, the social insurance system has certain shortcomings and deficiencies. The government should further improve the social insurance system according to the characteristics of the informal workers.

In the implementation of the social insurance system, it is recommended to unify the social insurance system in various regions, moderately lower the threshold for flexibly employees to pay social insurance, and reduce the restrictions of the household registration system on the informal workers to participate in social insurance in other places. In terms of increasing the social insurance participation rate, it can lower the social insurance rate, reduce the labor cost of enterprises and the economic burden of workers on insurance, increase the motivation of enterprises to participate in insurance for informal workers or themselves, and further protect social security for the informal workers. In terms of women protection, adjusting the coverage of labor protection for women workers so that women in informal employment can have maternity insurance benefits, which can guarantee that they can receive livelihood protection in fertility events and help them better recover and return to work.

### *3.3 Improve Family-friendly Policies*

Constructing a fertility-friendly society is a strategic choice for China's demographic development, and improving the fertility support policy is the key to it. China can refer to the international community's experience in formulating family-friendly policies, localize them according to actual situation in China, and formulate a fertility support policy that suits China's national conditions, adopting the form of collective shared family care responsibilities to reduce women's burden in the family and provide a family-friendly environment for women to give birth.

On the other hand, collective shared family responsibility is to involve fathers in the care of infants by establishing moderate parental leave. In Northern Europe, maternity support policies that attach importance to male participation and support female employment have been adopted, and experience has been drawn that fathers' participation in infant care plays an important role in mothers' return to work after childbirth (Shelly Lundberg & Elaina Rose, 2000). Similar maternity support policies exist in China, such as paternity leave and parental leave for men. However, the regulations on paternity leave and parental leave for men are not uniform in different regions, with varying degrees of implementation and limited effectiveness. The current policies cannot meet the current needs of constructing a fertility-friendly society and needs to be adjusted in a timely and appropriate manner according to China's current national conditions.

On the other hand, collective shared family responsibility is to improve policies related to child rearing and elder care, and to strengthen the conceptual guidance of couples of childbearing age at the level of ideology and education. We should strengthen the development of the public-interest childcare services system, reduce the cost of childbirth, childcare and education at the policy level, and promote a support system for elder care, so that "the elderly will have a place to live and the young will have a place to grow". Promote gender equality, encourage parents to share parenting responsibilities, and reduce the phenomenon of "widowed parenting"(Notable absence of one party in family education). This is not only conducive to the individual development of children, but also mitigates the impact of fertility events on women's employment.

## **4. Conclusion**

Due to the informal nature of informal employment and the particularity of their female identity, the labor rights and interests of women in informal employment are difficult to be protected. They need more attention from the government and the whole society. For women in informal employment, the aspects mentioned in this paper are only the tip of the iceberg and they need much more than these labor rights and interests protection. China is currently advocating the development of the street-stall economy to facilitate economic recovery after COVID-19, which will lead to an expansion of the informal employment groups. As "the most typical vulnerable group", the labor rights and interests protection for women in informal employment will become an important issue in improving social security.

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