

Japan Labor Issues

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The 8th JILPT Tokyo Comparative
Labor Policy Seminar 2025
"Aging Population and Labor Law Policy"



Japan Labor Issues

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* Entries are arranged based on the seminar program.

* The responsibility for opinions expressed in signed reports rests solely with their authors, and publication does not constitute an endorsement by the Japan Institute for Labour Policy and Training of the opinions expressed in them.

Preface

The 8th JILPT Tokyo Comparative Labor Policy Seminar 2025 “Aging Population and Labor Law Policy”

The Asia-Pacific is the region with the fastest-aging population in the world. The ratio of the population aged 65 and over to the population aged 15-64 is projected to rise from 0.15 in 2023 to 0.31 in 2050. The economic dependency ratio is projected to rise from 0.72 in 2023 to 0.90 in 2050, which will translate as almost one dependent per employed person in the region. This rise is due to a decline in the labor force participation rate from 60.9% in 2023 to 54.9% in 2050. Population aging poses significant challenges that require the restructuring of various aspects of society, affecting labor markets, social security systems, and economic and fiscal policies. Companies in many countries and sectors are facing severe labor shortages because of population aging, which will increase the need for older people to work longer. To promote the social participation of older adults through employment and to ensure that they can work safely and comfortably, reforms in employment systems, vocational training and improvements in the work environment are crucial.

With this in mind, the Japan Institute for Labour Policy and Training (JILPT) held the 8th JILPT Tokyo Comparative Labor Policy Seminar on March 26, 2025 on the theme of “Aging Population and Labor Law Policy.” In the seminar, we shared information and knowledge about the current state of aging populations, policy responses, and the impact on companies and workers in each country and region of the Asia-Pacific. We also discussed future challenges and initiatives for solutions.

In the following pages, readers will find nine excellent reports presented by researchers from the Asia-Pacific region on important challenges and solutions in labor law policy associated with aging population.

Taking this opportunity, JILPT would like to express our sincere gratitude to Prof. Jean-Michel Servais, President of ISLSSL for his contribution to insightful keynote lecture. Furthermore, JILPT is grateful to the chairpersons, Prof. Takashi Araki, Prof. Chikako Kanki for their outstanding comments. JILPT also would like to deeply thank Prof. Hideyuki Morito for his significant contribution to conclude the discussions.

Protecting Older Workers in China: A Path Forward

Tianyu WANG

- I. The origin of older workers
- II. Employment status of older workers
- III. Rights and interests protection issues faced by older workers
- IV. Main difficulties in legal protection for older workers
- V. The system development path for the rights protection of older workers

I. The origin of older workers

Older workers represent a unique demographic within China's labor market. They are defined as individuals who continue to participate in the workforce and earn income beyond the state-mandated retirement age. This group is not limited to retired urban employees but includes migrant workers and others who remain employed past their statutory retirement age. Older workers are a distinct group shaped by the statutory retirement age system. Reaching this age legally classifies them as elderly.

China's statutory retirement system began in 1957 with the "State Council's Provisional Provisions on the Retirement of Workers and Employees." This established retirement ages of 60 for male blue-collar workers and male white-collar employees, 50 for female blue-collar workers, and 55 for female white-collar employees. In 1978, the system underwent further refinement, differentiating the retirement ages for managerial staff and other workers. According to the "Interim Measures of the State Council on the Retirement of Workers" introduced that year, the retirement age for employees in national enterprises, government organizations, and mass organizations was set at 60 for men and 50 for women. Additionally, the "Interim Measures on the Resettlement of Old, Weak, Sick, and Disabled Cadres" specified that the retirement age for managerial staff in party and government organizations, mass organizations, and enterprises was 60 years for men and 55 years for women.

On September 13, 2024, the "Decision of the Standing Committee of the National People's Congress on the Implementation of a Progressive Delay in the Statutory Retirement Age" was passed. Starting January 1, 2025, China will implement a progressive delay in the statutory retirement age and a flexible retirement system. The specific regulations are as follows:

- For male employees, the retirement age will gradually increase from 60 to 63, with a delay of one month every four months.
- Female blue-collar workers initially with a statutory retirement age of 50 years old will be progressively delayed to 55 years old, with a delay of one month every two months.
- For female white-collar employees initially with a statutory retirement age of 55, it will be progressively delayed to 58 years old, with a delay of one month every four months.

In addition, employees who reach the minimum contribution period for basic pensions as stipulated by the state can voluntarily choose to retire early, with the early retirement period not exceeding three years from the statutory retirement age and the retirement age not being lower than the original statutory retirement age. When employees reach the statutory retirement age, they can agree with their employer to delay retirement, with the maximum delay being three years.

II. Employment status of older workers

According to the Seventh National Population Census, the number of people aged 60 and above in China has surpassed 264 million, accounting for 18.7% of the population. Those aged 65 and above total 191 million, making up 13.5% of the population.¹ A report titled “2022 Survey Report on the Re-employment of Older Retired Groups,” released by the recruitment platform “51job.com” in October 2022, shows that 68% of older adults are strongly willing to seek re-employment after retirement. Specifically, 46.7% of them return to the job market to pursue personal and social value, 19% of job seekers hope to utilize their professional skills to continue their career development, and 34.3% of job seekers seek re-employment to supplement household income and meet higher-level consumption needs.²

The law does not deny older adults’ labor capacity and qualifications. Article 70 (1) of the “Law on the Protection of the Rights and Interests of the Elderly” stipulates that the lawful income of older adults from participating in labor is protected by law. The re-employment motivation of older workers mainly comes from three aspects: economically, they increase income and supplement household needs through re-employment; in terms of value pursuit, they hope to continue leveraging their professional skills to achieve self-worth; and there is also a flexible employment-based adjustment demand, which can balance work and life.

Empirical research shows that among older workers, 34.3% are motivated by economic needs, 46.7% by value-related needs, and 19% by spiritual needs. For women who retire at 50 or 55, they have not yet entered the elderly stage. They possess relatively good working abilities and have a strong desire for employment. Additionally, elderly groups without or with low pensions are willing to work to provide economic support for themselves or the next generation.³

III. Rights and interests protection issues faced by older workers

1. Labor disputes

The labor rights protection disputes encountered by older workers are increasing and have become a significant type of labor and personnel dispute in China. Research by the Supreme People’s Court indicates that from 2018 to 2022, there were approximately 50,000 labor and personnel dispute cases involving older workers yearly, with a year-on-year upward trend since 2020, accounting for about 11% of all labor and personnel disputes.⁴

These disputes predominantly involve employers in physically intensive industries such as manufacturing,

1. Department of Aging Health, National Health Commission. 2020. *National Aging Development Bulletin* [in Chinese]. <http://www.nhc.gov.cn/ljks/pqt/202110/c794a6b1a2084964a7ef45f69bef5423.shtml>.

2. 51job.com. “2022 Survey Report on the Re-employment of Older Retired Groups [in Chinese].” <https://www.199it.com/archives/1507664.html>.

3. Lin Jia. 2024. “Beyond Labor Relations: Protecting the Labor Rights of Older Workers [in Chinese].” *Law Application*, Issue No. 7.

4. Zhang Yan. 2024. “Research on the Legal Application of Protecting the Labor Rights of Older Workers. [in Chinese]” *China Journal of Applied Jurisprudence*, Issue No. 3.

wholesale and retail, and accommodation and catering. The key issues in dispute include the pursuit of labor remuneration, confirmation of labor relations, and work-related injury insurance benefits. As the number of older workers grows and their legal awareness increases, more disputes are expected to enter the litigation process in the future, which may lead to more serious social conflicts.

2. Employment restrictions

Localities have issued policy documents that restrict labor access for older migrant workers in high-risk industries, such as construction. This measure aims to prevent construction companies from hiring older migrant workers for hazardous tasks through administrative supervision and penalties. There is a certain logic behind these policies, as they can help protect older laborers from injuries in safety accidents due to diminished physical strength and endurance, ultimately safeguarding their lives. For instance, in 2018, the proportion of individuals over 60 years old involved in fatal accidents in Shanghai's construction industry reached 15%, even though only 1% of construction workers at that time were over 60.⁵

However, construction sites involve various types of work, some suitable for older workers, such as cleaning, security, and warehouse management. The local government's "one-size-fits-all" approach restricts opportunities for older workers, putting them at risk of losing their benefits while promoting safety and security. The issue of aging is particularly prominent among migrant workers; according to the *2022 Migrant Worker Monitoring Survey Report*, 29.2% of migrant workers are over 50 years old, representing a 1.9 percentage point increase from the previous year.⁶ As the number of older migrant workers grows, the restrictions on labor qualifications decrease the industry's overall labor force and significantly impact this demographic's rights and interests.

3. Occupational injury protection

Older workers face difficulties in ensuring occupational injury protection. China's labor relations are linked to the traditional social insurance system, with work-related injury insurance based on labor relations. Traditional work-related injury insurance covers workers with a labor relationship with their employer. If older workers cannot establish this relationship, they will unlikely be protected by work-related injury insurance. Regional standards vary on whether older workers' employment relationships are labor relations. For instance, Jiangsu and Hebei provinces recognize such relationships, while Beijing and Guangdong provinces do not. Since labor relations determine whether older workers can receive work injury and claim support, judicial practice differences in labor relations' determination make it hard for them to recognize work-related injuries and enjoy insurance benefits when accidents occur.

The Supreme People's Court has clarified that over-aged rural migrant workers can apply for work injury identification, but this does not cover all older workers.⁷ To address the difficulties in work injury identification and compensation for older workers, the "Opinions of the Ministry of Human Resources and Social Security on Several Issues concerning the Implementation of the Work-related Injury Insurance Regulations (II)" stipulates that "Where workers who have reached or exceeded the statutory retirement age

5. Zhou Qunfeng. 2022. "Can over-age migrant workers only be 'retired'? [in Chinese]." *China News Weekly*, No. 12.

6. The National Bureau of Statistics. 2022. *The 2022 Migrant Worker Monitoring Survey Report* [in Chinese]. https://www.stats.gov.cn/sj/zxfb/202304/t20230427_1939124.html.

7. Administrative Trial Chamber, Supreme People's Court. "Reply on Whether to Apply the Work-related Injury Insurance Regulations to the Work-related Injuries and Deaths of Rural Migrant Workers Exceeding the Statutory Retirement Age [in Chinese]." ([2010] Xingtazi No. 10); "Reply on Whether to Recognize Work-related Injuries for Rural Migrant Workers Exceeding the Statutory Retirement Age Who Suffer Injuries or Deaths at Work [in Chinese]." ([2012] Xingtazi No. 13).

but have not retired or legally enjoy basic old-age insurance benefits for urban employees continue to work with their original employer and suffer accident injuries or occupational diseases, the employer shall bear the work injury insurance liability by the law.”⁸ Older workers can receive work injury compensation after occupational injury without a labor relationship.

However, the employer’s liability for work injury insurance is different from insurance payments in the work injury insurance system. It directly increases the economic burden of enterprises, and once an enterprise goes bankrupt or cannot pay, the relief of workers is difficult to achieve. Moreover, excluding older workers from the work injury insurance system does not align with the system’s risk-sharing goal. Significant employment risk differences exist between older workers and those of appropriate age. Older workers have weaker health and labor capacity, leading to higher employment risks. Including older workers in the work injury insurance or occupational injury protection system is urgent and necessary.

IV. Main difficulties in legal protection for older workers

In practice, courts make different determinations on the nature of employment relationships of older workers. This discrepancy arises from inconsistent views on the termination conditions of labor contracts, rooted in contradictions within China’s legislation.

Article 44 of the “Labor Contract Law” stipulates that a labor contract terminates when the worker begins to receive essential pension benefits (“social security standard”). According to Article 16 (1) of the “Social Insurance Law,” eligibility for essential pension benefits requires 15 years of contributions by the statutory retirement age. However, many workers reach retirement age without meeting the 15-year contribution requirement. In such cases, whether to terminate the labor contract becomes an issue. Article 21 of the “Implementing Regulations of the Labor Contract Law” supplements this by setting the statutory retirement age as the condition for labor contract termination (“age standard”). Given the different applicability of the “social security standard” and the “age standard,” there is disagreement on whether a labor contract must or automatically terminate when a worker reaches the statutory retirement age.

To unify judicial practice, Article 32 of the Supreme Court’s “Explanations (I) on Several Issues concerning the Application of Law in Adjudicating Labor Dispute Cases” stipulates that where an employer has a labor dispute with a person who has already legally enjoyed pension benefits or receives a pension, the people’s court shall handle it as a service relationship. This clarifies the nature of labor disputes between employers and those already legally entitled to pension benefits or receiving pensions, but does not resolve the nature of employment relationships between employers and older workers not legally entitled to such benefits. This has caused significant practical disputes and led to varied judgments.

1. Service relationship theory

This view holds that individuals over the statutory retirement age are not considered workers under China’s labor law and thus cannot establish a labor relationship with employers. “Labor age is legally defined, encompassing both lower and upper limits. Legally defining these limits means that exceeding them renders the individual legally incapable of labor and unable to enter a labor contract.”⁹ Therefore, the labor contract

8. Work-related Injury Insurance Department, Ministry of Human Resources and Social Security. “Opinions on Several Issues concerning the Implementation of the Work-related Injury Insurance Regulations (II) [in Chinese].” https://www.mohrss.gov.cn/xxgk2020/fdzdgknr/zcfg/gfxwj/shbx/202403/t20240327_515719.html.

9. Li Jianfei. 2012. “The Legal and Systematic Evolution from Employment Contracts to Labor Contracts [in Chinese],” *China Legal Science*, Issue No. 3.

should terminate for those who reach the statutory retirement age but cannot yet legally receive essential pension benefits. Similarly, the labor contract should also be terminated for the few who have not reached the statutory retirement age but are already receiving lawfully pension benefits.¹⁰

2. Labor relationship theory

This view argues that the retirement age does not limit the eligibility of labor relationship subjects. Reaching retirement age should not deprive workers of their eligibility in a labor relationship. Recognizing a labor relationship is objective, and retirement age does not signify its end or the termination of a labor contract.¹¹ Article 21 of the “Implementing Regulations of the Labor Contract Law” only specifies scenarios for labor contract termination, meaning the employer can initiate termination, but this does not equate to depriving the worker of labor rights.¹² A Supreme Court judge has noted: “Although the Implementing Regulations of the Labor Contract Law grant employers the right to terminate labor relationships when a worker reaches the statutory retirement age, exercising this right does not automatically terminate the labor relationship. The view that the labor relationship automatically terminates when the worker reaches the statutory retirement age does not align with the legal spirit.”¹³

V. The system development path for the rights protection of older workers

The “Decision of the Standing Committee of the National People’s Congress on the Implementation of a Progressive Delay in the Statutory Retirement Age” clearly stipulates that employers recruiting workers over the statutory retirement age should ensure their fundamental rights, including remuneration, rest and vacation, labor safety and health, and work injury protection.

The Ministry of Human Resources and Social Security has also pointed out in its policy publicity that this is the first time from the legal level to propose requirements for the protection of workers’ fundamental rights and interests over the statutory retirement age. The measure stipulates that employers recruiting workers over the statutory retirement age should ensure their fundamental rights, including remuneration, rest and vacation, labor safety and health, and work injury protection. This fills the gap in the current labor laws and regulations.

In December 2023, the Supreme People’s Court released a draft of the “Explanations (II) on Several Issues concerning the Application of Law in Adjudicating Labor Dispute Cases” for public comments. It proposes that workers who have reached the statutory retirement age but do not yet enjoy essential pension benefits and provide labor for employers may request the application of labor laws and regulations to disputes over remuneration, working hours, rest and vacation, labor protection, occupational hazard prevention, and work injury insurance benefits. The people’s courts should support such requests.

Based on these policy developments, older workers will become a special group in labor law, enjoying a series of rights enumerated by labor law. First, the labor qualifications of older workers do not automatically cease upon retirement age; they still have the right to employment. If their employment relationship with employers is compulsorily subject to civil law rather than labor law, it would significantly reduce employers’

10. Administrative Law Office, Legal Affairs Committee, Standing Committee of the National People’s Congress. 2013. *Interpretation and Cases of the Latest Labor Contract Law of the People’s Republic of China* [in Chinese]. People’s Publishing House, p. 180.

11. Xie Zengyi. 2013. “Retirement Age and the Application of Labor Law [in Chinese],” *Comparative Law Research*, Issue No. 3.

12. Lin Jia. 2015. “Legal Analysis and Systematic Arrangement of Retirement Age [in Chinese],” *China Legal Science*, Issue No. 6.

13. Du Wanhua, and Wang Linqing. 2010. “Understanding and Application of the Judicial Interpretation (III) on Labor Dispute Cases [in Chinese],” *People’s Justice*, Issue No. 19.

labor costs and tempt employers to prioritize workers beyond retirement age. Second, with the significant increase in life expectancy, the current retirement age, especially for women, seems too low. With the advent of the Internet era, many jobs require less physical labor. Third, a considerable portion of older workers are migrant workers whose pension problems have not been properly resolved. Continuing to work is essential for them to maintain their personal and family lives. A blanket ban on their employment relationship with employers would greatly weaken their labor rights. Therefore, the employment relationship of this part of workers can be incorporated into a special labor relationship for protection.

Since the labor contracts signed by these workers with employers violate the mandatory provisions of Article 21 of the “Implementing Regulations of the Labor Contract Law,” they are invalid. As a result, their rights cannot be fully protected by labor law. For example, they cannot request employers to enter open-ended contracts with them, and employers may also be unable to pay them for basic old-age and other social insurance. However, if employers exercise dominant labor management over them, older workers should enjoy basic labor rights and protections corresponding to such management, just like workers in full-fledged labor relationships. Therefore, older workers’ reference to labor law in claiming basic labor rights such as minimum wage standards, overtime pay, rest and vacation, occupational hazard prevention, and work injury insurance benefits should be supported.¹⁴

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Current Status of Aging and Labor and Social Policy Responses in Korea

Daiyoung OH

- I. Introduction—Situations in Korea
- II. Legislation and policies for the elderly
- III. Responding to the aging workforce
- IV. Conclusion—Challenges and prospects

I. Introduction—Situations in Korea

The number of people aged 65 and over in South Korea surpassed 10 million in July 2024, and South Korea entered a super-aged society with more than 20% of the population being older people in December 2024.¹ This is faster than the original expectation of the population of older people exceeding 20% by 2025. The proportion of the population aged 65 and over in Korea is projected to increase from 20.3% in 2025 to 30.0% in 2036, and to reach 47.7% in 2072.²

Meanwhile, to maintain the current population, the total fertility rate must exceed 2.1, but in 2023, Korea's total fertility rate was 0.721.³ The total fertility rate was 1.205 in 2014 but has been declining steadily. The number of births is expected to fall from 246,000 in 2022 to 160,000 in 2072.⁴ As the low fertility rate and the aging of the population intensify, the population is expected to decline, resulting in a shortage of people of working age.

Korea's total population is projected to decline from 51.75 million in 2024 to 51.31 million in 2030, 50.06 million in 2040, and 36.22 million in 2072.⁵ The working-age population between ages 15 and 64 is projected to decrease by 9.4 million from 36.57 million in 2023 to 27.17 million in 2044, and reach 16.58 million in 2072.⁶ The proportion of the working-age population in Korea was 71.1% in 2022, the highest among OECD countries, but is projected to fall to 45.8% by 2072, the lowest.⁷

1. Jung Min-ho, "Korea Becomes 'Super-Aged' Society as 20% of Population Are 65 or Older," *The Korea Times*, December 24, 2024, <https://www.koreatimes.co.kr/southkorea/society/20241224/korea-becomes-super-aged-society>.

2. Statistics Korea, *Population Projections and Summary Indicators (Korea), 1960–2072*, last accessed April 19, 25, https://kosis.kr/statHtml/statHtml.do?orgId=101&tblId=DT_1BPA002&conn_path=I2&language=en.

3. Statistics Korea, *Total Fertility Rates and Age-Specific Fertility Rates for Provinces*, last accessed April 19, 2025, https://kosis.kr/statHtml/statHtml.do?orgId=101&tblId=DT_1B81A21&conn_path=I2&language=en.

4. Statistics Korea, *Determinants of Future Population Change (Korea)*, last accessed April 19, 2025, https://kosis.kr/statHtml/statHtml.do?orgId=101&tblId=DT_1BPA004&conn_path=I2&language=en.

5. Statistics Korea, *Population Projections for Korea, 2022–2072*, last accessed April 19, 2025, https://kosis.kr/statHtml/statHtml.do?orgId=101&tblId=DT_1BPA001&conn_path=I2&language=en.

6. Statistics Korea, *Population Projections for Korea, 2022–2072*, last accessed April 19, 2025, https://kosis.kr/statHtml/statHtml.do?orgId=101&tblId=DT_1BPA003&conn_path=I2&language=en.

7. Statistics Korea, *Population Projections for Korea, 2022–2072*, (press release, December 13, 2023), 19.

The old-age dependency ratio, which measures the number of the elderly per 100 people of working-age, is projected to rise from 24.4 in 2022 to over 50 in 2036 and to 104.2 in 2072, an increase of 4.3 times, increasing the burden of supporting the elderly on the working-age population.⁸ Korea's old-age dependency ratio was 24.4 in 2022, ranking in the bottom 10 among OECD countries, but is projected to become the highest at 104.2 in 2072.⁹

The employment rate for those aged 65 and over in 2023 was 39.0%.¹⁰

According to a survey, as of May 2023, the average retirement age for mainstream jobs in Korea was 49.4 years old,¹¹ whereas the age of full retirement was 72.3 years old.¹² There is a strong desire to work longer as an alternative to a financially insecure retirement, so there is a strong demand to raise the retirement age.

II. Legislation and policies for the elderly

(1) Employment-related legislation

Prior to 2013, the Act on Prohibition of Age Discrimination in Employment and Elderly Employment Promotion only stipulated that employers should endeavor to set the retirement age of workers at 60 or above, but it did not mandate a specific retirement age.

This law was amended in 2013 to require that the retirement age of workers be set at 60 or above. In practice, after a grace period, the law mandated a retirement age of 60 from January 1, 2016, for companies with 300 or more employees, and from January 1, 2017, for companies with fewer than 300 employees.

In order to reduce the burden on enterprises under the seniority-based wage structure, the Act stipulated that workplaces which extend the retirement age must take necessary measures such as reorganizing the wage system according to the conditions of the workplace, and as a result, many workplaces have introduced the wage peak system. The wage peak system is a system that reduces wages by a certain percentage based on a certain point in time instead of extending the retirement age.

This law also prohibits age discrimination. It states that employers shall not discriminate against any of their employees or any person seeking to work for an employer, on the grounds of age without reasonable grounds in recruitment and employment, remuneration, provision of money and valuables other than remuneration, or other welfare benefits, education and training, placement, transfer, or promotion, retirement or dismissal.

(2) Post-retirement income security legislation

Korea's retirement income security system includes public pensions, corporate pensions, and private pensions.

1) Public pension

South Korea's public pension systems include the National Pension, the Government Employees Pension, the Private School Teachers Pension, and the Military Pension. Each of these pension schemes has different

8. Statistics Korea, *supra* note 2.

9. Statistics Korea, *supra* note 7.

10. Korea Institute for Health and Social Affairs, *Elderly Survey for 2023*, 402.

11. Statistics Korea, *Results of the Economically Active Population Survey*, last accessed July 30, 2025, https://kosis.kr/statHtml/statHtml.do?orgId=101&tblId=DT_1DE8036S&conn_path=I2.

12. Hyejin Kim, "Hanguk nodong sijang goreunghwa 'simgak'...60-se isang goyongnyul OECD choego sujun [Serious aging of the Korean labor market: Employment rate among those aged 60 and over highest in the OECD]," *Maeil Kyungjae*, July 3, 2024, <https://www.mk.co.kr/news/economy/10858596> (in Korean).

eligibility criteria and is operated separately. The Government Employees Pension is for public officials working for the state and local governments, the Private School Teachers Pension is for private school teachers and employees, and the Military Pension is for military personnel. The National Pension covers the general public aged 18 to under 60, excluding those eligible for the above-mentioned occupational pensions.

In view of the aging population and financial stability, the 1998 reform of the National Pension raised the pensionable age from 60, increasing it by one year every five years for those born in 1953 or later, to 65 for those born after 1969. In order to promote the financial stability of retirees who face difficulties due to early retirement, they can apply for an early retirement pension. This allows them to receive their pension up to 5 years before the standard retirement age. However, the amount of the pension is reduced by 6% for each year it is received early. For recipients aged between 60 and 65, if they have earned income or business income at the time they receive their pension, the pension amount may be partially reduced by up to 50% of the maximum pension amount. However, for those aged 65 and over, the full amount of the pension will be paid out without any reduction, even if they have income.

As of March 2025, the number of National Pension subscribers is 21.76 million.¹³ Among the National Pension recipients, 39.9% receive between KRW 200,000 (USD 138) and KRW 400,000 (USD 276), and 20.8% receive between KRW 400,000 and KRW 600,000 (USD 414).¹⁴ The average monthly payment per person of old age pension is KRW 676,869 (USD 467),¹⁵ which is far below the public assistance eligibility threshold of KRW 1,258,451 (USD 870) for a two-person household.

In addition, the Basic Pension Act was enacted in 2014 to ensure income security for the elderly. The Basic Pension is funded by taxes rather than contributions, so it is not considered as social insurance. Since the history of the national pension in Korea is relatively short and the average amount received from it is not substantial, the Basic Pension was introduced to supplement the income of the elderly. This law provides a basic pension to 70% of the elderly aged 65 and over with the lowest income. As of 2025, the eligibility criteria are set at KRW 2,280,000 (USD 1,576) for single-person households and KRW 3,648,000 (USD 2,522) for couple households, with a maximum monthly payment of KRW 342,510 (USD 237).

2) Corporate pension

In Korea, the severance pay system and the retirement pension system currently coexist. The severance pay system provides a payment equivalent to at least 30 days' average wages upon retirement for those who have worked continuously for more than one year. The current retirement pension system operates in three types: Defined Benefit (DB), Defined Contribution (DC), and Individual Retirement Pension (IRP).

Of the 12.722 million eligible employees for retirement pensions, 6.748 million are enrolled, resulting in a participation rate of 53.0% in 2023.¹⁶ The composition rate is 53.7% for DC, 43.5% for DB, and 2.0% for the parallel type.¹⁷

The implementation rate of pension plan varies according to the size of the workplace. For workplaces with fewer than 5 employees, the rate is 10.5%; for those with 10 to 29 employees, it is 57.3%; for those with

13. National Pension Service, last accessed April 18, 2025, <https://www.nps.or.kr/pnsinfo/statistics/getOHAF0111M0.do?menuId=MN24000989>.

14. National Pension Service, last accessed April 18, 2025, <https://www.nps.or.kr/pnsinfo/statistics/getOHAF0116M0.do>.

15. National Pension Service, last accessed April 18, 2025, <https://www.nps.or.kr/pnsinfo/databbs/getOHAF0269M1Detail.do?menuId=MN24000999&pstId=ZZ20250000000000324&hmpgCd=&hmpgBbsCd=BS20240125&sortSe=FR&pageIndex=1&searchText=&searchGbu=>.

16. Statistics Korea, *Retirement Pension Statistics Results for 2023*, (press release, December 16, 2024), 2 [Korean].

17. Statistics Korea, *supra* note 15, 2.

50 to 99 employees, it is 80.7%; and for those with 300 or more employees, the rate is 91.9% in 2023.¹⁸ This indicates that the larger the number of the employees, the higher the implementation rate of pension coverage.

3) Private pension

The number of Individual Retirement Pension (IRP) participants increased by 7.0% year-on-year to 3.215 million in 2023 and the total accumulated funds also increased by 30.9% year-on-year to KRW 76 trillion.¹⁹

In addition, there is a reverse mortgage system known as the “Housing Pension,” where homeowners can use their homes as collateral to receive monthly pension payments while continuing to live in their homes. These payments are guaranteed by the government. To qualify, at least one of the spouses must be 55 or older and own a home valued at KRW 1.2 billion or less. After both spouses pass away, the home is sold to settle the account. If the total pension payments exceed the value of the home, no claim is made against the heirs, but if the payments are less than the value of the home, the remaining amount is paid to the heirs. As of July 2024, there are 133,364 participants in the housing pension program, with an average monthly payment of 1.22 million KRW.²⁰ This system considers the situation in Korea, where housing accounts for a significant portion of personal assets.

Similar to the Housing Pension, the Farmland Pension system allows farmers aged 60 and above to use their farmland as collateral to receive monthly pension payments for their financial security in retirement.

III. Responding to the aging workforce

(1) Discussion on extending the retirement age

Due to the gap between the legal retirement age 60 and the pensionable age 65, insufficient pension amounts, and the decline in the working-age population, the number of employed persons aged 60 and over reached a record high of 6.732 million in March 2025, accounting for 23.5% of all employed persons aged 15 and over.²¹ In parallel with these phenomena, the low birth rate and the aging of the population issues have intensified, leading to discussions about extending the retirement age.

In 2024, the retirement age for public service workers in the Ministry of the Interior and Safety was extended from 60 to 65 by collective agreement, which, although not applicable to all public officials, indicates the need or social trend to extend the retirement age.

In the current 22nd National Assembly, bills to raise the retirement age are being proposed by the Democratic Party of Korea that holds the majority in the National Assembly, which generally proposes to raise the retirement age to 65, but in phases depending on the size of the workplace. However, none of these bills were enacted by the National Assembly.

The Presidential Economic, Social and Labor Council (ESLC), a tripartite social dialogue body, is conducting discussions on raising the retirement age. The ESLC has established the Committee on Continuing Employment in Response to Demographic Change to organize a tripartite dialogue between the social partners and the government.

The Federation of Korean Trade Unions (FKTU) argues that the retirement age should be legislated to 65, as the starting age for receiving the national pension will be delayed to 65 from 2033, resulting in an

18. Statistics Korea, *supra* note 15, 7.

19. Statistics Korea, *supra* note 15, 3.

20. Korea Housing Finance Corporation, last accessed April 19, 2025, https://www.hf.go.kr/ko/sub03/sub03_01_04.do.

21. Statistics Korea, *Summary of Economically Active Pop. by Age Group*, last accessed April 19, 2025, https://kosis.kr/statHtml/statHtml.do?orgId=101&tblId=DT_1DA7002S&conn_path=I2&language=en.

employment cliff and income gap after the retirement age of 60. FKTU also demands the abolition of the wage peak system, and that working conditions, including wages after the age of 60, should be determined autonomously on the basis of an agreement between labor and management.

On the other hand, the business sector, citing the burden of seniority-based wages, insists that the decision on whether to extend the retirement age should be left to the autonomy of labor and management. Regarding the rehiring of workers beyond retirement age, they also propose separate legislation that would ease the requirement for amending labor regulations to restructure the wage system to be based on job duties and performance from requiring the consent of a majority of workers to merely soliciting their opinions, and to select reemployment candidates based on criteria.

(2) Employment incentives for older workers

At present, the government provides an elderly continuation employment incentive of up to KRW 900,000 per one person per quarter to continuously employed workers over the age of 60, and this incentive has been shown to be effective in hiring older workers, as the rate of increase in employment of elderly workers is higher in workplaces that receive the incentive than in workplaces that do not. However, there is criticism that the subsidy is limited to a maximum of three years within five years of the introduction of the program, which is not enough to produce long-term employment effects.

IV. Conclusion—Challenges and prospects

(1) Transition to a job- and performance-based wage system

There seems to be a growing consensus that it is necessary to shift from the existing seniority-based wage system to a job- and performance-based wage system in order to address the decline in productivity of older workers in Korea. Although it is necessary to extend the retirement age for older workers due to the need for income security for the elderly, the stability of pension finances, and the decline in the working-age population, it is not feasible to impose all the resulting burdens on companies. Therefore, a system should be put in place that allows for co-prosperity between companies and workers, which requires social dialogue and compromise.

Conversely, this change also means that people should not be forced to work in poor conditions just because they are older. It should be forbidden for older people to be discriminated against in relation to their abilities because of social prejudices against them.

(2) Protecting the elderly from industrial accidents

As of Dec. 2024, workers over the age of 60 and over accounted for 21.8% of the total workforce,²² but they accounted for 52.7% of fatal accidents.²³ Although people's physical abilities relative to their age have improved compared with the past, the elderly are more likely to be involved in industrial accidents, so it is necessary to accurately analyze the reasons for the high incidence of industrial accidents among the elderly and to develop institutional mechanisms to protect the lives and physical safety of the elderly.

22. Statistics Korea, *supra* note 20.

23. MOEL, *Status of Industrial Accidents in 2024*, April 30, 2025, last accessed July 30, 2025, https://www.moel.go.kr/policy/policydata/view.do?bbs_seq=20250402181 [Korean].

(3) Harmonizing with youth employment issues

As of January 2025, the unemployment rate for young people aged 15 to 29 in South Korea was 6%,²⁴ and the “felt unemployment rate” (*chegam sileop-ryul*), which includes the actual demand for jobs that cannot be filled in the labor market, was 16.4%.²⁵ Youth unemployment has been recognized as a major social problem in South Korea for the past decade, and the extension of the retirement age is expected to exacerbate youth unemployment and intensify intergenerational conflicts. Due to the dual structure and polarization of the Korean labor market, young people want to work in large companies with better wages and working conditions, but the labor unions, which are dominated by workers in large companies, are strongly pushing for an extension of the retirement age, which could lead to conflicts between the older and younger generations for the same jobs. This may be a somewhat unique challenge in the Korean context, but it is important to consider the complex relationship with youth employment when trying to address the issue of raising the retirement age.

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24. Statistics Korea, “Unemployment Rate by Gender/ Age Group,” last accessed April 19, 2025, https://kosis.kr/statHtml/statHtml.do?orgId=101&tblId=DT_1DA7102S&conn_path=I2&language=en.

25. Statistics Korea, “Results of the Economically Active Population Survey,” last accessed July 30, 2025, https://kosis.kr/statHtml/statHtml.do?orgId=101&tblId=DT_1DA7300AS&conn_path=I2 [Korean].

Retirement Process of Older Workers in Japan: Perspectives from Legislative Frameworks and Human Resource Management

Tomohiko MORIYAMA

- I. Work and retirement trajectories of older workers
- II. Changes in employment policies for older workers
- III. Changes in working style and wage associated with continued employment
- IV. Future issues

I. Work and retirement trajectories of older workers

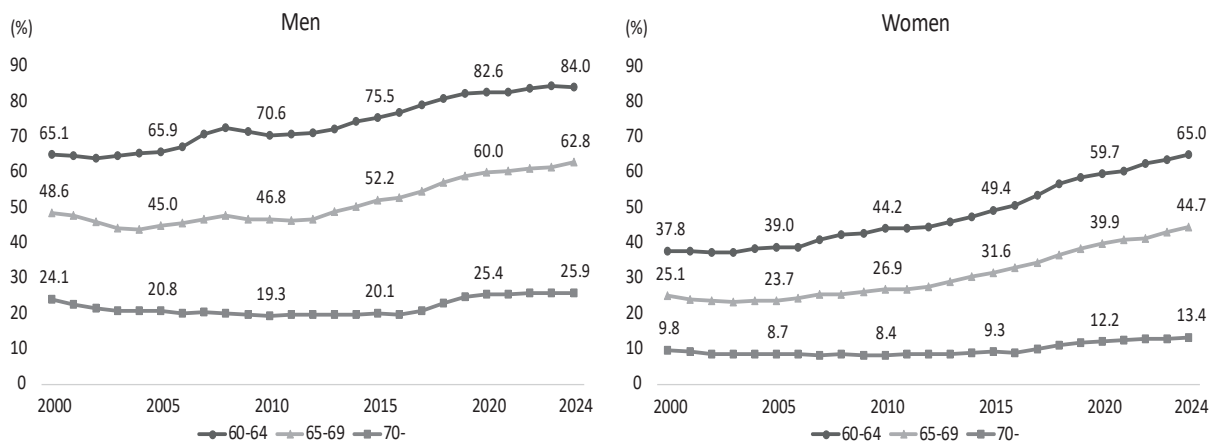
This paper explores the process by which the older workers exit Japan's labor market, focusing on employment systems and human resource management. In Japan, individuals aged 65 and older are classified as older persons, with those aged 65–74 referred to as the “young-old” and those 75 and older as the “old-old.”¹ However, since many companies set the retirement age at 60, statistical analyses often focus on individuals aged 60 and older to more accurately reflect labor market trends.

Figure 1 illustrates employment rates for individuals aged 60 and older by gender and age group since 2000. In 2024, employment rates for men stand at 84.0% for those aged 60–64, 62.8% for those aged 65–69, and 25.9% for those aged 70 and older, while for women, the rates are 65.0%, 44.7%, and 13.4%, respectively.² With respect to workforce composition, individuals in their early 60s saw an increase from 2007 to 2012, while those in their late 60s grew from 2012 to 2017 (Figure 2). Since 2018, the proportion of workers aged 70 and older has risen sharply, now comprising 8% of the total workforce. This trend reflects the first baby boom generation continuing to work beyond 60.

The key factors contributing to this trend include increasing life expectancy, a rise in the eligibility age for pension benefits, and labor shortages. In particular, labor shortages and rising social security costs, driven by declining birthrates and an aging population, present significant challenges. While foreign workers and women are potential sources of labor, Japan's geographic isolation, linguistic distinctiveness, and relatively lower wages compared to other developed nations limit the feasibility of relying on immigrant labor. Furthermore, the employment rate of young and middle-aged women has remained consistently high, leaving little room for substantial growth. Given these constraints, there is growing expectation that older workers will play a key role in alleviating labor shortages and contributing to economic revitalization.

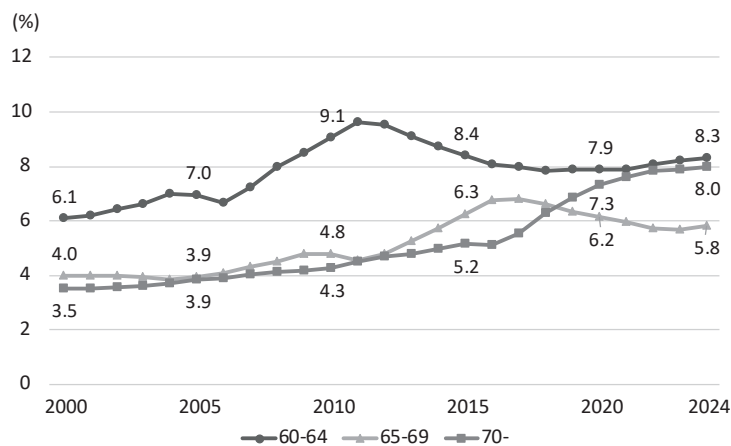
The retirement process in Japan varies significantly by gender. Traditionally, most men retired at 55 or 60.

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1. The elderly population ratio, defined as the proportion of the population aged 65 and older relative to the total population, increased from 9.1% in 1980 to 17.4% in 2000 and further to 28.7% in 2020. Simultaneously, the ratio of the working-age population (ages 15–64) to the older population (ages 65 and older) declined from 7.4 working-age individuals per older person in 1980 to 2.1 in 2020.
 2. The desired retirement age is also high. According to JILPT's 2019 survey, the most common response regarding desired or actual retirement age was “I want to work as long as I can, regardless of age” (32.1%), followed by “70 and older” (23.6%) and “65–69” (13.8%) (JILPT 2020).



Source: Statistics Bureau, Ministry of Internal Affairs and Communications (MIC), *Labour Force Survey*.

Figure 1. Employment rate among people aged 60 and older



Source: Same as Figure 1.

Figure 2. Share of workers aged 60 and older among all employees by age group

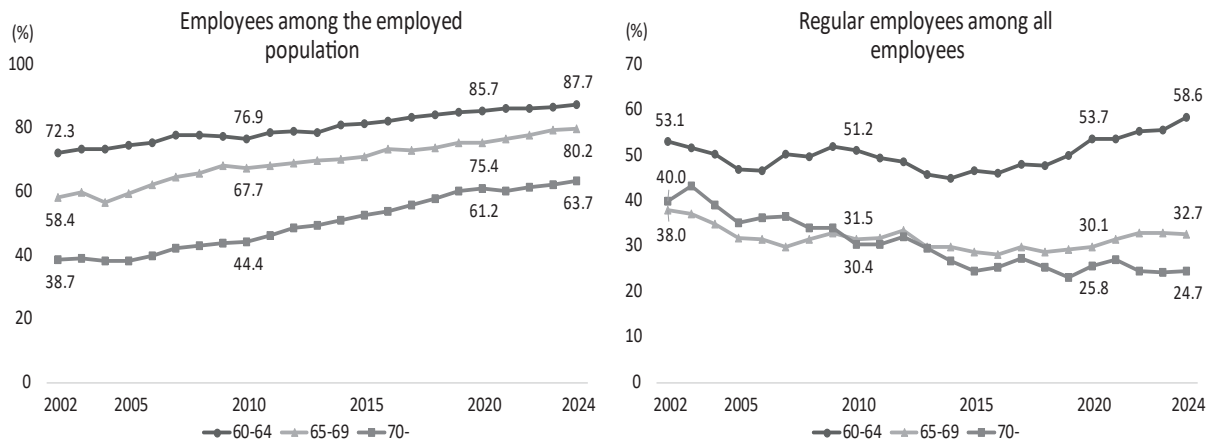
However, in recent years, the majority have continued working until 65, with many remaining employed beyond 66. The nature of employment has also evolved. In the past, the proportion of employed individuals over 60, particularly those over 70, was low due to high rates of self-employment in the past (Figure 3, left). More recently, employment rates have increased across all age groups, with regular employment³ rising among those aged 60–64 but declining for those aged 70 and older (Figure 3, right). As a result, men in their early 60s are more likely to continue working as regular employees, while those in their 70s and older

3. The definition of employment status in the Labor Force Survey is based on the designation in the workplace. Regular employees are classified as those whose designation is “regular staff/employee,” while non-regular employees are categorized under titles such as “part-timers,” “part-time workers,” “dispatched workers of labor dispatch offices,” “contract workers,” “temporary workers,” and “others.”

increasingly transition to non-regular employees.

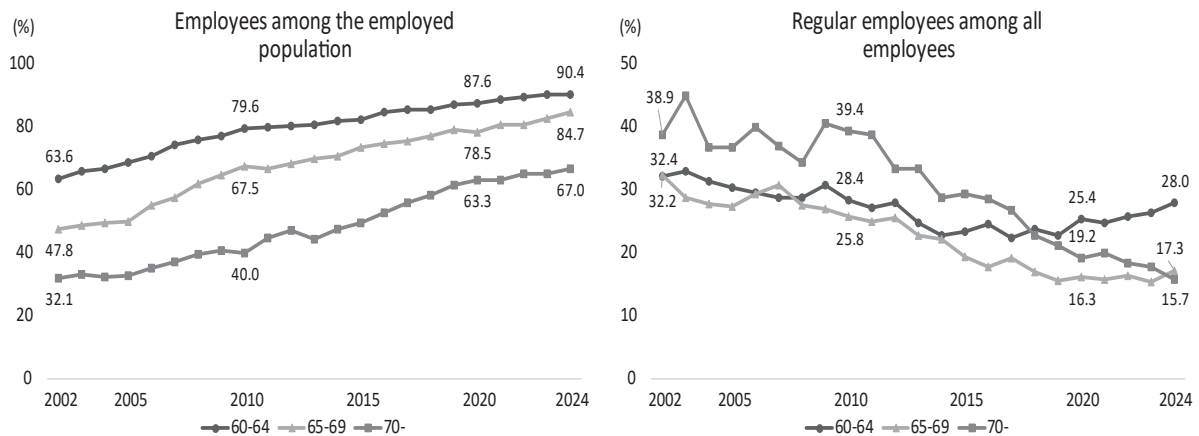
In contrast, women’s retirement decisions are influenced less by age and more by family-related factors such as their spouse’s employment history, income, and savings. Although women who have worked as regular employees until the age of 60 often follow a retirement trajectory similar to that of men, relatively few remain in regular employment at that age. Women with sufficient savings and pension benefits tend to retire earlier, whereas others continue working, primarily in informal employment. This trend has become more evident in recent years (Figure 4).

Despite these gender-based differences, Japan’s overall labor market exit pattern is characterized by a gradual transition through changes in employment status rather than an abrupt withdrawal, which contrasts with the Western retirement model, where many individuals exit the labor market at a predetermined age.



Source: Same as Figure 1.

Figure 3. Share of employees and regular employees aged 60 and older (Men)



Source: Same as Figure 1.

Figure 4. Share of employees and regular employees aged 60 and older (Women)

II. Changes in employment policies for older workers

Japan's employment policy for the older workers has traditionally focused on ensuring job security for regular workers within the internal labor market. Regular employees typically accept a work style that includes job transfers, overtime, and reassignment of duties under long-term stable employment, seniority-based wages, and extensive social security benefits. To manage turnover, companies have implemented a wage structure where employees receive wages below productivity at younger ages and above productivity at older ages (Lazear 1979). However, maintaining wages above productivity indefinitely is financially unsustainable, making the introduction of a mandatory retirement system necessary. This system determines the probability of retirement after the age of 60.

In the late 1940s, many Japanese companies adopted a mandatory retirement system, generally setting the retirement age at 55 to align with the age of eligibility for pension benefits at that time.^{4, 5} This system was widely accepted by both labor and management, as it met managerial needs to regulate workforce composition while ensuring workers had guaranteed employment until retirement.⁶

Between 1954 and 1974, the age of eligibility for pension benefits gradually increased to 60, prompting workers to demand a corresponding extension of the retirement age.⁷ By the early 1970s, extending the retirement age had become a central issue in employment policies for the older population. As a result, between the 1970s and early 1980s, the retirement age was incrementally raised, culminating in the enactment of the Act on Stabilization of Employment of Elderly Persons in 1986, which encouraged employers to set the retirement age at no less than 60.⁸ The legislative amendment in 1994 made this requirement mandatory, and as of April 1998, no company could set a retirement age below 60. By 1999, 97.1% of companies had

4. The discussion of pension systems in this section is based on Hamaguchi (2020).

5. The Workers' Pension Insurance Act, enacted in 1941, generally restricted pension benefits to individuals who had been insured for at least 20 years and retired at age 55 or older, primarily covering blue-collar workers in establishments with at least 10 employees. However, the amendment in 1944 to the Employees' Pension Insurance Act expanded eligibility to include white-collar workers, women, and employees in establishments with at least five workers.

6. In addition to retirement and pension systems, retirement policies also influence whether a worker remains in the workforce or exits the labor market. The passage of the Retirement Benefits and Retirement Allowance Act in 1936 mandated retirement savings for factories and mines with 50 or more workers. Although this law was repealed in 1944, a nationwide trend emerged from the mid-1940s onward, with workers increasingly demanding that companies provide retirement security. While companies initially resisted these demands, the introduction of a retirement allowance system alongside a mandatory retirement age gained traction, as it enabled firms to manage surplus personnel without resorting to layoffs. Consequently, the retirement allowance system spread rapidly (Owan and Suda 2009).

7. With the passage of the Employees' Pension Insurance Act in 1954, the pension eligibility age for men was set to gradually increase to 60. In practice, the age was raised by one year every four years, reaching 60 in 1973. Meanwhile, the eligibility age for women remained at 55 in 1954 but was subsequently raised to 60 between 1987 and 1999.

Additionally, the Employees' Pension Insurance Act applied only to a specific category of workers, excluding employees in establishments with fewer than five workers and day laborers. To address this gap, the National Pension Act was enacted in 1959, introducing a universal pension system with an eligibility age of 65.

8. A significant legal reform concerning pensions was enacted in 1985. This amendment introduced a basic pension system and expanded coverage to include employees of establishments with fewer than five workers. Notably, the reform also introduced changes that were particularly significant for women. Prior to this amendment, unemployed wives were required to voluntarily enroll in the national pension and pay premiums to qualify for pension benefits. However, under the revised system, as long as their income remained below a specified threshold (1.3 million yen since 1993), they could qualify for pension benefits without paying premiums by being classified as dependents, a status known as category 3 insured persons. Additionally, by that time, the age limit for survivor's pensions had already been abolished.

As discussed in the previous section, women's retirement decisions are often influenced more by their spouse's career than by their own. This phenomenon largely attributable to these pension systems.

adopted a uniform retirement age, with 91.2% setting it at 60 and 6.2% at 65.⁹

However, as the eligibility age for pension benefits continued to rise between 2001 and 2025, a gap emerged between retirement and pension payments. This discrepancy raised concerns about employment security for workers in their early 60s.¹⁰ To address this issue, the government amended the Act on Stabilization of Employment of Elderly Persons, mandating companies to secure employment opportunities for older workers. The 1990 legislative amendment mandated efforts to ensure employment until the age of 65, while the 2000 revision introduced the option of raising the retirement age. In the 2004 amendment, the requirement to make efforts was further reinforced as a legal obligation. Consequently, employers with a retirement age below 65 were required to implement one of the following measures: (1) raising the mandatory retirement age, (2) introducing a continued-employment program, or (3) abolishing the mandatory retirement system. At that time, companies were allowed to exclude older workers who did not meet predetermined criteria established through labor-management negotiations.¹¹ However, the 2012 amendment eliminated this selection process, making it mandatory to retain all employees who wished to continue working.¹² In practice, over 80% of companies opted for a continued-employment program by 2017, a figure that remained at approximately 70% in 2024 (Figure 5). However, in recent years, the proportion of companies extending the mandatory retirement age has grown, with over 25% adopting a higher retirement age from 2023 onward.¹³

The 2020 amendment further expanded these provisions by requiring companies to make efforts to secure employment opportunities up to the age of 70. This measure took effect in April 2021. Under this legislative amendment, companies must implement one of five strategies: (1) raising the mandatory retirement age to 70, (2) abolishing the mandatory retirement age, (3) extending the continued-employment program to age 70,¹⁴ (4) introducing continuous outsourcing contracts until age 70, or (5) enabling employees to engage in social contribution projects until age 70.¹⁵

9. “Employment Management Survey” (Ministry of Health, Labor and Welfare (MHLW)).

10. Discussions on raising the age of eligibility for pension benefits to 65 began in the 1970s. The 1994 amendment to the Act on Stabilization of Employment of Elderly Persons enacted an increase in the fixed-rate portion of the pension, while the 2000 amendment introduced an increase in the earnings-related portion. The fixed-rate portion was scheduled to rise for men in 2013 and for women in 2018, whereas the earnings-related portion was set to increase by 2025 for men and by 2030 for women.

The 2000 amendment also introduced provisions for the acceleration of pension payments, while the 2004 amendment allowed for the deferral of payments. Under these provisions, early pension payments result in a reduced benefit, whereas deferred payments lead to an increased benefit, with these reductions and increases applying for the duration of the recipient’s lifetime.

11. As of June 2006, only 39.1% of companies had extended continued employment to all applicants, while the majority applied it only to those who met specific eligibility criteria.

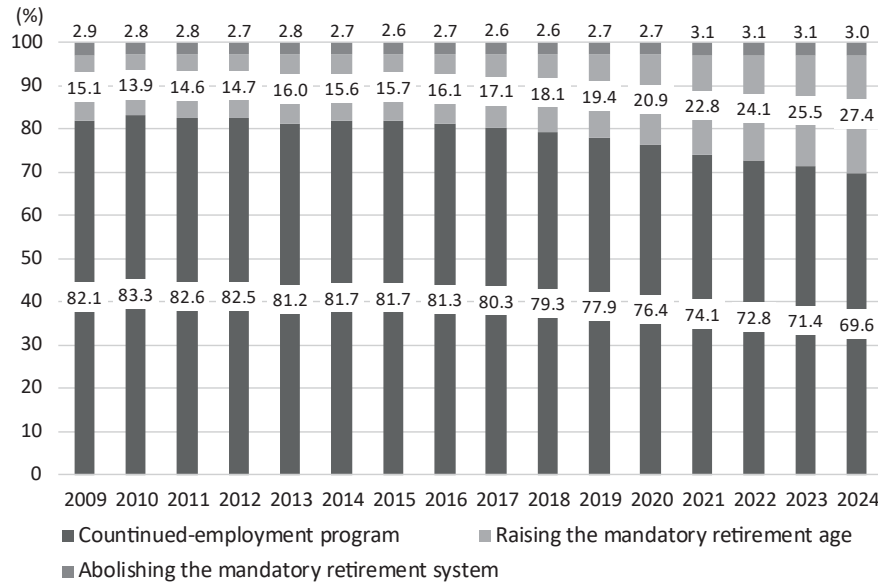
12. These legal reforms significantly contributed to the promotion of employment among older workers. Kondo and Shigeoka (2017) analyzed the effects of the 2004 legislative amendment and found that the employment rates of 60- and 61-year-olds were higher among the 1946-born cohort, which was subject to the amendment, compared to the unaffected 1945-born cohort, with an increase ranging from 2.4% to 3.2%. Similarly, a comparison of the employment rates of men born in 1953, who were subject to the 2012 amendment, with those of men born in 1952, who were not affected by the amendment, showed that the employment rate of regularly employed men at age 59 increased by 7% annually (Yamada 2017).

13. One of the measures implemented to encourage companies to continue employing older workers is the Continuous Employment Benefits for the Elderly, established in 1995. Under this system, if a worker’s wages decrease to less than 75% of their earnings at age 60 (initially set at 85% when the program was introduced), they receive a benefit equivalent to 15% of their wages (originally 25%). This benefit will remain in effect until March 2025, after which the rate will be reduced to a maximum of 10%.

Furthermore, if a company fails to implement appropriate measures to ensure continued employment, the government may issue a corrective action recommendation. If the company does not comply, it may face penalties, including public disclosure of its name, restrictions on job postings at the public employment service, or denial of government subsidies, as deemed necessary.

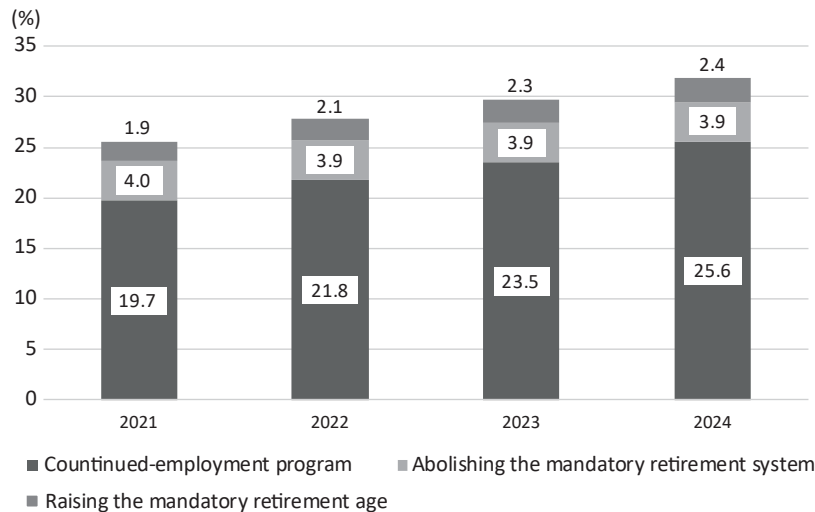
14. In addition to employers with special relationships, this also includes those employed by other employers.

15. Social contribution project includes an initiative carried out either directly by the employer or through an organization commissioned or financially supported by the employer.



Source: The Ministry of Health, Labour and Welfare (MHLW), “Report on the Status of Employment of the Elderly.”
 Note: The values represent establishments with 31 or more employees.

Figure 5. Measures to secure employment until age 65



Source: Same as Figure 5.

Notes: 1. The values represent establishments with 21 or more employees.

2. The “Introduction of Measures to Support Start-ups,” which includes the establishment of systems for outsourcing contracts and provisions allowing employees to engage in social contribution projects, is also classified as a measure to secure employment. The proportion of companies implementing these measures remained consistently at 0.1% over all four years.

Figure 6. Measures to secure employment until age 70

Approximately 30% of companies have implemented measures to secure employment opportunities for individuals up to the age of 70 (Figure 6). Among these measures, the continued-employment program

remained the most prevalent in 2024, covering 25.6% of employees, followed by the abolition of the mandatory retirement age at 3.9% and the extension of the mandatory retirement age at 2.4%. Only a small number of companies have introduced initiatives to support the establishment of new businesses as an alternative employment measure.¹⁶

III. Changes in working style and wage associated with continued employment

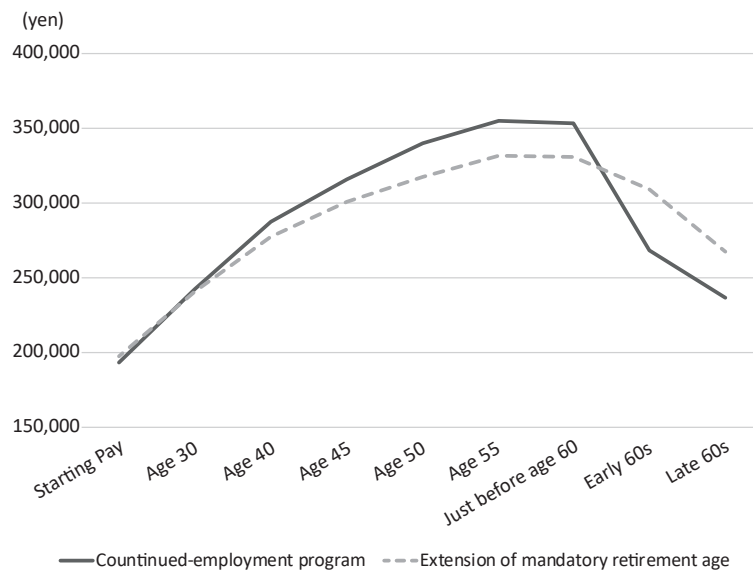
These employment security measures are not readily accepted by companies, as they are likely to increase labor costs. How, then, have firms responded to these system reforms? This response is closely linked to the widespread adoption of the continued-employment program by many companies. While the continued-employment program mandates that all applicants maintain their employment, it does not stipulate specific employment conditions. When the retirement age is extended, the employment contract of a regular employee must also be extended accordingly. In contrast, the continued-employment program entails terminating a regular employee's contract and re-hiring them as a non-regular employee, making it easier to adjust their wages and job responsibilities compared to extending the retirement age. This flexibility allows companies to manage labor costs more effectively.

Empirical data support this discussion. According to a company survey conducted by JILPT in 2019, companies that implement the continued-employment program experience a greater decline in wages around the age of 60 compared to those that extend the mandatory retirement age. On average, firms adopting the continued-employment program report a wage reduction of approximately 24% at age 60 (Figure 7). Similarly, Yamada (2009) found that nearly half of firms utilizing the continued-employment program impose a wage reduction of 40% or more at this age.

The rationale behind these wage reductions is linked to changes in job content and responsibilities around the age of 60. Table 1 compares these changes between firms that adopt the continued-employment program and those that extend the mandatory retirement age. Among companies implementing the continued-employment program, 46.1% reported that while job descriptions remained the same as before age 60, employee responsibilities were reduced. This reduction in responsibility often involves exempting senior employees from management positions, relocation, or overtime work. For these reasons, many companies have implemented wage reductions for their employees. Nevertheless, despite lower wages, the working conditions of re-employed workers remain superior to those of part-time and other non-regular workers. From the perspective of dual labor market theory, this approach suggests that firms have responded to legislative amendments by establishing a new peripheral market within the internal labor market, effectively positioning re-employed workers between core employees and peripheral workers in the external labor market.

According to previous judicial precedents, re-employment after retirement can, in itself, serve as a justification for reduced working conditions. When permanent employees with open-ended contracts are re-employed after retirement under fixed-term contracts, even if their job content and responsibilities remain unchanged, the mere fact of their re-employment after retirement is considered a valid factor in determining

16. In addition to these systems, the earnings-related pension for working elderly also impacts the employment of older individuals. This system reduces pension benefits for those who continue working beyond the standard pensionable age. Specifically, full pension payments are provided until the combined total of wages and welfare pension benefits reaches 500,000 yen per month (as of FY2024). If this threshold is exceeded, half of the excess amount is withheld. The system has been the subject of ongoing debate, with some arguing that it disincentivizes older individuals from remaining in the workforce, while others contend that it suppresses wages for older workers.



Source: JILPT 2021, Chap.4, Figure 4-3-1 Measures to secure employment and the distribution of jobs and wages among older workers: Effects on average wages of older workers.

Note: The vertical axis represents the estimated monthly income, calculated based on the average monthly salary at the starting salary and the average monthly salary at each age, with the starting salary indexed at 100.

Figure 7. Comparison of wage profiles across different continuous employment structures

Table 1. The relationship between measures to secure employment and changes in work and responsibilities before and after mandatory retirement around age 60

	Same work							N
	Same responsibility	Lighter responsibility	Heavier responsibility	Partially different work	Completely different work	Other	No response	
Mandatory retirement at age 65	68.0	14.4	0.4	3.6	0.2	0.4	13.1	1,033
Continued employment program	36.5	46.1	0.4	6.4	0.6	0.7	9.3	4,218

Source: JILPT 2021, Chap.3. “Factors and their impact on the system of continued employment until age 65.”

that the reduction in working conditions is reasonable (Kurashige 2021).¹⁷

While these approaches are practical for firms, they may lead to a decline in motivation among re-employed workers. Many companies struggle to maintain the motivation of employees who continue working under these conditions. In fact, companies that implement the continued-employment program express greater concern about the low work motivation of senior employees compared to those that extend the mandatory retirement age (Moriyama and JILPT 2022, Chap. 2). The gradual increase in the number of firms adopting

17. Judicial precedents emphasize the importance of labor-management negotiations in defining the expected roles of employees working under continued employment, their contributions, and their treatment. The content of these discussions, the structure of the negotiations, and whether an agreement is reached all influence the assessment of whether the treatment is deemed reasonable.

extended retirement in recent years, as shown in Figure 5, likely reflects an effort to mitigate this decline in employee motivation.

IV. Future issues

Japan's employment policies for older workers have functioned effectively thus far, although challenges such as declining motivation persist. Nevertheless, demographic shifts, including a declining birthrate and an increasingly aging society, are expected to intensify in the future. Policies such as establishing a mandatory retirement age of 65 and extending employment opportunities until age 70 are under consideration, yet their implementation remains uncertain due to the potential financial burden they may place on companies. The Japanese government has also remained cautious about raising the age of eligibility for pension benefits beyond 65.

A critical issue for the future is the aging of the second baby boom generation, who will reach the age of 60 in the 2030s. Unlike the first baby boom generation—many of whom entered their 60s with stable incomes, sufficient pensions, and substantial savings due to Japan's previous economic growth—the second baby boom generation has faced prolonged economic stagnation since the 1990s. As a result, an increasing number of individuals in this cohort are expected to lack adequate financial reserves for retirement and will need to remain in the workforce beyond the age of 60 to cover their living expenses. Consequently, issues such as unemployment and poverty among the older population, which have thus far received relatively little attention compared to challenges faced by younger generations, are likely to become more pronounced.

Japan's employment policy for older workers has long been centered on maintaining job security within the internal labor market, and this fundamental strategy is expected to persist. However, addressing unemployment among the older population will require expanding the external labor market to facilitate job transitions, outplacement, and reskilling opportunities. Immediate measures must be implemented to ensure that individuals who need to continue working for financial reasons can access employment opportunities regardless of age, while also addressing broader concerns such as health, housing, and social security to ensure a stable and dignified standard of living.

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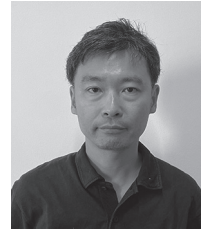
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Addressing Taiwan's Demographic Crisis: Workforce Development Policies for a Graying Society

Jo-Hsiang HUANG

- I. Introduction
- II. Situations in Taiwan
- III. Legal framework in Taiwan
- IV. Conclusion and ongoing considerations

I. Introduction

Taiwan faces urgent demographic challenges characterized by a rapidly aging population and declining birth rate. Taiwan will become a super-aged society by 2026, with over 20% of the population aged 65 or older.¹ This rapid demographic transition raises significant concerns for labor market sustainability, social security systems, and economic development.

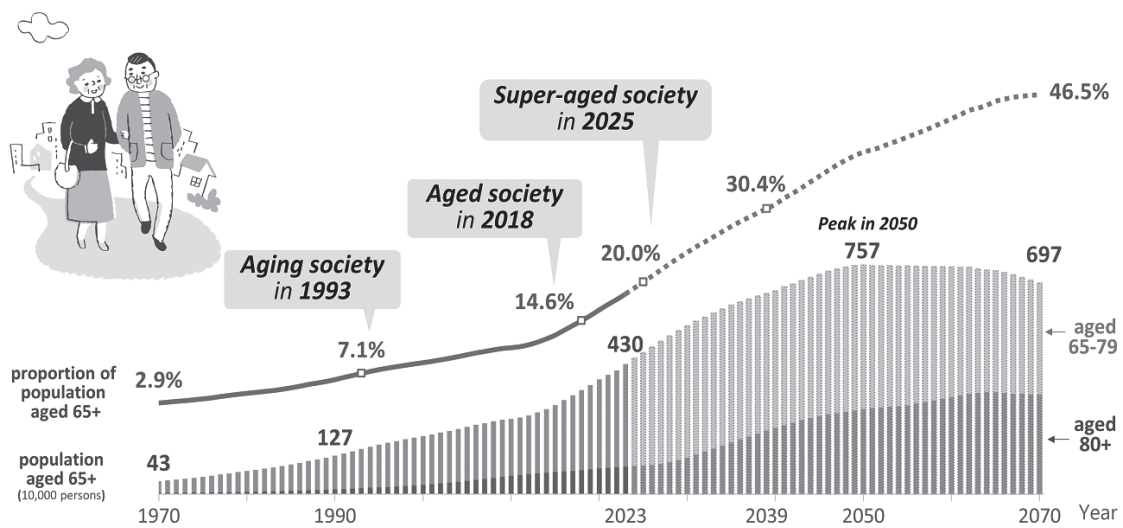
In response to these challenges, Taiwan enacted the “Middle-aged and Elderly Employment Promotion Act” in December 2019, establishing a comprehensive legal framework to promote employment opportunities for older workers. This legislation introduces what can be summarized as “One Flexibility, One Prohibition, and Three Subsidies” to address the employment challenges facing older workers. The flexibility component relaxes traditionally strict regulations on fixed-term employment contracts for workers aged 65 and above, creating more adaptable employment arrangements. The prohibition element strictly forbids age discrimination in all aspects of employment. The three subsidy systems include allowances for unemployed middle-aged and elderly workers, subsidies for workplace redesign for current middle-aged and elderly employees, and subsidies for businesses that retain elderly workers.

The Middle-aged and Elderly Employment Promotion Act places particular emphasis on prohibiting age discrimination, representing a significant advancement in protecting older workers' employment rights. Further progress came in 2024 with amendments to Article 54 of the Labor Standards Act regarding mandatory retirement at age 65. While the previous law did not explicitly prohibit negotiated extensions, the 2024 amendments explicitly codify that employers and employees may negotiate to extend employment beyond the age of 65, providing clearer legal recognition for continued employment of elderly workers.

II. Situations in Taiwan

The National Development Council's reports show that Taiwan entered an aged society in 2018 with 14% of its population aged 65 and above, and is projected to become a super-aged society by 2026, when this ratio will exceed 20%. This demographic transition is occurring at a much faster pace than experienced in most developed Western countries, which had decades to adjust to similar shifts.

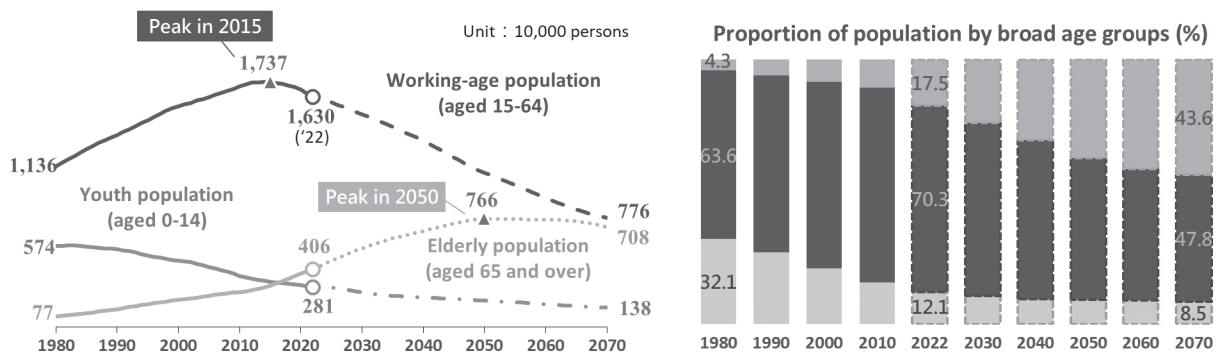
1. See <https://pop-proj.ndc.gov.tw/> (last visited March 7, 2025).



Source: National Development Council (see note 2 of this report).²

Figure 1. Proportion of population aged 65 and over

The working-age population (15–64) peaked in 2015 and began to decline in 2016, while the elderly population surpassed the youth population in 2017—a trend projected to continue until 2050. Long-term demographic projections paint an even more dramatic picture: by 2070, the population aged 0–14 is expected to decrease by 1.4 million (-50.7%) and the working-age population will shrink by 8.5 million (-52.4%), while the elderly population (65+) will increase by 3.0 million (+74.2%).



Source: National Development Council (see note 3 of this report).³

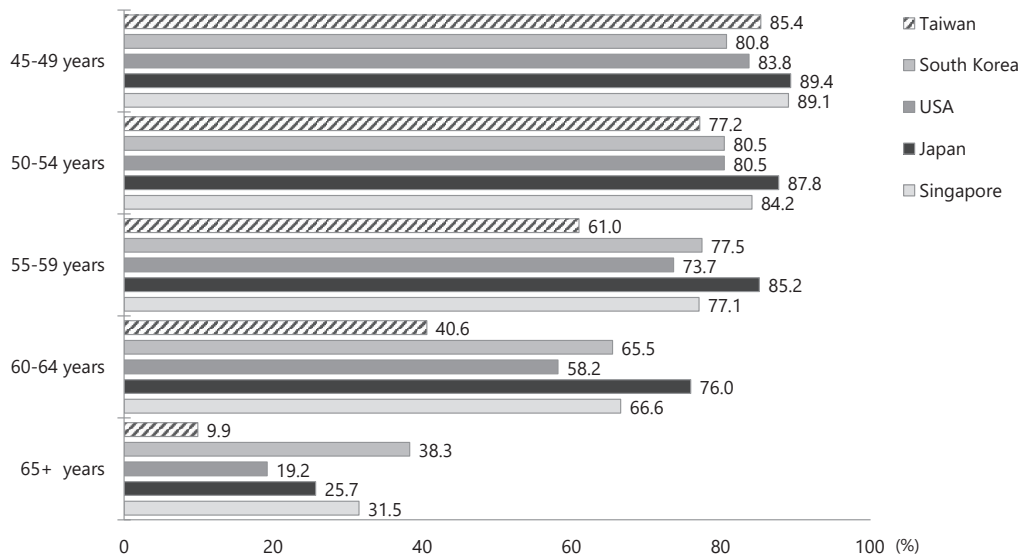
Figure 2. Peak of working-age population (aged 15–64) and proportion of population by broad age groups

Compounding these demographic challenges, Taiwan’s labor force participation rates among older age groups remain significantly lower than those in comparable developed economies such as Japan, South Korea, and the United States. As of 2023, labor participation rates stand at 66.4% for those aged 45–64, but

2. See https://pop-proj.ndc.gov.tw/main_en/ (last visited March 7, 2025).

3. https://pop-proj.ndc.gov.tw/main_en/Default.aspx (last visited March 7, 2025).

drop precipitously to merely 9.9% for those aged 65 and above.⁴



Source: Manpower Survey, Directorate-General of Budget, Accounting and Statistics, Executive Yuan.

Figure 3. Labor force participation rates of middle-aged and elderly in major countries

These statistics reveal considerable untapped potential in Taiwan's older workforce. Labor market data further indicates that the average retirement age in Taiwan is 64.3 years—notably lower than in many developed countries where labor market retention of older workers has been more successfully implemented.⁵

The accelerating demographic shift has far-reaching implications across multiple domains, including labor markets, social security systems, and broader economic and fiscal policies. In response to these challenges, Taiwan has prioritized policy reforms focused on promoting employment among older adults while ensuring workplace safety and comfort. These initiatives encompass comprehensive reforms in employment systems, enhanced vocational training programs tailored to older workers, and strategic improvements in work environments—all of which have become critical policy priorities in addressing Taiwan's demographic transition.

III. Legal framework in Taiwan

Taiwan has established six key policy mechanisms to address these challenges comprehensively. These include anti-discrimination measures, employment stability support, unemployment assistance, post-retirement re-employment support, the Silver Talent Service Program (modeled after Japan's system), and job opportunity development. These mechanisms provide comprehensive support through vocational training, job-seeking allowances, and workplace accommodation assistance.

A distinctive feature of Taiwan's legal framework is its innovative scope, which addresses employment issues not only for elderly persons aged 65 and above but also extends coverage to middle-aged individuals

4. <https://reurl.cc/746MAd> (last visited March 7, 2025).

5. <https://statdb.mol.gov.tw/html/nat/110/110010%E8%A1%A810-3.pdf>.

starting from age 45. The Middle-aged and Elderly Employment Promotion Act, enacted in December 2019, represents Taiwan's pioneering effort to create a specialized legal framework for promoting employment among these demographic groups. The Act provides clear definitions, classifying "middle-aged" as persons aged 45 to 65 and "elderly" as those over 65 years old—establishing unambiguous categories for policy implementation.

To operationalize this legislative framework, the government has implemented eight comprehensive subsidy programs strategically designed to address various aspects of employment challenges. These programs cover vocational training costs, workplace accommodation and assistive devices, continuous employment incentives, and cross-regional employment assistance. Complementary support mechanisms include temporary work allowances, retirement preparation and adaptation support, post-retirement re-employment assistance, and professional knowledge transfer initiatives. This multi-faceted approach demonstrates Taiwan's commitment to creating an age-friendly labor market that values experienced workers while ensuring their sustainable employment and economic security.

3.1 Anti-discrimination measures

Central to the Act's effectiveness are provisions addressing discriminatory practices in the workplace. According to Chapter 2 of the Middle-aged and Elderly Employment Promotion Act and the penalties stipulated in Chapter 8, key provisions (Articles 12–17, 41, and 42) establish a robust framework for preventing age-based discrimination:

- (1) Employers may not discriminate against middle-aged or elderly job applicants or employees based on age, whether directly or indirectly, in areas such as recruitment, promotion, performance evaluation, training, compensation, or retirement. To ensure compliance, violations can result in substantial fines ranging from NT\$300,000 to NT\$1,500,000 (approximately USD\$9,500 to USD\$47,500).
- (2) According to Article 13, differential treatment is not considered discriminatory if it is based on: job requirements or special features, pay systems based on seniority or performance, age restrictions established by other laws, or special employment measures designed to improve employment for particular age groups. However, Article 14 establishes a significant burden-shifting mechanism wherein when a middle-aged or elderly person identifies facts suggesting differential treatment, the employer bears the legal responsibility of proving either that the treatment was not based on age or that it falls within one of the justifiable exceptions.
- (3) Employers may not take adverse action against employees who file complaints, and are liable for compensation if they do so—providing essential protections for those who assert their rights under the law.

These anti-discrimination provisions represent Taiwan's commitment to protecting older workers from age-based prejudice in employment practices. However, it is important to contextualize these protections within Taiwan's broader legal framework. Significant progress came in 2024 with amendments to Article 54 of the Labor Standards Act regarding mandatory retirement at age 65. While the previous version did not explicitly prohibit negotiated extensions, the 2024 amendments explicitly codify that employers and employees may negotiate to extend employment beyond the age of 65, providing clearer legal recognition for continued employment of elderly workers. This approach differs notably from jurisdictions like the United States, where mandatory retirement is generally prohibited as a form of age discrimination. Taiwan maintains mandatory retirement provisions in its labor laws and does not categorize these provisions as discriminatory under the current legal framework, illustrating a distinct approach to balancing worker protection with employment flexibility in the context of an aging society.

3.2 Employment stability support

Beyond anti-discrimination measures, Taiwan's framework incorporates comprehensive strategies to support continued employment for middle-aged and elderly workers. The policy delineates specific measures that employers and government agencies should implement to foster stable employment. First, employers are encouraged to conduct in-service training programs that enhance workers' professional competencies and adaptability in a changing labor market. When these training programs comply with regulatory standards, the central competent authority provides financial subsidies and technical guidance assistance to offset implementation costs.⁶

Second, the framework promotes workplace accommodations through job redesign services aimed at eliminating physical and organizational barriers that might otherwise impede older workers' productivity and comfort. Employers who provide job redesign and employment assistive devices as stipulated by regulations can access government guidance and financial subsidies, creating inclusive work environments that accommodate age-related changes in physical capabilities.⁷

Third, the policy creates financial incentives for retaining older workers while fostering intergenerational knowledge transfer. To help middle-aged and elderly workers maintain stable employment while facilitating the transmission of technical skills and experience across generations, employers may implement various strategies including in-service training, job redesign, assistive technologies, and innovative collaborative arrangements between workers of different age groups.⁸ The competent authority supports these initiatives through subsidies and recognition programs. These comprehensive support measures include substantial financial incentives, with continuous employment subsidies providing employers NT\$13,000 monthly for the first six months and NT\$15,000 monthly for months 7–12 when retaining workers beyond the mandatory retirement age of 65. However, to qualify for these subsidies, employers must meet three key requirements: (1) the proportion of retained employees who have reached the mandatory retirement age (as specified in Article 54, Paragraph 1, Item 1 of the Labor Standards Act) must be at least 30% of the total number of employees who have reached that age within the company; (2) the continued employment period must be at least 6 months; and (3) the salary during the continued employment period must not be lower than the employee's original salary (calculated as the average salary for the three months prior to application). These conditions ensure that employers make meaningful commitments to older workers while creating compelling economic incentives for extended employment arrangements.⁹

3.3 Post-retirement re-employment support

Recognizing that traditional employment models may not serve the needs of workers beyond conventional retirement age, the Act introduces significant flexibility in contractual arrangements. This is accomplished by relaxing traditionally strict regulations on fixed-term employment contracts for workers aged 65 and above.¹⁰ This progressive provision exempts such contracts from the limitations stipulated in Article 9 of the Labor Standards Act, which generally restricts fixed-term contracts to temporary, short-term, seasonal, or specific tasks. By providing this contractual flexibility, Taiwan has created alternative pathways for elderly

6. Article 18 of the Middle-aged and Elderly Employment Promotion Act.

7. Article 19 of the Middle-aged and Elderly Employment Promotion Act.

8. Article 20 of the Middle-aged and Elderly Employment Promotion Act.

9. Article 4 of the Continued Employment of Elderly Persons Subsidy Program.

10. Article 28 of the Middle-aged and Elderly Employment Promotion Act :The employer may hire worker(s) with age no fewer than sixty-five by fixed-term labor contract.

employment that accommodate both employers' concerns about long-term commitments and older workers' desires for more flexible working arrangements.

The framework also establishes a continuum of support for workers transitioning through retirement. The government must implement specific measures to facilitate re-employment for retired middle-aged and elderly workers who wish to return to the workforce. To support this transition, employers who provide "retirement preparation, adaptation, and re-employment assistance measures" to employees within one year before they reach mandatory retirement age may receive government subsidies.¹¹ Additionally, employers who hire legally retired elderly individuals specifically to transfer professional skills and experience also qualify for government subsidies¹²—an approach that simultaneously addresses knowledge management challenges while promoting employment opportunities for retired workers. This mechanism promotes knowledge inheritance and preserves valuable technical expertise that might otherwise be lost through retirement transitions.

To systematize this approach to human capital management, the central competent authority maintains and regularly updates a database of retired talents, creating an institutional infrastructure for matching experienced retired workers with appropriate employment opportunities.¹³ These comprehensive measures recognize that many retirees desire or require continued workforce participation and provide structured support for successful transitions back into employment.

3.4 Unemployment assistance

For middle-aged and elderly individuals experiencing unemployment, Taiwan has developed tailored interventions that address their specific challenges in the labor market. First, public employment service agencies provide specialized career counseling, employment information, and job matching services specifically designed to meet the needs of older job seekers, who often face different barriers to re-employment than their younger counterparts.¹⁴

Second, the framework establishes training pathways to employment through pre-employment training programs and hiring incentives. The central competent authority or employers jointly organize training initiatives, with government subsidies available for employers who conduct vocational training in accordance with established regulations.¹⁵ This approach combines skills development with pathways to actual employment opportunities.

Third, the competent authority provides entrepreneurship support for unemployed middle-aged and elderly workers, including guidance services and loan interest subsidies. A particularly innovative element is the encouragement of intergenerational entrepreneurship through "joint ventures with young people"—an approach that combines the experience and expertise of older workers with the technological fluency and innovation orientation often associated with younger entrepreneurs. This includes comprehensive entrepreneurship development through consulting services, training courses, and financial support through business loan interest subsidies.¹⁶

These core interventions are further enhanced by specialized vocational training programs with

11. Article 29 of the Middle-aged and Elderly Employment Promotion Act.

12. Article 30 of the Middle-aged and Elderly Employment Promotion Act.

13. See article 32 of the Middle-aged and Elderly Employment Promotion Act.

14. See article 23 of the Middle-aged and Elderly Employment Promotion Act.

15. See article 24 of the Middle-aged and Elderly Employment Promotion Act.

16. See article 25 of the Middle-aged and Elderly Employment Promotion Act.

substantial subsidies covering 70–85% of training costs,¹⁷ cross-regional employment allowances to facilitate geographic mobility for job opportunities,¹⁸ temporary work allowances providing income stability for up to six months while seeking permanent employment,¹⁹ and workplace adaptation programs offering two types of subsidies: (1) Individual Workplace Learning and Readaptation Allowances calculated at the hourly minimum wage announced by the central competent authority, not exceeding the monthly minimum wage; and (2) Administrative Management and Guidance Fees for employers, calculated at 30% of the actual Workplace Learning and Readaptation Allowances disbursed. These subsidies can be provided for up to three months.²⁰ This multi-layered approach addresses the diverse challenges faced by unemployed older workers, from skills gaps to geographic constraints and transition periods between employment opportunities.

3.5 Silver talent service program

Drawing on successful international models, Taiwan has established the Silver Talent Service Program through a network of dedicated service centers for elderly workers. Inspired by Japan's effective system for engaging older workers, these centers develop diverse employment opportunities—including temporary, seasonal, short-term, part-time, and community service positions—specifically suited to older workers' preferences, capabilities, and life circumstances.²¹

The centers provide comprehensive support services, including specialized labor law guidance and career development counseling tailored to the unique needs and concerns of elderly workers. They organize targeted employment promotion activities and training courses designed with age-appropriate pedagogical approaches. Additionally, these centers facilitate valuable knowledge transfer between generations while promoting workplace cultures characterized by intergenerational exchange and cooperation—creating positive externalities that benefit the broader workplace ecosystem beyond just the employment of elderly individuals.

3.6 Pension system adjustments

Recognizing that employment promotion requires alignment with retirement income systems, Taiwan has implemented strategic adjustments to its pension framework to encourage extended workforce participation. The government has initiated a carefully calibrated, gradual increase in the Labor Insurance pension eligibility age, starting from 60 years in 2009, with the eligibility age increasing to 61 after ten years (in 2019), and then increasing by one year every two years thereafter until reaching 65 years by 2026.²² This measured, long-term approach helps mitigate potential disruptions from demographic shifts on the pension system while creating incentives for longer careers and workforce attachment.

To further encourage delayed retirement through financial incentives, Taiwan offers an innovative pension enhancement system wherein workers receive a 4% increase in pension benefits for each year they delay claiming beyond the eligible age, up to a maximum increase of 20% for a five-year delay. Conversely, early retirement results in a proportionate 4% reduction per year, with a maximum reduction of 20% for

17. See article 7 of the Regulations Governing Employment Enhancement of Unemployed Middle-Aged Persons and Elderly Persons act.

18. See article 15 of the Regulations Governing Employment Enhancement of Unemployed Middle-Aged Persons and Elderly Persons act.

19. See article 27&28 of the Regulations Governing Employment Enhancement of Unemployed Middle-Aged Persons and Elderly Persons act.

20. See article 5 of the Workplace Learning and Readaptation Program.

21. See article 3 of the Subsidy Program for Local Governments to Establish Silver Talent Service Centers act.

22. See Article 58 of the Labor Insurance Act.

claiming benefits five years before standard eligibility.²³ This balanced approach provides meaningful financial motivation for continued labor force participation while respecting individual autonomy regarding retirement timing decisions. It creates a system that aligns individual incentives with broader societal goals for workforce participation among older adults.

IV. Conclusion and ongoing considerations

With the implementation of Taiwan’s “Middle-aged and Elderly Employment Promotion Act” enacted in December 2019, measurable impacts on labor participation rates among middle-aged and elderly workers have materialized. For three consecutive years, the labor force participation rate in these demographic groups has demonstrated consistent growth, signaling early policy effectiveness.

Quantitative evidence supports this positive trajectory. In 2023, the middle-aged and elderly labor force reached 5.103 million people, representing an increase of 151,000 people (3%) compared to 2022, and a substantial rise of 839,000 people (19.7%) compared to 2013. A more granular analysis by age cohort reveals that the labor force participation rate for those aged 45–64 stood at 66.4%, while for those aged 65 and above it was 9.9%. These figures represent year-over-year increases of 0.9 and 0.3 percentage points respectively. The ten-year comparison is even more pronounced, with increases of 5.6 and 1.6 percentage points respectively since 2013. This consistent upward trend strongly suggests that the employment promotion legislation is beginning to achieve its intended effects.²⁴

However, despite Taiwan’s comprehensive legal frameworks and multi-faceted policy measures, several implementation challenges persist in effectively promoting employment for middle-aged and elderly workers. Perhaps most significantly, the diverse needs, capabilities, and employment motivations of individuals aged 45–65 versus those over 65 necessitate more nuanced, age-differentiated approaches in policy design and resource allocation. Current policies, while comprehensive in scope, sometimes lack sufficient granularity to adequately address these fundamental differences in workforce characteristics.²⁵

Additionally, Taiwan’s approach reveals an intriguing tension between advancing age discrimination protections and maintaining traditional labor market structures. Despite introducing comprehensive anti-discrimination provisions, Taiwan has retained the mandatory retirement age of 65. Although the legislation explicitly allows employer-employee negotiation to extend employment beyond this age, this theoretical inconsistency—protecting against age discrimination while simultaneously codifying an age-based employment cutoff—creates potential contradictions in the policy framework. In practice, many employers mistakenly believe that workers must retire once they reach 65, and are consequently unwilling to continue employing elderly workers beyond this age.

Moreover, workers who re-enter employment after retirement face significant insurance coverage limitations. According to regulations, workers who have already received Labor Insurance old-age benefits, or those over 65 who have received old-age benefits from other social insurance programs, are ineligible to participate in Labor Insurance and Employment Insurance upon re-employment. Recognizing this gap, the government partially addressed the issue in 2022 through the Labor Occupational Accident Insurance and Protection Act, which permits employers to enroll these workers specifically in Occupational Accident Insurance, even if they have already received Labor Insurance old-age benefits. Despite this partial solution,

23. See article 58-2 of the Labor Insurance Act.

24. Labor Status of Middle-aged and Elderly Workers (Aged 45 and Above), 2023, Department of Statistics, Ministry of Labor.

25. Lin Liang-jung, “Legislative Policy Review of the Act for Promoting the Employment of Middle-aged and Elderly Persons: On the Practical Experience of Employment Stability for Elderly Workers in Japan,” *Taiwan Law Review* No. 301, p. 204, 2020.

the combination of employers' reluctance to retain workers aged 65 and above, coupled with the limited insurance protections available upon re-employment, significantly diminishes older workers' incentives to remain in or return to the workforce. These unresolved tensions in traditional retirement structures continue to create implementation challenges and legal ambiguities.

Looking forward, Taiwan must address two critical areas: combating employer biases regarding older workers' capabilities; and strengthening lifelong learning systems to ensure skill relevancy in changing labor markets. Success will require balancing traditional retirement structures with flexible employment options while expanding social insurance coverage for reemployed retirees. These efforts are essential not only for Taiwan's economic sustainability but also for creating a society where aging and productivity can successfully coexist.

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Australia's Aging Workforce: Navigating the Challenges and Opportunities for Labour Regulation

Amanda SELVARAJAH

- I. Introduction
- II. The current situation of aging and retirement in Australia
- III. Policy responses
- IV. Impact on companies and workers
- V. Conclusion: Future challenges and initiatives for longer working lives

I. Introduction

Australia's aging workforce presents opportunities and challenges for policymakers, businesses, and workers. As demographic shifts alter the composition of the labour market, policy responses must address the needs of an older workforce while ensuring continued economic growth and workplace equity. This report examines the implications of an aging population for Australian labour law and broader policy interventions, focusing on issues such as age discrimination protections, flexible work rights, retirement and pension policies, and career transition and recruitment initiatives for older workers.

The report identifies key regulatory and policy gaps within Australia's employment framework, revealing a system that is largely failing to act proactively in managing Australia's aging workforce. However, age diverse workforces offer important benefits to workplaces and the broader Australian economy. The report concludes with recommendations for legal and policy interventions to foster an inclusive and sustainable labour market, leveraging the skills and experience of older workers to meet the evolving needs of Australia's economy.

II. The Current situation of aging and retirement in Australia

There is no fixed definition of the elderly, in Australia, but 'older Australians' are typically defined as individuals aged 65 and over.¹ As of 30 June 2020, one in 6 people in Australia were 65 years old or older, comprising 16% of Australia's total population (4.2 million people).² Projections suggest that this cohort will make up 21–23% of the total population by 2066.³

The employment rate among older Australians has increased significantly over the last 20 years. From April 2001 to 2021, the labour force participation rate rose from 10 to 19% for older men, and from 3 to 11% for

* Special thanks to Mahya Panahkhahi for her research assistance in preparing this paper.

1. Australian Institute of Health and Welfare, 'Older People,' (15 August 2023) <<https://www.aihw.gov.au/reports-data/population-groups/older-people/overview>>.
2. Australian Institute of Health and Welfare, *Older Australians* (2 July 2024) <<https://www.aihw.gov.au/getmedia/73a6a317-b508-4ecc-834a-cb0a54378b9d/older-australians.pdf?v=20240702075543&inline=true>> 3.
3. Ibid.

older women.⁴ However, older Australians are working less than they would like to. In April 2021, 6.1% of older Australians were underemployed (i.e. wanting or available for more hours of work than they currently worked).⁵ 18,400 older Australians (2.9%) were unemployed with approximately half looking for only part-time work and the remainder looking for full-time work.⁶ This contributes to an underutilisation rate of 8.8% (i.e. the sum of people unemployed and underemployed, expressed as a percentage of the labour force), increasing from 5.7% in April 2011 and 5.1% in April 2001.⁷

As of May 2021, most older Australians were employed in professional, managerial, clerical and/or administrative roles.⁸ The most common industries for older Australians to be employed in were health care and social assistance, agriculture, forestry and fisheries, and education and training.⁹ Since April 2016, 74% of older full-time workers were men, while the proportion of older part-time employees remained relatively equal between men and women.¹⁰ The participation rate for older workers is influenced by various factors, including personal health and financial circumstances, job availability, family support/ caring commitments, increased life and disability-free life expectancies, and changing eligibility criteria for superannuation and Age Pension access.¹¹

In 2022, the average age of retirement amongst all retirees was 56.9 years old.¹² However, the average retirement age of people retiring in 2022 was 64.8 years old,¹³ and the average intended retirement age was 65.4 years old.¹⁴ On average, women retire sooner than men although this gap is closing.¹⁵ The average age of retirement amongst women in 2022–23 was 54.7 years old as compared to 59.4 years old amongst men.¹⁶

In 2022–23, the top three reasons for retirees to leave their last job was achieving eligibility for pensions (31%), sickness, injury or disability (13%), or being retrenched, dismissed or having no work available (5%).¹⁷ However, many Australian workers do not remain in retirement permanently. In 2018–19 approximately 143,500 workers had previously retired.¹⁸ Reasons for rejoining the workforce included financial needs, boredom, no longer needing to care for someone, and losing a partner.¹⁹

These patterns of returning to work post-retirement and later intended retirement ages, coincide with growing scepticism around the affordability of retirement. In one study, 55.7% of Australians reported that they did not believe they would have enough money to retire.²⁰ Only 52% of respondents in a separate study believed that they could save the amount they were aiming for in retirement with greater pessimism amongst

4. Ibid 113.

5. Ibid 116.

6. Ibid.

7. Ibid.

8. Ibid 114.

9. Ibid 114–15.

10. Ibid.

11. Ibid 114.

12. Australian Bureau of Statistics, 'Retirement and Retirement, Intentions Australia,' *Australian Bureau of Statistics* (22 May 2024) <<https://www.abs.gov.au/statistics/labour/employment-and-unemployment/retirement-and-retirement-intentions-australia/latest-release>>.

13. Ibid.

14. Ibid.

15. Ibid.

16. Ibid.

17. Ibid.

18. Australian Institute of Health and Welfare (n 2) 118.

19. Ibid.

20. Nicholas Biddle, Robert Breunig and Dinith Marasinghe, *Attitudes Towards and Experiences of Retirement and Social Security Income during the COVID-Recession and Initial Recovery* (Report, 4 May 2021) 15.

women.²¹ More than half of the respondents in this study believed that superannuation would be a stable investment for retirement, but 48% thought it unlikely that the age pension would exist when they reached retirement, reflecting pessimism about the state's continued support of older Australians.²²

It is therefore increasingly understood that retirement will occur later in life. However, age discrimination in the workplace remains prevalent. Older workers face longer periods of unemployment (approximately 68 weeks).²³ Over a quarter of Australians aged over 50 years old reported experiencing some form of workplace age discrimination in the last two years.²⁴ The three most common reported types of discrimination being—limiting employment opportunities (52%), negative perceptions relating to job performance (44%), or jokes or derogatory comments (42%).²⁵ One third of the most recent reported incidences of work-related age discrimination took place during the application process.²⁶ A third of people who experienced age discrimination consequently gave up their job search.²⁷

III. Policy responses

A. Employment policies

1. Anti-discrimination and general protections frameworks

Australians are legally protected against direct and indirect discrimination on the basis of their age. Direct discrimination involves treating an employee less favourably because of a relevant protected characteristic.²⁸ Indirect discrimination results from facially neutral policies that have a discriminatory effect,²⁹ where this policy is not reasonable.³⁰

However, despite the prevalence of age discrimination in Australian workplaces, there has been only one successful case under the Age Discrimination Act 2004 (Cth) to date.³¹ There have also only been a few successful age discrimination cases under Australia's state and territory anti-discrimination legislations.³² This is partly explained by early settlements during the conciliation process, a required first step in resolving discrimination claims.³³ Conciliation has important benefits, including cost savings and providing

21. Department of the Prime Minister and Cabinet, *Retirement Planning, Saving and Attitudes: Survey Report* (Report, August 2020) 7.

22. *Ibid* 5.

23. Australian Human Rights Commission, *Willing to Work: National Inquiry into Employment Discrimination against Older Australians and Australians with Disability* (Fact Sheet, 2016).

24. Australian Human Rights Commission, *National Prevalence Survey of Age Discrimination in the Workplace* (Report, 2015) 9.

25. *Ibid* 33.

26. *Ibid*.

27. *Ibid* 45.

28. K Lee Adams, 'Indirect Discrimination and the Worker-Carer: It's Just Not Working' (2005) 23 *Law in Context* 18, 20.

29. *Ibid*.

30. Queensland Human Rights Commission. 'Review of Queensland's Anti-Discrimination Act' (Discussion Paper, November 2021) 34.

31. See *Gutierrez v MUR Shipping Australia Pty Ltd* (2023) 324 IR 58; *Gutierrez v MUR Shipping Australia Pty Ltd* [2023] FCA 567.

32. Alysia Blackham, 'Defining "Discrimination" in UK and Australian Age Discrimination Law' (2017) 43 *Monash University Law Review* 760, 770; Therese MacDermott, 'Resolving Federal Age Discrimination Complaints: Where Have All the Complaints Gone?' (2013) 24 *Australasian Dispute Resolution Journal* 102, 105. For a sample of some cases where age discrimination was found to have taken place at the state/ territory level see, eg, *Austin Health v Tsikos* (2023) 324 IR 1; *McEvoy v Acorn Stairlifts Pty Ltd* [2017] NSWCATAD 273; *McCaughey v Club Resort Holdings Pty Ltd (No 2)* [2013] QCAT 243; *Bloomfield v Westco Jeans Pty Ltd* (2001) EOC 93-161.

33. Alysia Blackham, 'Why Do Employment Age Discrimination Cases Fail? An Analysis of Australian Case Law' (2020) 42(1) *Sydney Law Review* 1, 2, 6; Alysia Blackham, 'Federal Age Discrimination Law Finally Coming of Age: *Gutierrez v MUR Shipping Australia Pty Ltd*' (2023) 36(3) *Australian Journal of Labour Law* 289. See also Alysia Blackham and Dominique Allen, 'Resolving Discrimination Claims outside the Courts: Alternative Dispute Resolution in Australia and the United Kingdom' (2019) 31(3)

a less intimidating process.³⁴ Although, the confidentiality of the process has been critiqued for its lack of transparency,³⁵ potentially complicating decisions for future claimants and limiting deterrent effects.³⁶

Workers are also often faced with procedural and substantive hurdles when bringing an age discrimination claim.³⁷ These include strict time limits, high costs, and difficulties proving the required facts and elements, especially given the narrow and non-purposive interpretation of discrimination that has been adopted by the courts.³⁸ Age discrimination is also sometimes viewed as a less serious form of discrimination, potentially due to internalised ageism.³⁹ This can result in older workers failing to recognise discriminatory behaviour, leaving such behaviour unchallenged.⁴⁰ This speaks to one of the central critiques of Australia's anti-discrimination framework as a system 'that relies on traditionally disempowered individuals being able to navigate the legal system to enforce rights'.⁴¹

Recent amendments to Australia's discrimination framework have attempted to ameliorate some of these challenges. For example, implementing costs protection provisions for claimants,⁴² introducing proactive inquiry powers for the Australian Human Rights Commission,⁴³ and introducing the option for representative discrimination applications to be brought by bodies such as unions or human rights organisations under certain circumstances.⁴⁴ However, in most cases, discrimination claims are still only brought after the harm has taken place and the employment relationship has been severed.⁴⁵ Remedies are also typically compensatory, precluding systemic remedies that would change workplace culture.⁴⁶

Some states/territories have imposed a positive duty to eliminate discrimination and to accommodate or provide adjustments for workers' special needs resulting from age and other protected characteristics.⁴⁷ Most of these duties are owed to the extent of what would be 'reasonable' considering factors like an employer's resources, or the practicality and cost of implementing appropriate steps.⁴⁸ However, as most of these duties are also relatively new or have yet to come into effect at the time of writing,⁴⁹ their impact on creating age

Australian Journal of Labour Law 253. Allen and Blackham (n 109) 412–3.

34. Belinda Smith and Joellen Dilsy, 'Family-Friendly Work Practices and the Law' (2004) 26 *Sydney Law Review* 395, 402; Dominique Allen and Alysia Blackham, 'Under Wraps: Secrecy, Confidentiality and the Enforcement of Equality Law in Australia and the United Kingdom' (2019) 43 *Melbourne University Law Review* 385, 412.

35. Allen and Blackham (n 34) 413.

36. Smith and Dilsy (n 34) 402. Cf Dominique Allen, 'In Defence of Settlement: Resolving Discrimination Complaints by Agreement' (2014) 14 *International Journal of Discrimination and the Law* 200, 210, which found that settlement processes were more conducive to establishing substantive outcomes that tribunals cannot order or enforce.

37. Blackham, 'Why Do Employment Age Discrimination Cases Fail?' (n 33) 1, 2, 6, 7.

38. *Ibid* 7.

39. Blackham, 'Federal Age Discrimination Law Finally Coming of Age' (n 33) 298.

40. Belinda Smith, 'It's About Time — For a New Regulatory Approach to Equality' (2008) 117, 132–3, citing Sara Charlesworth, 'Managing Work and Family in the "Shadow" of Anti-Discrimination Law' (2005) 23 *Law in Context* 88, 93.

41. Smith and Dilsy (n 34) 402.

42. *Australian Human Rights Commission Amendment (Costs Protection) Act 2023*.

43. *Anti-Discrimination and Human Rights Legislation Amendment (Respect at Work) Act 2022* (Cth) sch 3, amending Australian Human Rights Commission Act 1986 (Cth) by inserting a new div 4B.

44. *Ibid* sch 4, amending the *Australian Human Rights Commission Act 1986* (Cth).

45. Barbara Pocock, Sara Charlesworth and Janine Chapman, 'Work-Family and Work-Life Pressures in Australia: Advancing Gender Equality In "Good Times"?' (2013) 33 *International Journal of Sociology and Social Policy* 594, 603.

46. Allen (n 36) 205.

47. See, eg, *Anti-Discrimination Act 1992* (NT) ss 18B, 24; *Discrimination Act 1991* (ACT) ss 74, 75.

48. *Anti-Discrimination Act 1992* (NT) ss 18B(3), 24(3); *Discrimination Act 1991* (ACT) ss 74(2), 75(3).

49. The positive duty to eliminate discrimination in the Northern Territory came into effect on 2 January 2024: Northern Territory Anti-Discrimination Commissioner, 'Positive Duty', *Northern Territory Anti-Discrimination Commission* (Fact Sheet) <https://adc.nt.gov.au/__data/assets/pdf_file/0006/1428801/Positive-Duty-Factsheet.pdf>. The ACT's duty to make reasonable adjustments commenced in April 2024 and the positive duty to eliminate discrimination has a staged commencement, applying

diverse workplaces remains to be seen.

Under the Fair Work Act 2009 (Cth), employees are also protected from adverse action taken ‘because of’ their age and other protected characteristics.⁵⁰ However, there have been similarly few successful cases relating to this provision to date.⁵¹ This has been attributed in part to the difficulty of establishing ‘causation’ in these cases (i.e. that an adverse action was taken *because of* a worker’s age). This hurdle of establishing causation has been described as ‘nearly impossible to surmount’ despite the provision having a reverse onus of proof.⁵² The system is also similarly reactionary and predominantly reliant on individual prosecution.

2. Flexible work rights

Australians over the age of 55 also have a right to request flexible working arrangements,⁵³ if they are full-time, part-time or long-term casual employees.⁵⁴ Employers must respond to an eligible, written request within 21 days and may only refuse requests on ‘reasonable business grounds’.⁵⁵ An employer’s failure to respond appropriately can leave employers liable to pay significant financial penalties.⁵⁶

Where an employee is not satisfied with an employer’s response, disputes can be escalated before the Fair Work Commission (‘FWC’), Australia’s quasi-judicial body for resolving employment disputes.⁵⁷ The FWC will generally mediate and conciliate flexible work disputes in the first instance, but may also arbitrate disputes and issue a flexible work order, if necessary.⁵⁸ Contravening these orders will leave employers liable for similar financial penalties.⁵⁹

However, to make an eligible flexible work request, workers must prove “a nexus between the request and [their] particular circumstances”.⁶⁰ Two recent cases illustrate the potential difficulties for older workers to prove this required “nexus”. In *Lloyd v Australia and New Zealand Banking Group*, for example, the FWC found no nexus between the 62 year old employee’s age and her request to work flexibly to reduce the risk of COVID-19 infection.⁶¹ The FWC found that the “generalised risks of COVID infection and serious illness said to increase with age” could not be applied to her ‘individual circumstances’ and so no nexus existed.⁶²

Shortly after this decision, a 61 year old’s application in relation to their request to work two days from

first to government bodies as of April 2025 and later all duty-holders from April 2027: ACT Human Rights Commission, ‘ACT Discrimination Act Positive Duty,’ *ACT Human Rights Commission* <<https://www.hrc.act.gov.au/discrimination/act-discrimination-act-positive-duty#:~:text=The%20positive%20duty%20requires%20any,sexual%20harassment%20and%20unlawful%20vilification>>.

50. s 351(1) (*FW Act*).

51. See, eg, *Fair Work Ombudsman v Theravanish Investments Pty Ltd* [2014] FCCA 1170; *Australian Building and Construction Commissioner v Corestaff WA Pty Ltd (No 2)* [2021] FCA 1149.

52. Blackham, ‘Why Do Employment Age Discrimination Cases Fail?’ (n 33) 22.

53. *FW Act* s 65.

54. *Ibid* ss 65(1)–(1A), (2).

55. *Ibid* s 65A.

56. Where an employer fails to comply with the NES, an employee or an inspector of the Fair Work Ombudsman could apply to the courts for a civil remedy of up to 600 penalty units for serious contraventions or 60 penalty units in other cases: *Ibid* ss 44(1), 539(2). The indexed penalty unit rate from 1 July 2023 is \$313 per penalty unit and indexed annually: Crimes (Amount of Penalty Unit) Instrument 2023 (Cth) s 5.

57. *FW Act* s 65A.

58. *Ibid* ss 65B–65C.

59. *Ibid*. See (n 56) for information on penalties.

60. Explanatory Memorandum, Fair Work Bill 2013 (Cth) 17 [27].

61. [2024] FWC 2231.

62. *Ibid* [55].

home in preparation for retirement was also dismissed in *Fogo v Boeing Aerostructures Australia Pty Ltd.*⁶³ Focussing again on the required nexus, the Fair Work Commission found no indication of why working from home would be necessary for his future retirement.⁶⁴ These cases highlight the practical challenges older workers may face in attempting to secure a flexible work arrangement.⁶⁵

Even if a worker successfully establishes their eligibility to make a flexible work request, their request may be legitimately refused on reasonable business grounds. This includes instances where the employers' reasons are fuelled by biased views on the impacts of flexibility on productivity, as opposed to genuine practical constraints. For example, the FWC has accepted that "it is desirable for there to be face to face contact within [a] team", and that an employee's "knowledge and experience could be more easily accessed by less experienced team members on a face to face basis", when finding in favour of an employer's decision to refuse a request from an employee to work from home.⁶⁶ The arguments in this case were based entirely on the employer's preferences without corresponding evidence as to the validity of these claims. Although, in more recent cases, the FWC has found some employers' refusals to be unreasonable.⁶⁷

In summary, while there are protections for older workers in Australia's employment landscape, these largely rely on individual, reactionary measures with limited positive duties on employers to meaningfully embrace older Australians as part of their workforce.

3. Employment promotion measures

The government has, for their part, implemented several programs to more proactively promote elderly employment. For example, Workforce Australia's Career Transition Assistance program, is a free program for individuals over 45 years old to gain necessary skills and confidence, increase their competitiveness in the job market, and help with career transitions or finding a new job.⁶⁸ The Department of Employment and Workplace Relations provides information to support businesses in employing 'mature age workers', including training modules on employing and retaining such workers, a specific guide for employing such workers, and hiring posters that are inclusive of all ages.⁶⁹

B. Pension legislation

Government payments and private pension schemes are key income sources for older Australians. Under Australia's superannuation (private pension) rules, you must either be retired and 60 or 65 (whether you're still working or not) to access your superannuation payments tax free.⁷⁰ After the age of 67, you are then able

63. [2024] FWC 3037.

64. *Ibid* [69].

65. See further, Amanda Darshini Selvarajah, 'Proving the Right to Request Flexible Work: The Concerning Consequences of Comments in *Quirke v BSR*' (2024) 37 *Australian Journal of Labour Law* 295 for a critique of the FWC's approach to assessing eligibility. Cf *Linda Farquharson v CCL Label Australia* [2024] FWC 670 [27]–[28]: where the acting Deputy President of the FWC accepted that Ms Farquharson, who made her request on the basis of being over 55, needed to alter her work to accommodate volunteering obligations as her work/life balance was increasingly important as she neared retirement.

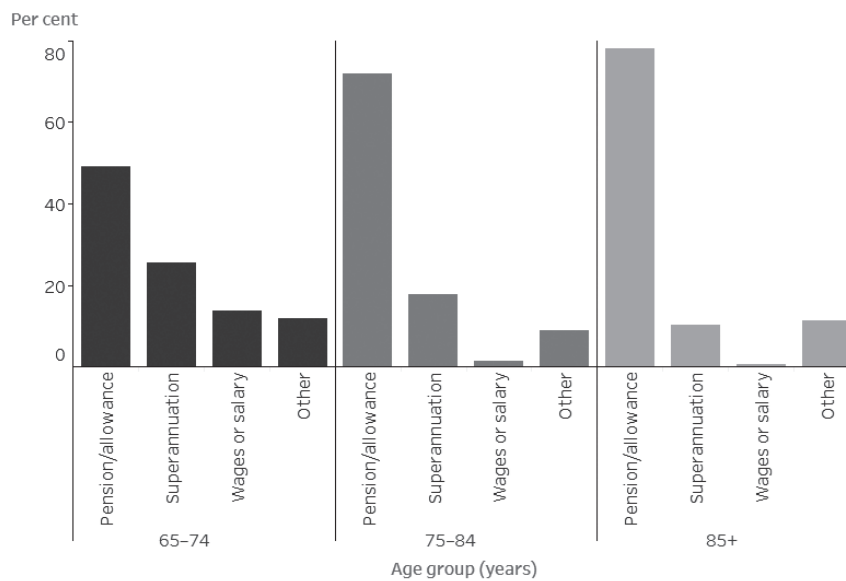
66. *Gregory v Maxxia Pty Ltd* (2023) 328 IR 364, 376 [45] (Commissioner Platt). See similarly, *Elizabeth Naden v Catholic Schools Broken Bay Limited as Trustee for the Catholic Schools Broken Bay Trust* [2025] FWC 317.

67. See, eg, *Kent Aoyama v FLSA Holdings Pty Ltd* [2025] FWC 524 [43]; *Ms AB v Australian Nursing and Midwifery Federation—New South Wales Branch* [2025] FWC 338.

68. 'Assistance for Individuals Aged 45 and Over,' *Workforce Australia* <<https://www.workforceaustralia.gov.au/individuals/training/activities/career-transition-assistance>>.

69. 'Support for Businesses,' *Department of Employment and Workplace Relations* (19 February 2025) <<https://www.dewr.gov.au/mature-age-hub/support-businesses>>.

70. Australian Taxation Office, 'Accessing Your Super to Retire,' *Australian Taxation Office* (11 June 2024) <<https://www.ato.gov.au/>>



Source: AIHW analysis of ABS 2019. <https://www.aihw.gov.au/reports/older-people/older-australians/contents/income-and-finances>.

Figure 1. Older Australians' main source of income by age group, 2018

to access the Age Pension which is a government sponsored payment for older Australian residents that meet certain assets and income tests.⁷¹ Public pensions play a crucial role in providing financial support to retirees, while superannuation often serves as a supplementary income source.⁷² Eligible individuals can receive pensions while still working, subject to income tests.⁷³ A Work Bonus is also offered to eligible workers to incentivise continued workforce participation by offsetting some of their income when calculating their pension eligibility.⁷⁴ An overview of older Australians' income sources is set out in Figure 1, above.

Employers must pay the equivalent of at least 11.5% of an employee's earnings into their superannuation accounts, with this percentage set to increase to 12% from 1 July 2025.⁷⁵ This "super guarantee" applies to all full-time, part-time, and casual employees over the age of 18, and those under 18 years of age who work over 30 hours per week.⁷⁶ There is a gender gap in superannuation savings. Potential causes include the gender pay gap, the higher proportion of females in part-time and casual roles, unpaid care work, the breakdown of relationships, and gender gaps in financial literacy.⁷⁷ Women's lower superannuation savings is particularly

individuals-and-families/jobs-and-employment-types/working-as-an-employee/leaving-the-workforce/accessing-your-super-to-retire>.

71. Services Australia, 'Who Can Get It,' *Services Australia* (26 April 2024) <<https://www.servicesaustralia.gov.au/who-can-get-age-pension?context=22526>>.

72. Australian Institute of Health and Welfare (n 2).

73. Ibid.

74. Services Australia, 'How it Works,' *Services Australia* (14 February 2025) <<https://www.servicesaustralia.gov.au/how-work-bonus-works?context=22561>>.

75. *Superannuation Guarantee (Administration) Act 1992* (Cth) s 19 ('SGA Act').

76. 'Tax and Superannuation,' *Fair Work Ombudsman* <<https://www.fairwork.gov.au/pay-and-wages/tax-and-superannuation>>.

77. See David Hetherington and Warwick Smith, 'Not So Super, For Women: Superannuation and Women's Retirement Outcomes' (Research Report, Per Capita, July 2017); Caitlin Power, 'SDG 10 Reducing Inequalities' in Isabel B Franco et al (eds), *Actioning the Global Goals for Local Impact* (Springer, 2019) 153; Elisa R Birch and Alison C Preston, 'Women, COVID-19 and

troubling given their typically earlier retirement ages, as discussed above.

Some independent contractors are also entitled to superannuation contributions under the Superannuation Guarantee (Administration) Act 1992 (Cth).⁷⁸ However, hirers can sometimes be unaware of this obligation and fail to comply.⁷⁹ Workers who do not receive superannuation contributions from their employers or hirers must make voluntary contributions. This can leave such individuals in more vulnerable positions in retirement, highlighting the importance of continued work opportunities for many older Australians.⁸⁰

IV. Impact on companies and workers

The continued attachment of older workers in the workforce would likely also be beneficial to many organisations with research suggesting that the departure of older workers often results in a loss of key skills within organisations.⁸¹ However, a survey of HR professionals found that one in six organisations would not consider hiring people older than 65 years old and only a quarter were open to hiring from this cohort ‘to a large extent’.⁸²

In a study of HR practices for employing and retaining older workers, the top three recruitment practices were offering flexible work arrangements (48.7%), ensuring the advert content attracted diverse age groups (44.4%), and excluding the date of birth from application forms (36.8%).⁸³ However, very few organisations reported using age-specific job boards (1.6%), or proactively recruiting older workers (9.7%), which could be seen as more targeted, affirmative measures. 23% of respondents reported no recruitment practices to encourage age diversity.⁸⁴

Moreover, 46.7% of respondents ‘reported that there was an age above which their organisation would be reluctant to recruit workers’ and 17.4% suggested this age was 65. The perception of “older workers” amongst HR professionals, however, appears to be trending younger. The proportion of workers between 51–55 being classified as older by HR professionals increased from 10.8% to 16.9% between 2018 to 2021.⁸⁵

While 30% of workplaces reported no obstacles in recruiting older workers, the three greatest reported obstacles were a lack of applications from older workers (24.9%), salary expectations being too high (22.6%), and a lack of technological skills (18.8%).⁸⁶ A lack of applications might be explained by the prevalence of age discrimination during the application process discussed above, which employers troublingly appear to do little about. 49.3% of respondents in this study reported that their organisations seldom or never offers unconscious bias training for employees and 47.2% of organisations that did offer such training did not address age-related biases.⁸⁷ It is therefore clear that employers are not proactively tackling the opportunities and challenges posed by Australia’s aging workforce.

Superannuation’ (2021) 24(2) *Australian Journal of Labour Economics* 175.

78. *SGA Act* s 12.

79. See Brett Freudenberg and Scott Sargent, ‘Not So Guaranteed: Superannuation Guarantee and Australian Small Businesses’ (2015) 30(1) *Australian Tax Forum* 89.

80. See, eg, Aaron Elkhishin, Tracey West and Kristen MacDonald, ‘Understanding the Retirement Savings of Self-Employed Tradespeople in Australia’ (2019) 22(2) *Australian Journal of Labour Economics* 75.

81. Australian Human Resources Institute and Australian Human Rights Commission, ‘Employing and Retaining Older Workers’ (Report, April 2021) <<https://www.ahri.com.au/employing-older-workers-report-2021>> 21.

82. Australian Human Rights Commission, ‘Ageism Keeping Older People Out of the Workforce’ (Press Release, 2 May 2023).

83. Australian Human Resources Institute and Australian Human Rights Commission (n 81) 15.

84. *Ibid.*

85. *Ibid* 4.

86. *Ibid* 18.

87. *Ibid* 26.

V. Conclusion: Future challenges and initiatives for longer working lives

In February 2023 alone, there were 439,000 job vacancies.⁸⁸ Two thirds of HR professionals report currently experiencing recruitment difficulties.⁸⁹ Employing older workers could ameliorate these challenges.⁹⁰ Especially since older Australians today are healthier and more educated than ever before.⁹¹ However, Australia's policy responses must be alert to barriers for older workers related to health, care responsibilities, upskilling and training, age discrimination and inhospitable work conditions.⁹²

Older workers remain unemployed for longer periods of time and are particularly vulnerable when attempting to re-enter or shift roles within the workforce. They are also likely to face discrimination during their application processes, which can further discourage their labour market participation. Career training for workers has been shown to decline post-mid-careers, leaving older workers at risk of skill obsolescence, an issue compounded by negative stereotypes about older workers' adaptability and technological proficiency.⁹³

To create an age-inclusive workforce, employers and government must work together to reimagine their workplaces and meet the inevitable demands of a multi-generational workforce. HR practices should ensure equal access to training and career development for older workers, offer tailored career pathways and role modifications, and promote knowledge sharing initiatives.

Government policies should continue investments and incentives for skill development and reskilling, particularly for workers over 65. Job transition programs and self-employment and entrepreneurship funding could further strengthen work opportunities for older Australians. Enhanced positive duties within Australia's anti-discrimination framework to implement suitable accommodations could prevent age-related workplace biases. Expanding flexible work rights and related caregiving entitlements such as grandparents' leave and carers' leave entitlements, could also help accommodate the needs of an ageing population.

In conclusion, Australia's ageing workforce presents challenges and opportunities. By addressing age-related barriers and implementing proactive employment strategies, businesses and policymakers can enhance economic productivity while ensuring the active participation of older Australians in the workforce.

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88. 'Ageism Keeping Older People Out of the Workforce' (n 82).

89. Ibid.

90. Ibid.

91. ARC Centre of Excellence in Population Ageing Research, 'Tapping into Australia's Ageing Workforce: Insights from Recent Research' (Research Brief, June 2021) 3.

92. Ibid.

93. Ibid.

Aging Population and Employment in Thailand: Evaluating Policy Responses to Demographic Shifts

Panthip PRUKSACHOLAVIT

- I. Current situation of aging population
- II. Legislation on elderly employment in Thailand
- III. Legislation on pension
- IV. Assessing policy impact and future challenges

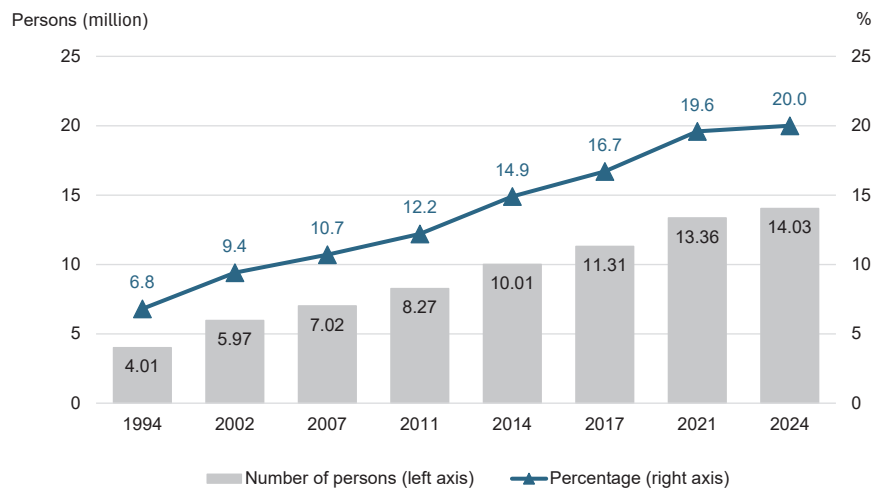
I. Current situation of aging population

The definition of “elderly” varies across countries. In Thailand, the Act on Older Persons B.E. 2546 (2003) defines an elderly person as an individual aged 60 years or older. The National Statistical Office (NSO) of Thailand has conducted surveys on the older population every few years since 1994, with the eighth survey completed in 2024.¹ According to the latest survey, the number of older individuals in Thailand has reached 14 million. The proportion of the older individuals in the total population has increased significantly, rising from 6.8% in 1994 to 20% in 2024. This rapid growth has led Thailand to officially become a “complete aged society” with projections indicating a transition to a “super-aged society” by 2035. Although Thailand’s aging situation is not as severe as some countries such as South Korea and Japan, the overall trend closely resembles their demographic shifts.

Educational attainment among the older population in Thailand is relatively low. About 67.2% did not complete elementary school, while 12.6% hold an elementary school diploma. Only 4.8% have a high school diploma, and a mere 7.9% have attained higher education degrees.

The data from the NSO also shows that older women outnumber men by a ratio of 58% to 42%. In terms of age distribution, 59% of the older population falls within the 60–69 age group, while 30% are between 70–79 years old. Approximately 34% of older individuals continue to work. Among them, 60% are engaged in farming and fishing, while 47% of those employed belong to the 60–69 age group. Regarding employment status, 63.7% are self-employed, 16.3% contribute to family businesses, and 16.2% hold formal jobs in the public and private sectors. Additionally, 3.8% of older workers are employers. The primary reasons for continued employment include physical ability, as 51.5% of older individuals state they are still fit to work, while 43.5% need to work to support their families. A small proportion, 0.6% express willingness to work but cannot find any suitable employment.

1. “The 2024 Survey of the Older Persons in Thailand,” The National Statistical Office (NSO), Ministry of Digital Economy and Society, https://www.nso.go.th/nsoweb/storage/survey_detail/2025/20241209145003_88327.pdf (last visited Jan. 10, 2025).



Source: NSO, “The 2024 Survey of the Older Persons in Thailand” (2024).

Figure 1. Trends in the number and percentage of older persons between 1994–2024

II. Legislation on elderly employment in Thailand

In Thailand, the mandatory retirement age of 60 years applies exclusively to employees in the public sector. In contrast, the private sector does not have a stipulated retirement age, allowing employers to set their own policies regarding retirement. While the Thai Constitution contains general provisions prohibiting various forms of discrimination, there is no specific legislation under Thai employment law that explicitly addresses age discrimination in employment.² To date, there has been no public or legislative discourse regarding the inclusion of age discrimination provisions in the employment law. This lack of attention may stem from the perception that age discrimination is not a significant issue within the Thai labor market.

Historically, employees in Thailand’s private sector could negotiate their retirement age, with some employment agreements omitting a specified retirement age altogether. This lack of regulation created challenges for employees wishing to retire, as severance pay was only granted when an employer dismissed an employee or requested their retirement. If an employee voluntarily chose to retire, they were not entitled to severance pay.³ This changed in 2017, when an amendment to the Thai Labor Protection Act established that private sector employees aged 60 or above could retire with severance pay. Following the enactment of this law, the workforce participation rate among older individuals saw a slight decline, dropping from 38.4% to 35.1%, and then further to 34% by 2021.

Compared to other jurisdictions such as Japan, where a mandatory retirement age often makes it difficult for employees to continue working beyond a certain age, Thailand’s approach is more flexible due to the absence of a legally enforced retirement age in the private sector. Cases of age discrimination in employment remain relatively rare. According to data from the NSO, only 0.6% of older individuals in Thailand are actively seeking employment but unable to find work. This suggests that most older persons are either not

2. Constitution of the Kingdom of Thailand 2017 (B.E. 2560), §27, para. 3 (“Unjust discrimination against a person on the grounds of differences in origin, race, language, sex, age, disability, physical or health condition, personal status, economic and social standing, religious belief, education, or political view which is not contrary to the provisions of the Constitution or on any other grounds, shall not be permitted.”).

3. Labour Protection Act, B.E. 2541 [1998], §118/1 (Thai).

seeking employment or are generally successful in finding a job when they do.

Employment in the public sector accounts for approximately three million people, representing 7.5% of the national workforce. In 2016, the Cabinet approved the concept of extending the retirement age in the public sector to 65 or 70 years; however, even after a decade, no legislation has yet been enacted to enforce this change, and the current mandatory retirement age in the public sector still remains at 60. Certain government sectors, such as the judiciary, public prosecutor, and university academia, may permit employment beyond 60 years of age, but such extensions require case-by-case approval and are not automatic.

Although the current situation regarding the employment of older persons in Thailand is not as critical as in countries with super-aged societies such as Japan or South Korea, the nation is on the verge of entering a super-aged phase within the next decade. In light of this demographic transition, it is imperative for the government to adopt proactive measures that promote employment among the older population. Encouraging workforce participation among aging population will not only help sustain the labor force, it will also reduce financial dependency. In response to this challenge, the government has introduced various policies and legal regulations aimed at supporting the employment of older persons. Initiatives outlined in the National Old Age Plans include promoting full-time and part-time employment in both the public and private sectors, enhancing vocational training and job placement opportunities, and fostering social engagement activities that generate income for the older persons.

To further support employment and income opportunities for the older persons, the government has established several short-term strategies.⁴ These include facilitating knowledge transfer between older and younger generations and extending the retirement age in the public sector. A notable example is the One District, One Wisdom (หนึ่งอำเภอ หนึ่งภูมิปัญญา) initiative, in which the government employs skilled older individuals to share their traditional knowledge with local villagers. This program not only helps preserve unique cultural crafts but also provides employment and income opportunities for the older persons.

The government has also introduced several measures to encourage private-sector employers to retain older workers beyond retirement age. One approach is through tax incentives, allowing employers to deduct wages paid to older employees, up to 15,000 THB (approximately 416.67 USD) per person, with a maximum limit of 10% of the total workforce. The government also signed MOUs with 12 public and private organizations to promote the hiring of older workers. Another key initiative is encouraging part-time employment for older workers by setting a minimum wage of 45 THB per hour, deviating from Thailand's standard daily minimum wage system.⁵

In addition to broader employment policies, the government has introduced several targeted initiatives to support the older workforce. These include the development of skill enhancement programs specifically designed for older individuals, as well as the creation of a labor market database aimed at connecting older job seekers with potential employers.

Importantly, the government's approach is not limited to promoting employment in the formal sector. Parallel efforts are being made to support older individuals in generating income outside of formal employment. For instance, the promotion of home-based work, thereby addressing common barriers such as commuting and physical working conditions, making it easier for older individuals to remain economically active. Furthermore, policies have been introduced to provide financial assistance to older

4. Foundation of Thai Gerontology Research and Development Institute (TGRI), *แผนกลยุทธ์ด้านการจ้างงานของผู้สูงอายุ* [Strategic Plan for the Employment of the Older Persons], <http://thaitgri.org/?p=37642> (last visited Jan. 10, 2025).

5. Economics, Chulalongkorn University, *สถานการณ์การทำงานของผู้สูงอายุไทย* [Employment Situation of Thai Older Persons], <https://www.econ.chula.ac.th/setsawana597613/> (last visited Jan. 10, 2025).

individuals interested in continuing work in fields such as handicrafts, food production, and other specialized skills. These policies include access to loans, which support small-scale entrepreneurship and help sustain livelihoods beyond retirement age.⁶

III. Legislation on pension

Retired individuals in Thailand are categorized into three main groups based on their previous employment sector. The first group consists of individuals who worked in the public sector and are eligible to receive a pension through the Civil Servant Pension Fund. The second group comprises private-sector employees who contributed long enough to the Social Security Fund and are entitled to receive a pension from it. The third group includes self-employed individuals who voluntarily contributed to either the Social Security Fund or the National Savings Fund, making them eligible to receive a pension from these sources.

Each fund has different eligibility criteria and payout structures. The Social Security Fund provides pensions starting at the age of 55, whereas pensions from the Civil Servant Pension Fund and the National Savings Fund are available from the age of 60. The amount received from each fund varies. For civil servants, the pension amount is calculated based on the number of years of service multiplied by the average monthly salary, divided by two. The maximum pension payable is 70% of the individual's average monthly salary before retirement. For private-sector employees under the Social Security Fund, the starting pension is 20% of the average monthly salary (with a cap of THB 15,000 per month). If an employee has contributed for more than 15 years, an additional 1.5% of the average monthly salary is added for each additional year of service. Self-employed individuals who voluntarily contribute to the Social Security Fund receive their pension as a lump-sum payment. The total amount is determined by multiplying a fixed amount (THB 50 to THB 150, based on the premium tier) by the number of months contributed, and adding it to the accumulated savings.

As the pension provided under the Social Security Fund is relatively low, it prompted the government to implement measures to encourage savings among employees. One such initiative is the Provident Fund, designed to promote long-term financial security for workers. However, participation in this scheme remains limited, with only 2.9 million workers enrolled,⁷ accounting for just 7% of the total workforce.

IV. Assessing policy impact and future challenges

Since 1994, the number of employed older individuals in Thailand has steadily increased. However, this growth has largely mirrored the overall rise in the older population, resulting in a relatively stable employment participation rate among the older persons. Over the past three decades, this rate has fluctuated within a narrow range of 31% to 38%.

Although the Thai government has introduced various initiatives to encourage employers to hire older workers, these efforts have had limited impact. The programs have succeeded only in maintaining, rather than increasing, the employment of older persons participation rate. Furthermore, there has been minimal engagement or advocacy from workers and labor unions regarding this issue. With union density rate in Thailand at approximately 3%, labor unions have had little influence on the development or promotion of employment policies of older persons—or labor policies more broadly.

6. Establishment of the Older Persons Fund Act B.E. 2547 [2004] (Thai.).

7. SEC Open Data Services, Provident Fund in Thailand, <https://secopendata.sec.or.th/Fund/PVD> (last visited Jan. 10, 2025).

Regarding financial security in retirement, recent studies reveal that 31% of Thai older persons do not possess personal savings, and 42% report insufficient income. Existing policy measures aimed at promoting retirement savings have not proven effective in addressing this issue. A substantial portion of the older population continues to face financial insecurity post-retirement due to inadequate savings and limited pension support.

Despite multiple government initiatives, criticism has emerged regarding the effectiveness of current government measures. The limited effectiveness of current policies can be attributed to their inadequate alignment with the core challenges faced by older workers. Addressing this issue requires a clear understanding of the underlying policy objectives behind promoting the employment of older persons. If the primary goal is to advance social justice and eliminate age-based employment discrimination, then it is imperative for Thailand to enact comprehensive age discrimination legislation, similar to legal frameworks in countries such as Australia, Taiwan, and South Korea. Alternatively, if the focus is on enhancing the earning capacity of older individuals or mitigating labor shortages, a more targeted and pragmatic policy approach is required. Such a strategy should be carefully designed to reflect both the specific needs and capabilities of older workers and the evolving demands of the labor market.

One key shortcoming in existing policies is the lack of clear direction regarding the types of jobs suitable for older workers. Government documents suggest that older workers possess skills and experience accumulated over years of service in their respective industries. As a result, they should primarily remain in the workforce as mentors or knowledge-transfer facilitators for younger generations. This indicates that the government does not intend for older workers to engage in labor-intensive or low-skill work. However, the government has established the hourly wage rate for older workers at 45 THB per hour, with a maximum of seven working hours per day. This results in a daily wage that falls below the minimum daily wage threshold. Given their level of skills and experience, older workers with skills and experiences are unlikely to accept such low wages. In addition, the *One District, One Wisdom* initiative which is a well-intentioned program; however, data shows that only a small number of older individuals have participated in this program so far. As a result, the program has had minimal impact on improving employment opportunities for the older persons with skills, falling short of its intended goals.

The taxation incentive, which allows employers to claim tax deductions for hiring older workers, sets the pay rate at 15,000 THB per month which is only marginally above the minimum wage. This suggests that the policy primarily targets the employment of non-skilled workers rather than addressing wage concerns for experienced older workers. The very low cap is also considered insufficient to serve as a meaningful incentive for employers to employ older persons. Additionally, the taxation incentive policy currently imposes a maximum deduction limit of 10% of the total workforce, a threshold that does not align with demographic realities. With older persons now comprising approximately 20% of Thailand's population—a proportion expected to continue rising—this cap significantly underrepresents the scale of the aging population and its potential contribution to the labor force. In addition, the 10% limit is uniformly applied across all industries, without consideration for sector-specific characteristics. This lack of flexibility fails to account for the fact that certain types of work are inherently more suitable for older workers. As a result, the policy restricts opportunities in sectors where older individuals could effectively contribute, further limiting its practical impact.

Furthermore, Thailand is transitioning towards an innovation and knowledge-driven economy, as outlined in the national development plan. This shift is expected to create demand for new skill sets that may not align with the skills possessed by older workers. Over 80% of the workforce of older persons lacks a high school education, making it difficult to equip them with the necessary skills to meet the demands of a modern

economy.

Lastly, Thailand's social security legislation does not adequately extend coverage to employees over the age of 60. Under the existing law, employers are only required to insure workers aged between 15 and 60 years. While employees over 60 may voluntarily continue contributing to the Social Security Fund, there is no legal obligation to do so. As a result, many older workers choose not to make further contributions and consequently forfeit eligibility for the associated healthcare and financial benefits. This gap in coverage presents a significant barrier to the employment of older persons. One of the primary concerns in hiring older workers is the potential for declining health, which can affect both work performance and attendance. Without social security benefits, the financial risks of extended medical leave fall largely on employers, making them less inclined to hire or retain older employees. To address this issue, the government should establish mechanisms to extend mandatory social security contributions beyond the age of 60. Such reforms would ensure continued access to healthcare benefits and provide wage compensation during medical leave, thereby reducing the financial burden on employers. Given that older employees are statistically more likely to require medical leave than younger workers, such policy adjustments are essential to alleviating employer concerns and promoting sustained workforce participation among the older persons. Furthermore, the mandatory retirement age for public sector employees should be reconsidered and extended beyond 60 years to reflect the increasing life expectancy and capacity of older individuals to contribute meaningfully to the labor force.

In conclusion, although the issue of older workers' employment in Thailand is not yet as critical as in many other countries, the country is expected to become a super-aged society in the very near future. This demographic shift necessitates immediate and strategic action by the Thai government to address the challenges associated with an aging workforce. To improve the employment of older persons, the government should adopt a more comprehensive and pragmatic approach. Key recommendations include establishing clear employment targets for older workers, aligning skill development programs with current labor market demands, implementing fair and appropriate compensation policies, designing practical and effective incentive measures to ensure tangible impact, expanding healthcare benefits under the social security system, and extending mandatory retirement age in the public sector. Without these targeted measures, the employment of older persons in Thailand will continue to face significant obstacles, thereby reducing the overall effectiveness of governmental efforts in this area.

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Amidst the Demographic Shifts: The Case of the Silver Workforce in the Philippines

Ronahlee A. ASUNCION

- I. Introduction
- II. Aging with dignity
- III. Gaps and challenges
- IV. Conclusion

I. Introduction

Population ageing is a major concern to many countries. The World Health Organization (WHO) projects that by 2030, there will be 1.4 billion people who are 60 years old and above, a significant increase, from 1 billion in 2020. It further reported that the problem of population ageing is no longer confined to high-income countries but also extends to low- and middle-income countries where two-thirds of their population will be over 60 years old by 2050 (WHO 2024, in <https://www.who.int>).

The population of the Philippines this year is estimated at 120,864,358 according to Macrotrends (in <https://www.macrotrends.net>). It reported a steady growth rate within a ten-year period from 2015 to 2024 as Table 1 shows.

A positive population growth can be viewed as a welcome indicator of increased labor potential and expanding consumer markets. However, these should be complemented with the ability of the Philippine government to provide the infrastructure and the needed resources to address the increasing demands of

Table 1. 2015–2024 Philippine population growth

Year	Population	Growth rate (%)
2024	119,106,224	1.51
2023	117,337,368	1.54
2022	115,559,009	1.47
2021	113,880,328	1.51
2020	112,190,977	1.64
2019	110,380,804	1.67
2018	108,568,836	1.71
2017	106,738,501	1.78
2016	104,875,266	1.79
2015	103,031,365	1.68

Source: Macrotrends. (in <https://www.macrotrends.net>)

Table 2. Population of senior citizens by age group and sex

Age	2010		2015		2020	
	Male	Female	Male	Female	Male	Female
60 years and over	1,061,324	1,162,781	3,326,177	4,208,129	4,102,594	5,120,078
Total	2,224,105		7,534,306		9,222,672	

(Persons)

Source: Commission on Population and Development. Socio-Demographic Profile. (in <https://cpd.gov.ph>)

the growing population such as food supply, healthcare and social services, education, employment, and economic opportunities among others. If these are adequately met, it can drive economic and social progress. Otherwise, it will result to marginalization to certain segments of the population.

In the Philippines, there is a continuing increase in the number of senior citizens or those who can be considered as the silver workforce. A senior citizen or elderly is defined by Republic Act No. 9994, otherwise known as the “Expanded Senior Citizens Act of 2010,” as “*any Filipino Citizen who is a resident of the Philippines and who is sixty (60) years old or above. It may apply to senior citizens with ‘dual citizenship’ status provided they prove their Filipino citizenship and have at least six ((6) months residency in the Philippines*” (in <https://elibrary.judiciary.gov.ph>).

Table 2 shows that their population has significantly grown as it increased four times more from 2,224,105 in 2010, it ballooned to 9,222,672 in 2020. This number is expected to increase in 2030 to 13M based on the projections of the Philippine Statistics Authority (in <https://psa.gov.ph>). With this situation, it then puts to question the existing laws and programs of the Philippine government to ensure the total well-being of its senior citizens.

This paper looks into the intersection of this continuing demographic shift and the existing labor laws and workplace practices. It specifically focuses on the gaps, challenges, opportunities and strategies to ensure inclusivity, productivity, and social protection for the senior citizens.

II. Aging with dignity

Filipinos generally treat their elders with respect, care, and compassion. This practice is culturally embedded. Families are closely knit and extended families are common. It is not unusual for a household having three or even more generations living in one roof. However, the socio-economic conditions of families differ. Hence, having elderly in the household can be considered both a blessing and a burden. Senior citizens who are still able to contribute to the financial needs of the family and help in the day-to-day management of households can be a blessing. But they become a burden if they are sickly, needs special care, and have no financial capability to support their medical needs. Thus, government must make sure that its senior citizens age with dignity through the provision of programs and laws that address the challenges of aging.

All citizens of the country are protected under Article II Section 9 of the Philippine Constitution where it affirms that, “*The State shall promote a just and dynamic social order that will ensure the prosperity and independence of the nation and free the people from poverty through policies that provide adequate social services, promote full employment, a rising standard of living, and an improved quality of life for all*” (in <https://lawphil.net>). Cognizant of the contributions senior citizens can provide to nation-building and the economy, at the same time ensure their social protection and overall welfare, the Philippines has the

following key programs and laws:

1) Provision of benefits and special privileges and creation of the Office for Senior Citizens Affairs (OSCA)

Passed in 1992, Republic Act No. 7432 is an *Act to Maximize the Contribution of Senior Citizens to Nation Building, Grant Benefits and Special Privileges and for Other Purposes*. Notable is the grant of a 20% discount to senior citizens when availing services of transportation, hotels and similar establishments, restaurants, recreation centers, and medicine purchases nationwide. Private businesses can in turn claim this discount as tax credit. Senior citizens can also avail free of charge medical and dental services in all government health centers and hospitals as well as entitlement of the same benefits and privileges enjoyed by those in active service provided for by the Government Service Insurance System (GSIS), Social Security System (SSS), and PAG-IBIG. Their retirement benefits from both the government and private sectors must also be upgraded from time to time so that they receive the same privileges as those in actual service. To fully implement the provisions of this Act, local government units were given the responsibility to implement the law with the establishment of the Office for Senior Citizens Affairs (OSCA) under the Office of the Mayor.

In recognition of the integral role senior citizens play in nation building, additional benefits and privileges to establishments and government services were granted to them with the passage of Republic Act No. 9257 in 2003. Section 5 of RA 9257, mandates the Government to provide them with information and matching services to those who are still capable and have the intention to land a job. Private establishments who employ senior citizens for at least six months are entitled to a 15% additional deduction from their gross income of the total amount paid for the salaries and wages of senior citizens for as long as their income does not exceed the poverty level set by the National Economic and Development Authority, now the Department of Economy, Planning, and Development.¹ The Department of Labor and Employment (DOLE) together with the Technology and Livelihood Resource Center (TLRC) and the Department and Trade and Industry (DTI), are further mandated to assess, design and implement training programs to provide skills, reskill, and upskill senior citizens. Likewise, Rule IV Article 6 of RA9257 stipulates that qualified senior citizens can render their services to the community such as tutorial and/or consultancy services, conduct of lectures on specialized fields, transfer of new skills, etc.

Years after RA 9257 was legislated, its provisions were amended with RA 9994 in 2010. Popularly known as the “Expanded Senior Citizens Act of 2010” more benefits and privileges were accorded to them.

Yet, another amendment to RA 7432 was passed on 30 July 2022 with RA 11916. This time, a monetary grant from the Philippine government will be given to senior citizens in the amount not less than PhP1,000 per month to support their daily and medical needs provided that they do not receive pension from the government, are not employed, and do not have any source of income. The amount of the pension must be reviewed every two years taking into consideration economic changes.

In a convincing 173 affirmative votes during the plenary session of the House of Representatives in November 2024, RA 7432 it seems, will be further amended with House Bill 10985. Some provisions in the House Bill are noted such as: a) mandating the creation of an employment program for senior citizens who are still capable and desire to be employed even past retirement age in public and private institutions; b) granting private establishments who will employ senior citizens a 25% incentive on the total amount paid as salaries, wages, benefits, and training provided to them; c) issuance of birth certificate, police clearance, and medical certificate free of charge as these are usually required for employment; and d) directing the DOLE

1. RA 12145 changed the name of NEDA to DepDev effective April 2025.

through the Public Employment Service Offices (PESO) to provide senior citizens with information and matching services to those who are still able and interested to be re-employed.

2) Mandatory Philhealth coverage for all senior citizens

Philhealth is the national health insurance in the country. Filipinos who are formally employed directly contribute to Philhealth monthly dues and are thus automatic members who are entitled to its benefits. With Republic Act No. 10645, passed in 2014, Philhealth membership became inclusive as it guarantees membership to all senior citizens, formally employed or not. This means that their hospital expenses and medical needs are covered even if they do not or have not contributed a single centavo to its monthly dues.

3) Prohibition of employment discrimination due to age

Enacted in July 2015, Republic Act 10911 also known as the “Anti-Age Discrimination Employment Act,” provides equal employment opportunities to everyone as it guarantees that age should not be used as a basis for employment but rather on the competencies of applicants. It further ensures equal treatment to all employees notwithstanding their age, with regard to compensation, benefits, promotion, training, and other employment opportunities. Labor organizations are also prohibited from denying membership or excluding from its membership any worker because of one’s age. Moreover, vacancy announcements must not include age preferences, specifications, limitations, and discrimination.

4) Granting of PhP100,000 to senior citizens who reach the age of 100 years old

The Centenarians Act of 2016 or Republic Act No. 10868 recognizes Filipinos who reach the age of 100 years old whether they live in the country or abroad will receive a cash gift of PhP100,000 and a congratulatory letter from the sitting Philippine President. With Republic Act No. 11982, which was passed in February 2024, these benefits were expanded to those who reach the age of eighty (80), eighty-five (85), ninety (90), and ninety-five (95) years but with a lesser amount of PhP10,000.

5) Creation of the National Commission of Senior Citizens (NCSC)

In 2019, Republic Act No. 11350 established the National Commission of Senior Citizens with the primary duty to make sure that laws, policies, and programs of the government are fully implemented; recommend policies to promote and protect the rights and welfare of senior citizens; and coordinate with local government units and national government agencies for concerns related to senior citizens among others.

In line with the Philippine Plan of Action for Senior Citizens (PPASC) 2023–2028, the NCSC has the following nine core programs (in <https://www.ncsc.gov.ph>):

- a) Senior Citizen’s Unit for Rights Enforcement (SECURE): provides legal assistance and educate senior citizens of their rights and protect them from abuse, neglect, and exploitation.
- b) Wellness, Health, Emergency Response, and Benefits (WHEREB): gives access to educational seminars, emergency response and benefits.
- c) Senior Citizen’s Action for Development and Nation-Building (SECADNA): allows senior citizens the opportunity to share with younger Filipinos their skills, knowledge and experience through community volunteer work or mentoring programs.
- d) Social Pension, Centenarian Benefits, Support to Disabled (SOCPEN): provides financial support in the form of a social pension to those who have no stable income.
- e) Risk Assessment and Security Management (RASM): provides risk assessment and security

- management services at home and in communities to ensure safety and health of senior citizens.
- f) Programs, Plans, and Legislative Liaison (PROPALL): assists in tasks related to healthcare, insurance, and social services.
 - g) Inter-Agency Coordination (INACCORD): ensures coordination with various government agencies to efficiently and effectively deliver support and services to senior citizens.
 - h) Information Management, and Information and Communication Technology (IMICT): an Elderly Database Management System (EDMS) to help in crafting programs and policies that promote the total well-being of senior citizens.
 - i) Participation, Communication, and Education (PACE): ensures that senior citizens are engaged and informed by providing the needed resources and access in courses for skills development so they can still be active participants in communities and experience a life well-lived.

6) Provision of training

The Department of Trade and Industry (DTI) offers training to senior citizens through its Negosyo Serbisyo sa Barangay (NSB) program. As part of its efforts to ensure ease of doing business, it provides business advisory, information, and access to development services (in <https://www.dti.gov.ph>).

Livelihood training programs on farming and urban gardening are also offered by the Technical Education and Skills Development Authority (TESDA) to help senior citizens develop practical skills and become more self-reliant (in <https://pia.gov.ph>). Likewise, the Cooperative Development Authority (CDA), offers Cooperative Fundamentals Training as a way to promote economic empowerment, and inclusivity to senior citizens.

7) Short-term employment opportunities

Targeted at vulnerable groups, the DOLE offers the Tulong Pangkabuhayan sa Ating Disadvantaged Workers (TUPAD), providing wage employment for 10 to 30 days to every beneficiary by working in infrastructure and non-infrastructure projects. This is under the DOLE Integrated Livelihood and Emergency Employment Program (DILEEP).

8) Retirement Pay

The mandatory retirement age for both private and public employees in the Philippines is 65 years old. As articulated in Republic Act No. 7641, private sector employees who have served for at least five years in the company upon retirement are entitled to receive benefits under any collective bargaining and other agreements. The retirement pay is computed based on the number of years of service in the company. However, establishments employing ten or less workers are not covered by this law.

Retirees who are members of the SSS and who have contributed at least 120 monthly contributions can either opt for a monthly pension or a lump sum benefit (in <https://www.sss.gov.ph>). Under the Government Service Insurance System or GSIS Act of 1997, government employees who have rendered at least 15 years of service, are at least 60 years old upon retirement, and not a permanent total disability pensioner, can opt for a 5-year lump sum and old age pension after five years of retirement or a cash payment equivalent to 18 times their basic monthly pension and a monthly pension for life effective upon retirement (in <https://www.gsis.gov.ph>).

Senior citizens are a vulnerable sector in society as they are most likely confronted with both health and financial concerns. Hence, support through laws and programs from the government are necessary to cushion the impact of aging. The Philippine government has good laws and programs that target this particular

segment of society. However, there are still gaps to be filled and challenges to overcome for our senior citizens to truly enjoy quality of life.

III. Gaps and challenges

Financial sustainability of programs for senior citizens. The country has long been beset by debts in both domestic and external borrowings. The Bureau of the Treasury recorded a national government debt of PhP15.18T as of end of February 2024. In the same year, the government released PhP49.807B to fund the monthly social pension of four million indigent senior citizens (in <https://www.dbm.gov.ph>).

For 2025, the proposed national budget is PhP6.352T, higher by 10.1% than in 2024. However, the budget both for social protection and health decreased in 2025 compared to the previous year from PhP746.1B to PhP691.8B, and from PhP313.7B to PhP300B respectively (in <https://www.dbm.gov.ph>).

Considering the growing debt of the country as well as the cost of funding the consumption of a rising elderly population, it then puts to question how long will the government be able to sustain its spending on programs for senior citizens.

Limited access to social safety nets. A study by Reyes et al. (2020), stated that though there is an increase in access to social protection between 2013 to 2017, the figures are still low. For example, in 2017, only 51.4% senior citizens benefited from Philhealth, and social pension beneficiaries covered only 21.5% of those who are 60 years old or above. Moreover, they found that female senior citizens and those who belong to low-income households are disproportionately affected (in <https://pidswebs.pids.gov.ph>).

Unintended exclusivity of senior citizens' discount. There is a big gap in terms of expenditures for medical services, recreation, air transportation, restaurants, and hotels between low-income and high-income households. Because of this, senior citizens in high income households inevitably get to enjoy more from the discount and tax exemption benefits (Reyes et al., 2020).

Employment constraints for senior citizens. In June 2022, the Philippine Statistics Authority (PSA) reported an increase in the number of workers aged 65 and above from 2,304,000 in May to 2,538,000 in June (Chau, 2022 in <https://hrmasia.com>).

Based on Table 3, the overall labor force participation performance of the country is somehow improving from 2020 to June of 2024. This promising labor market performance however needs to be sustained and be more inclusive. A report made by the Congressional Policy and Budget Research Department in 2024 showed only a slight decrease in unemployment for those aged between 55–64 and no decrease for those 65 years old and over (in <https://cpbrd.congress.gov.ph>).

Increasing the number of employed citizens then becomes a major challenge considering that the number

Table 3. Labor Force Survey, 2020–2024

	2020 ^f	2021 ^f	2022 ^f	2023 ^f (June)	2024 ^p (June)
Labor force participation rate	59.5	63.3	64.7	66.1	66.0
Employment rate	89.7	92.2	94.6	95.5	96.9
Underemployment rate	16.2	15.9	14.2	12.0	12.1
Unemployment rate	10.3	7.8	5.4	4.5	3.1

^f Final; ^p Partial

Source: Philippine Statistics Authority. (in <https://psa.gov.ph>).

of unemployed is estimated at 1.89M in September 2024 according to the PSA. Add to this, is the number of Filipinos who finish tertiary education every year. For example, quoting government media, Balinbin (2022) reported that more than 1.6M students were expected to finish tertiary education in 2022 from 200 state universities and colleges nationwide. This situation might inevitably result to cheap labor as the labor supply is more than the jobs generated annually.

The problem of skills mismatch is another constraint considering advancements in technology. Limited access to retraining programs renders their skills and knowledge irrelevant in the world of work. And since aging workers are more prone to health issues that will affect their work performance and increase healthcare cost of companies, employers will naturally hire younger applicants who are perceived to be healthier and more technologically adept.

Prioritizing younger generations in employment is a significant challenge in the country. This is a sad reality considering that having paid work to senior citizens does not only mean earning a living but it also gives them an intrinsic reward as they feel their value and contribution not just to their families but to the larger society as well. It also helps in their overall well-being. According to Abrigo et al. (2021), the desire of the elderly to still keep on working is not just due to economic consideration but also because it makes them physically fit and active.

Continuing employment discrimination due to age. There is a disconnect between what the law prescribes and what is being practiced as reported in the 2024 Michael Page Philippines Talent Trends Report: The Expectation Gap. Based on their survey, 43% points to preventing age discrimination at work as the primary issue related to diversity, equity and inclusion. Though overt discrimination may not be practiced, subtle forms were experienced by the survey respondents such as marginalization (14%), microaggressions (11%), and stereotyping (9%) (in <https://www.michaelpage.com.ph>).

Incomplete data on senior citizens. In a report by the Department of Social Work and Development (DSWD) on the PPASC 2019–2022, it identified the challenge of a lack of a comprehensive and accurate data on older persons. In the absence of a complete data, it will be difficult for policy-makers and planners to craft programs and policies fit to the needs of this sector (DSWD, in <https://www.population-trends-asiapacific.org>).

Monitoring and implementation lapses. When laws and programs are not monitored and implementation problems set in, these undermine the primary aim of protecting and promoting the rights of senior citizens as well as improve their quality of life. These also result to waste of scarce public funds and erosion of public trust on government programs. For example, since senior citizens are entitled to discounts in medicines, small drugstores either increase their prices to cover up for possible loss of income or just refer them to big drugstores due to stock ‘unavailability’ (DSWD, in <https://www.population-trends-asiapacific.org>). Another example is the TUPAD program. Findings conducted by the Commission on Audit (COA) revealed that there were unqualified beneficiaries, excessive payments made, and beneficiaries who were able to avail of the program twice in a year by changing personal details (Mangaluz, 2024 in <https://www.philstar.com>).

The geographical characteristic of the country also makes monitoring and implementation difficult. The Philippines is an archipelago composed of more than 7,600 islands, some of which are difficult to reach.

Inadequate retirement and pension system. Using adequacy, sustainability, and integrity as measures, the Mercer CFA Institute Global Pension Index 2024 shows that the Philippines has the third-worst pension system globally with an overall index value of 45.8 under the D-grade system. This means, “*a system that has some sound features but also (has) major omissions or weaknesses*” (in <https://www.mercer.com>).

In terms of adequacy, the monthly pension received by senior citizens from government at present is

simply not enough. Those who are economically disadvantaged are the most hit considering the rising cost of living and medical expenses.

A report by Sy (2024), mentioned on government distrust because of its attempt to transfer funds for the Maharlika Investment Corp. (MIC) and the massive reserve deficits experienced both by the SSS and the GSIS. The MIC is a newly established government owned and controlled corporation (GOCC) under Republic Act 11954. Its primary responsibility is the management of the first sovereign wealth funds of the country (in <https://lawphil.net>). Sy (2024) further explained that in the case of the military and uniformed personnel pension system, a “fiscal collapse” is seen to happen if no reforms are made in its pension system due to high pension payout. These situations indeed point to problems of sustainability and integrity of the pension fund in the country that could ultimately jeopardize the financial security of retirees.

IV. Conclusion

The projected demographic shift where senior citizens will grow in number in the coming years in the Philippines presents both challenges and opportunities. Significant gaps still remain in data on older persons, employment opportunities, pension adequacy, workplace inclusivity, and long-term security. Despite the presence of a law protecting them from age discrimination at work, many of them still experience it. The limited access to employment opportunities is exacerbated with the high unemployment rate in the country and the increasing number of college graduates annually.

The sustainability of the pension fund is a pressing concern. The low pension index of the country is a wake-up call to the government and other stakeholders to review policies, make regulation stronger, and manage funds better. Otherwise, the whole pension system will collapse which might lead to a domino effect as there will be increase in financial insecurity among senior citizens, and dependence on government aid that will in turn lead to additional strain on social welfare programs and the national economy.

Nonetheless, there is still a silver lining in this demographic shift. The potential contribution of senior citizens to the labor force cannot be undermined considering their number, knowledge, and experience. Hence, ensuring inclusivity, productivity, and social protection necessitates strategic reforms by strengthening age-inclusive labor laws, expanding pension coverage and sustainability measures, promoting lifelong learning and reskilling initiatives, encouraging employers to adopt flexible work arrangements, and enhancing healthcare and social protection programs among others.

It is therefore imperative for all stakeholders to address the challenges and leverage on opportunities for the country to achieve a more inclusive and sustainable labor market that recognizes the contributions of senior citizens, ensure their economic security, and well-being.

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Tackling Aging Population and the Labor Law Policy in Malaysia

R. Ravindra KUMAR

- I. Introduction
- II. Elderly defined
- III. The scale and changes in aging from macro statistics
- IV. The typical “retirement” process for the average worker
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I. Introduction

The Malaysian employment market is dynamic and evolving, reflecting the country’s status as a leading emerging economy in Southeast Asia. With a population of over 34 million and a youthful workforce, Malaysia’s diverse industries—manufacturing, services, agriculture, and the expanding digital economy—drive economic growth.

Recent efforts to position Malaysia as a regional technology hub have spurred growth in startups, e-commerce, fintech, and IT services, supported by government incentives and a tech-savvy workforce. However, challenges remain, including skill mismatches between graduates and industry needs. Employers cite gaps in critical thinking, digital skills, and technical expertise, increasing demand for reskilling and upskilling programs.

While the Malaysian job market offers growth potential, addressing challenges like graduate unemployment, automation in traditional sectors, and global talent competition will be key to ensuring sustainable development.

II. Elderly defined

Aging is subjective, influenced by factors such as trauma, poor nutrition, and disease exposure. These elements can accelerate aging in marginalized communities, leading to age-related challenges even in those under 60.

Mortality rates vary between countries, with standard of living being a key determinant. In regions with lower life expectancy, individuals in their 50s may be considered elderly, impacting national policies. Therefore, a universal approach to aging is not feasible.

The term “elderly” lacks a universally accepted definition. In Malaysia, as per the 1982 World Assembly on Aging definition, an older person is considered as someone who is over 60 years of age.

III. The scale and changes in aging from macro statistics

According to the annual report produced by the Department of Statistics Malaysia in 2024,¹ Malaysia's elderly population was approximately 6.5 million (approximately 19% of the total population).

Despite the growing elderly population, Malaysia has the lowest labor force participation rate among seniors compared to other age groups. This is largely due to the prevailing belief that individuals should retire at 60, a notion reinforced by various retirement options in both the public and private sectors. In 2023, approximately 445,000 individuals aged 60 to 64 were employed.

Out of Malaysia's total employed population of 16.08 million in 2023, those aged 60 to 64 made up around 2.77%. This represents a decline from the 5% to 10% range recorded in 2022. Many elderly individuals, however, continue to engage in informal or semi-formal work, such as agriculture, trade, and small businesses.

There are many reasons why the number quoted above represents a minute fragment of the Malaysian society. As mentioned above, this could be attributed to retirement policies and the physical limitations of an elderly person itself. A recent judicial review in the case of *Dr. Satwant Singh Gill v. Hospital Assunta* [2019] 3 ILR 564 overruled the application of the Minimum Retirement Age Act 2012 in Malaysia. Briefly, the court decided that the assurance given to Dr. Satwant by one Mother Mary Xavier that he is able to practice in the hospital for as long as he wishes (made in the 1970's) superseded the legislation.

However, the case of *Dr. Satwant*² is peculiar to its facts. Although the retirement age in Malaysia is 60, this applies very distinctly in formal employment and/or professional jobs. On the contrary, many continue to work post-retirement, mostly in non-professional fields such as agriculture and machinery and recently, in the gig industry. The trend of the elderly working post-retirement is also more evident in rural areas compared to urban areas.

As a developing nation, Malaysia tremendously improved and advanced its healthcare which then yielded a higher range of population aging as the average life expectancy also increased. This coupled with the fact that there are lower birth rates plays an important role in the influx of the aging population.

Besides that, some notable changes could also be observed due to economic transitions. Industrialisation and urbanisation have shifted family structures, reducing traditional care for the elderly and encouraging some to remain in the workforce. As cost-of-living increases, certain elderly population are forced to remain in the workforce to stay afloat. The fear is that if they opt to retire, they will lose their stream of income causing them to fall within the poverty bracket after exhausting all their financial reserves.

To sum up, employment in Malaysia is akin to the FILO (“**F**irst in **L**ast out”) principle. To seize the opportunities presented to them to tide over the waves of life, many Malaysians find themselves being employed at a younger age whilst retiring the latest possible.

As a result, there will and ought to be a systemic change in Malaysia to protect the growing aging population in Malaysia.

IV. The typical “retirement” process for the average worker

Section 4 of the Minimum Retirement Age Act 2012 provides 60 years old as the minimum retirement age (previously 55 years old). This legislation generally applies across the board for both the private and the

1. Annual population and demographic reports, labor force surveys, and statistics on aging trends - <https://www.dosm.gov.my>.

2. [2019] 3 ILR 564.

public sector. However, the general observation in Malaysia is that the retirement age of 60 years is adhered to the letter by the public sector i.e. mandatory retirement upon reaching the age of 60. The private sector does not impose a strict mandatory retirement age, however, an employee is unable to retire before attaining the age of 60. This is non-negligible.

The act applies to every employee except those listed in the **Schedule in Section 2 of the Act**. It is permissible for Malaysians to retire before 60 years of age subject to them having attained a Pensionable status (PTB). PTB is typically granted upon 25 years of service by the employee in the public sector.

4.1 Pre-retirement planning

In Malaysia, pre-retirement planning is primarily supported by the Employees Provident Fund (EPF), a mandatory savings scheme with contributions from both employees and employers. Workers typically begin withdrawing funds at age 55 or 60, depending on the withdrawal option. Civil servants receive pensions and gratuities, while private-sector employees often rely solely on EPF, underscoring the need for additional financial planning through tools like private retirement schemes (PRS).

Finalising employment in the pre-retirement phase employment involves settling dues such as final wages, unused leave, and entitlements. EPF members also arrange withdrawals, which can be taken as a lump sum, installments, or partial payments.

Many retirees pursue phased retirement, taking on part-time or consultancy roles, or exploring entrepreneurship. This transition is increasingly supported by government initiatives promoting active aging and lifelong learning.

4.2 Post-retirement trends

Post-retirement life in Malaysia is shaped by key trends, including the growing focus on healthcare. As retirees age, medical expenses become a significant concern. Lifestyle adjustments are common, with many retirees downsizing to smaller homes or adopting simpler lifestyles to manage expenses. In traditional Malaysian households, family continues to play a vital role in supporting retirees emotionally and financially. Urbanisation and changing family structures are slowly reshaping these dynamics.

To address financial challenges in retirement, many workers invest in PRS to supplement their EPF savings. Additionally, government initiatives like Bantuan Sara Hidup³ (cost-of-living aid) provide financial support for retirees facing economic constraints. These measures ensure retirees maintain a reasonable standard of living.

V. General social perception and attitudes toward “retirement”

5.1 The position before the Covid-19 pandemic

In Malaysia, retirement holds varying meanings depending on individual circumstances, societal expectations, and economic realities. Traditionally, it is seen as a time to rest and enjoy life after decades of hard work. However, evolving socio-economic dynamics and an aging population are reshaping attitudes toward this phase of life.

For many Malaysians, retirement is associated with the ideal of family support, rooted in cultural values that emphasize filial responsibility. Retirees often expect to live with or receive assistance from their children, reflecting strong intergenerational bonds. However, this traditional model is being challenged by urbanisation,

3. <https://bantuantunai.hasil.gov.my/>.

smaller family sizes, and the increasing cost of living. Younger generations face financial pressures, making it harder to support aging parents fully. This shift has led to a growing recognition of the importance of personal retirement planning.

Financial preparedness plays a critical role in shaping perceptions of retirement in Malaysia. Although EPF serves as the primary savings mechanism for most private-sector workers, concerns persist about whether these savings are sufficient to sustain retirees. Those without access to formal retirement savings systems, such as informal sector workers, often face uncertainty and may need to continue working into old age. Moreover, the concept of active retirement is gaining traction among Malaysians. Many retirees seek to stay engaged through part-time work, volunteering, or pursuing hobbies and passions.

5.2 The position after the Covid-19 pandemic

The pandemic has had a significant impact on retirement in Malaysia, reshaping financial preparedness, altering workforce dynamics, and influencing societal attitudes. It exposed vulnerabilities in retirement planning and highlighted the importance of adaptability in economic and health-related challenges.

One of the effects was the financial strain experienced by many Malaysians. In response, the government introduced measures such as the i-Lestari, i-Sinar, and i-Citra schemes, allowing early withdrawals from the EPF. While these initiatives provided short-term financial relief, they significantly reduced retirement savings for many individuals, raising concerns about long-term financial security. As a result, many retirees and near-retirees are now considering working longer to rebuild their savings.⁴

Health and well-being became central concerns for retirees during the pandemic. The heightened health risks of COVID-19, particularly for older adults, emphasized the need for comprehensive healthcare access and insurance coverage in retirement.

The pandemic also brought about a shift in how retirement is perceived. For some, it became an opportunity to reassess priorities, focusing on meaningful activities, family relationships, and personal growth. Others realised the importance of robust financial planning to navigate unexpected challenges.

Finally, the pandemic accelerated digital inclusion among older adults. Many retirees embraced technology for communication, online banking, and accessing essential services. This digital shift has not only kept retirees connected during isolation but has also opened new opportunities for remote work, learning, and social engagement.⁵ This trend could redefine retirement, making it a more dynamic and active phase of life.

5.3 Bridging the gap between the private and government sector – A discrepancy in the attitude towards retirement

5.3.1 Government servants

Government servants benefit from a pension scheme, which provides a lifelong monthly pension after retirement. The amount is calculated based on the individual's length of service and their final drawn salary, offering predictable and stable post-retirement income. In addition, retirees receive a gratuity payment, which is a lump sum disbursed upon retirement. This system is funded by the government, and employees do not make direct contributions to their retirement benefits.

Health benefits are another significant advantage for government retirees. They and their dependents

4. <https://www.therakyatpost.com/news/malaysia/2021/11/24/retirees-likely-to-face-poverty-after-covid-withdrawals-says-epf/>.

5. <https://www.malaymail.com/news/money/mediaoutreach/2024/01/31/octa---retirement-planning-in-malaysia-epfs-investment-options-and-its-alternatives/275865>.

enjoy free or subsidized medical care at government hospitals and clinics, which reduces the financial burden of healthcare during retirement.

5.3.2 Private-sector employees

As mentioned above, private-sector employees rely primarily on the EPF. In this system, both employees and employers contribute a percentage of the employee's salary to their EPF account. At retirement, individuals access their accumulated savings, which are meant to support their retirement years. However, the adequacy of these savings depends on the individual's contribution levels, investment returns, and duration of accumulation. This often makes retirement planning more challenging for private-sector employees, especially for those with inconsistent incomes or those who withdraw EPF savings early for immediate needs.

5.3.3 Key differences

The primary distinction lies in the stability and predictability of benefits. Government pensions offer lifelong, guaranteed payments and healthcare benefits, while private-sector employees depend on accumulated EPF savings, which may be insufficient for long-term needs without careful planning. As a result, government retirees tend to experience greater financial security compared to their private-sector counterparts.

5.3.4 Policy trends

Recent discussions have focused on expanding social protections for private-sector employees, particularly informal workers, and contract-based public-sector workers who are not eligible for the traditional pension scheme. The introduction of voluntary EPF contributions and initiatives like i-Saraan aim to bridge this gap.

VI. The impact of aging and retirement on companies and workers in Malaysia

Malaysia is grappling with the challenges of an aging population and increasing retirement rates, which significantly affect companies, workers, and the broader economy. These changes compel businesses, unions, and employees to adapt their strategies to ensure long-term sustainability and productivity in the labor market.

Companies and organisations are taking proactive measures to manage the implications of an aging workforce. Retaining older employees is a common strategy, as these workers possess valuable experience and institutional knowledge. Many organisations now offer flexible working arrangements,⁶ such as part-time positions or consultancy roles, to enable retirees to continue contributing without the demands of full-time employment.

Case Study – Dododots

Dododots is a company in Malaysia that manufactures pimple patches. Its co-founders are classified as millennial/Gen-Z.

Recently, Dododots was in the limelight due to its unique internship programs which are catered to individuals aged 50 and above. The introduction of the senior internship program goes beyond the usual

6. Human Resource Development Corporation (HRDCORP). 2021. Policy Planning For Flexible Work Arrangements [FWA] in Malaysia. https://nhrc.com.my/wp-content/uploads/2022/07/Policy-Planning-for-Flexible-Work-Arrangement-Kopi-Chat_Final.pdf.

employment system in Malaysia as the colloquial belief is that internships are only to be offered to young students and/or graduates. Besides that, they also offer flexible working arrangements which render employees from Dododots⁷ a one-of-a-kind experience, far from the norm in the employment sector in Malaysia. Dododots is a prime example as to why upskilling and reskilling programs are gradually being introduced and implemented to ensure older workers can keep up with technological advancements and shifting job requirements.

Workers and unions are also responding to the aging population and retirement trends. Many unions advocate for policies that promote job security and fair treatment of older workers, such as the extension of retirement age or the introduction of phased retirement schemes. Workers, particularly those approaching retirement, are increasingly participating in lifelong learning programs to remain competitive in the workforce. Furthermore, unions are working closely with policymakers to ensure adequate social protection, including better pensions and healthcare benefits, to support a dignified retirement for aging workers.

The current labor market is facing significant challenges due to labor shortages exacerbated by an aging population. Malaysia's inconsistent - fluctuating birth rate⁸ and increasing life expectancy have reduced the proportion of younger workers entering the labor force. To address this, companies are turning to automation, foreign labor,⁹ and government-supported initiatives to attract and retain talent. However, the reliance on foreign workers and technology comes with its own set of challenges, including integration, costs, and social acceptance.

6.1 Employment system reforms

The Malaysian employment sector is facing increasing pressure to reform systems to accommodate longer working lives. One key initiative is supporting the reemployment of elderly workers by introducing phased retirement plans or flexible working arrangements to enable older workers to remain in the workforce. **Section 60A of the Employment Act 1955** provides guidelines on working hours and rest days, which could be revised to include tailored arrangements for older employees, ensuring their well-being while maintaining productivity. Extending the retirement age, currently at 60 as set by the Minimum Retirement Age Act 2012, is another potential reform. However, this requires balancing employer concerns over higher wage bills with the need to promote income security for aging workers.

Section 13 Industrial Relations Act 1967 deals with collective bargaining. It can play a role by facilitating negotiations between employers and trade unions on retirement age policies and reemployment terms, preventing disputes and ensuring fairness.

6.2 Reskilling and training for the elderly

Reskilling and upskilling programs tailored to older employees are crucial to maintain their relevance in the workforce. The Fourth Industrial Revolution and the transition toward digitalisation demand that workers, regardless of age, adapt to technological advancements. Government agencies like HRD Corp could expand their programs to focus on elderly workers, offering incentives to employers who invest in reskilling initiatives. **Section 60K of the Employment Act 1955**, which mandates training and retraining programs for workers, could be expanded to require employers to provide skill development opportunities for employees nearing retirement age.

7. <https://dododots.com/>.

8. https://open.dosm.gov.my/data-catalogue/births_annual_state?state=selangor&visual=abs.

9. <https://documents1.worldbank.org/curated/en/892721588859396364/pdf/Who-is-Keeping-Score-Estimating-the-Number-of-Foreign-Workers-in-Malaysia.pdf>.

In parallel, **Section 30(5) the Industrial Relations Act 1967** allows industrial courts to ensure that agreements between employers and trade unions include equitable access to training programs for elderly workers. Such measures would ensure that older employees remain employable and can transition into new roles as industries evolve.

6.3 Countermeasures for elderly unemployment and poverty

Section 24 of the Employment Act 1955, which address deductions from wages, could be amended to protect elderly workers from exploitative practices such as excessive deductions. Additionally, age discrimination in hiring, promotions, and termination must be explicitly prohibited under the Act to ensure equal opportunities for elderly employees.

Section 20 of the Industrial Relations Act 1967, through its provisions on unfair dismissal, should be strictly enforced to protect older employees from being terminated solely based on age. Furthermore, targeted welfare programs and enhanced EPF contributions, as well as access to healthcare, are essential to addressing elderly poverty and unemployment. Programs like SEBA¹⁰ (Senior Back in Action) should be inculcated more to ensure that senior citizens are upskilled to adapt to the modern working environment.

VII. Conclusion

In conclusion, addressing the challenges posed by Malaysia's aging population requires a comprehensive approach that redefines the traditional retirement age and promotes greater labor force participation among the elderly. While the current labor market shows a low participation rate for seniors, particularly due to ingrained societal beliefs about retirement and limited support structures, there are opportunities to adapt policies. Strengthening initiatives for reskilling, promoting flexible work arrangements, and recognizing the value of elderly workers in both formal and informal sectors will be crucial in ensuring a more inclusive and sustainable labor market. By modernizing labor laws to accommodate an aging workforce, Malaysia can not only enhance economic productivity but also provide greater opportunities for older individuals to remain engaged and active in society.

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10. <https://supportcentre.hrdcorp.gov.my/portal/en/kb/articles/senior-back-in-action-seba>.

Indonesia's Workforce in Transition: Labor Law and Policy amidst Aging Society

Ike FARIDA

- I. Introduction
- II. Indonesia's current demographic dividend amidst an aging population
- III. Legal frameworks
- IV. Issues
- V. Conclusion

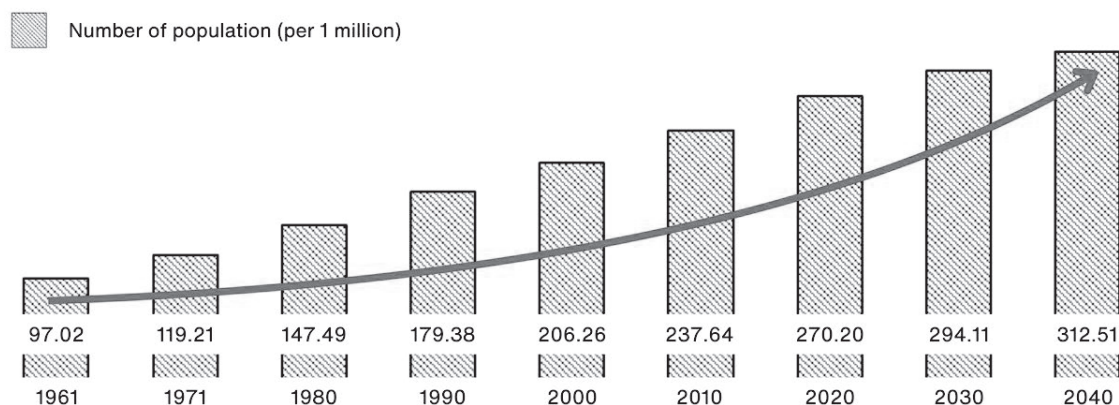
I. Introduction

A nation's demographic landscape shapes its economy, presenting both opportunities and challenges. Indonesia's population has grown significantly since independence, nearly tripling from 97.02 million in 1961 to 270.2 million in 2020, with projections reaching 312.51 million by 2040 (Central Bureau of Statistics 2022, 3–4). However, growth rates have declined from 2.4% in the 1970s to 1.25% in 2010–2020. The working-age group (15–64 years) rose from 53.39% in 1970 to 69.28% in 2020 but is predicted to decline by 2030. Meanwhile, the youth population (0–12 years) fell from 44.12% in 1970 to 24.56% in 2020, reflecting a declining birth rate (Central Bureau of Statistics 2022, 12). In contrast, there is a gradual increase in the composition of the elderly population in the Indonesian society. In 1970, the elder population comprised 2.49% of the total population and has grown to 6.16% in 2020, projected to more than double in just next 20 years. Additionally, as defined by the World Health Organization (2020), a nation is ageing when its 65 years or older population surpasses 7 percent of the nation's population. Overall, the demography in Indonesia reflects a nation in transition, with a shrinking youth population, a substantial working-age demographic poised to drive economic growth, and an increasing elderly population that will demand strategic policy to ensure sustainable development and social welfare in the coming decades.

The demographic transformation will likely have profound impacts on the social, economic, and policy-making aspect of the country. The phenomenon addressed previously will eventually lead Indonesia into an aging society, which the country is already slowly transitioning. By 2050, it is estimated that the elderly population will grow to 74 million, representing about 25% of the total population (Hastuti et al. 2020, 1).

Globally, governments facing an aging population have generally implemented regulations that promote active and healthy living, expansion learning experience, and retirement planning (United Nations, Department of Economic and Social Affairs, Population Division 2020, 1–4). Hence, this demographic shift has been accompanied by the well-being of the aging society as a priority. As a population ages, so does the level of dependency of the older population, especially retirees aged 65 and above, towards the working age group. In Asia, it is projected that the region will experience an overall increase of total dependency ratio at least until 2050 (Ogawa et al. 2021, 39–40). If current trends continue, and without the implementation of appropriate regulations, the increasing dependency ratio combined with a low birth rate could render the economy unsustainable.

This report examines Indonesia's demographic transition and its implications. It will explore Demographic Dividend, dependency ratios, workforce challenges, and national regulations. Additionally, it will assess policy gaps, focusing on retirement systems and economic sustainability.



Source: Statistics Indonesia 2022.

Figure 1. Indonesia's population trends, 1961–2040

II. Indonesia's current demographic dividend amidst an aging population

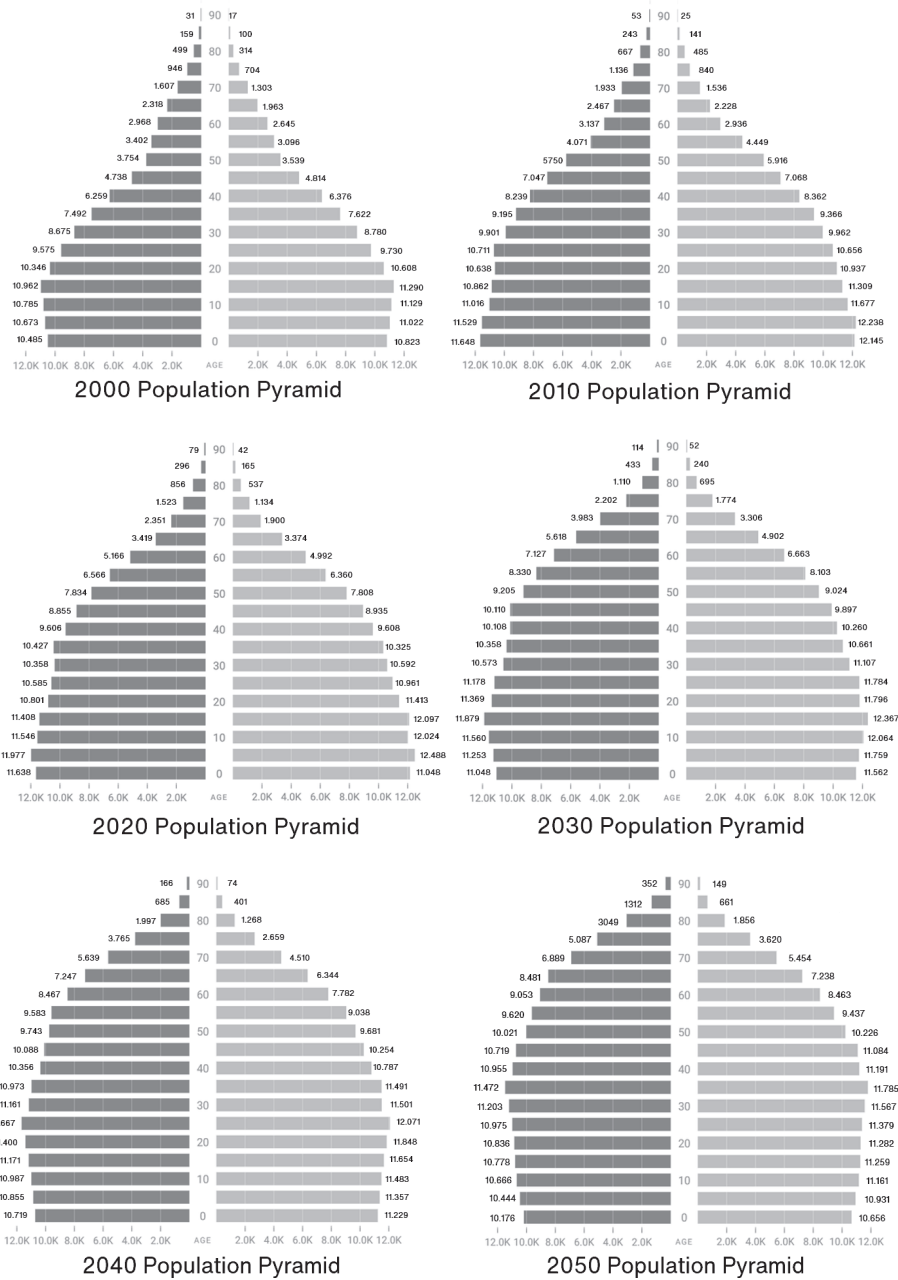
Aging populations have been a significant trend affecting the globe. While each country experiences different age structure in their population, the trajectory is quite clear that the Indonesia is aging in this coming century. The phenomenon of an aging population is illustrated by the shift in the demographic pyramid, which depicts population trends across six decades, from 2000 to 2050 (Figure 2). In the earlier years (2000–2020), the pyramid displays a broad base, indicative of high birth rates and a significant proportion of youth. However, by 2030, the base progressively narrows, while the upper segments expand, indicating a growing elderly population. This trend continues and becomes more evident in the 2040 and 2050 projections, where the pyramid assumes a downward-tapering shape with a wider upper structure, reflecting an escalating aging population. By 2050, it is projected that the global population of individuals aged 65 and older will surge to 1.5 billion (Statistics Indonesia 2022, 3–4). This demographic transformation is also unfolding in Indonesia, which has acknowledged that the country has entered an aging population phase since 2021 (Directorate of Social Welfare Statistics 2024, 4–5). This is especially marked by the continued drop on fertility rate, which illustrates the ongoing demographic transition in Indonesia.

With a larger proportion of working-age individuals compared to the dependent population (those younger than 15 years old and older than 64 years old), Indonesia's demographic structure is currently experiencing a demographic dividend, projected to peak from 2020 to 2035. Hence, within this context, understanding the dynamics of Indonesia's current population is critical before addressing the implications of an aging society in the country.

While a majority of the population is comprised of productive population, the nation's current birth rate is still declining albeit still sits at 2.18. As the proportion of children decreases and the share of productive-age individuals increases, Indonesia has experienced a favorable dependency ratio, where the working-age population is larger than the non-productive age groups, children and elderly. In 2020, the child population comprised 24.56% of the total, while the working-age population reached 70% (Statistics Indonesia 2022, 18). This demographic advantage has translated into greater economic potential, particularly as the working-age population contributes to labor supply and overall consumption in the economy.

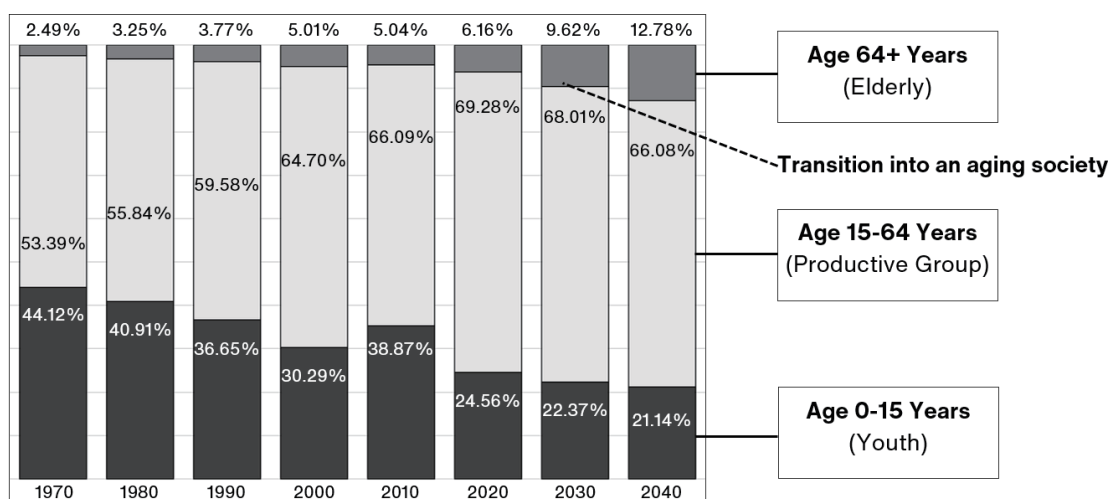
As a result, Indonesia is currently undergoing a period in which productive population is large enough to

support unproductive population. However, this period is estimated to peak in around 2030, after which the share of the working-age population is expected to decline while the share of older population to increase. Hence, as Indonesia’s demographic composition is expected to shift in the coming decades, there is an emphasize on workforce dynamics, social regulations, and economic planning to adapt to the gradual increase in the aging population. While Indonesia’s workforce is predominantly composed of individuals within the productive age group, the elderly population continues to play a significant role in the labor market. More than half, specifically 55.32 percent, of the elderly demographic in Indonesia remains economically active



Source: United Nations 2017.

Figure 2. Indonesia’s population pyramid age by age group (in thousands)



Source: Statistics Indonesia 2022.

Figure 3. Indonesia's population composition by age group (percentage), 1970–2040

(Directorate of Social Welfare Statistics 2024, 11).

To address current population structure as well as the looming economic issues in the future, there are several legal measures and strategy that has been implemented by the Indonesian government. From a broader strategy perspective, Indonesia has set what known as the Golden Vision 2045. The Nation has implemented several measures and included predicaments faced by each demographic group into its strategic plan called the National Medium-Term Development Plan (*Rencana Pembangunan Jangka Menengah Nasional*). During this window, the government regulations mostly focus on tapping the productive population's potential through various programs, trainings, and initiatives as this demography is deemed to be playing an important role in accelerating the nation's development.

Regulations that support elderly welfare have been implemented (which will be discussed in later part of the report), which encourage healthy, independent, and productive transition into elderhood in hopes of improving life expectancy as well as quality of life. Workplace reintroduction, retraining, or affirmative action for the elderly is still an unexplored framework during the demographic dividend phase, as the majority of jobseekers are mostly youth. However, as the pre-elderly population (age 45–59 years old), who comprises a quarter of the productive population, will eventually retire as the demography dividend phase ends, there is a projected fiscal restraint for the country due to a fluctuation of social security provision for the elderly.

However, in 2004, 2015, 2021 and 2023 the government issued several laws and regulations related to retirement.

III. Legal frameworks

In response to the growing aging population, various laws and regulations have been established to address the specific needs of the elderly population, particularly in ensuring social protection and welfare support systems.

In the labor sector, one notable regulatory measure addressing the aging population in Indonesia is the gradual adjustment of the statutory retirement age. Article 15 of Government Regulation No. 45/2015

stipulates that the retirement age is set at 56 years and starting in 2019, increases into 57 years and will continue to increase by one year every three years until it reaches 65 years. This approach is intended to extend workers' employment period, allowing them more time to accumulate pension savings and enhance their financial security upon retirement. As of January 1, 2025, the statutory retirement age stands at 59 years, and it is scheduled to increase to 60 in 2028, 61 in 2031, and continue gradually until reaching 65 in 2043.

Under the existing legal frameworks, workers reaching retirement age are given access to several forms of benefits and programs designed to provide financial security upon retirement. These include Severance Payment, Length of Service Compensation, Compensation Rights Pay, Pension Security, and Old-Age Security.

As stipulated in Article 156 of Law No. 6/2024, also recognized as Job Creation Law, workers are entitled to Severance Payment, calculated based on a fixed formula that correlates years of service with multiples of monthly salary. The entitlement ranges from less than 1 year of service, which receives 1 month's salary;

Table 1.

No.	Law/Regulation	Coverage
1.	Law No. 6/2023 on the Stipulation of Government Regulations intended to become Law, in Lieu of Law No. 2/2022 on Job Creation.	Delegating provisions regarding pension benefits due to laid off from previously regulated in the labor law to its own Government Regulation.
2.	Government Regulation No. 35/2021 on Fixed-Term Employment Agreement, Outsourcing, Working Hours and Rest Periods, and Termination of Employment.	Severance pays for workers who are terminated due to reaching retirement age although at reduced rate from previous regulation.
3.	Law No. 24/2011 on the Social Security Organizing Agency (<i>Badan Penyelenggara Jaminan Sosial, (BPJS)</i>).	<ul style="list-style-type: none"> - Emphasizing that Employment Social Security Administration (<i>BPJS Ketenagakerjaan</i>) administers the Old Age Security and Pension Insurance programs. (Article 6) - Regulating that Social Security Organizing Agency (<i>BPJS</i>) is obligated to provide participants with information regarding their Old Age Security balance and Pension rights once a year. (Article 13)
4.	Law No. 40/2004 on the National Social Security System.	<ul style="list-style-type: none"> - Emphasizing Old-Age Security and Pension benefits as a form of social insurance. (Article 18) - Old-age security is implemented based on the principles of social insurance or compulsory savings. (Article 35) - Old-age security benefits may be disbursed partially up to a certain limit once the participant's membership reaches a minimum of 10 (ten) years. (Article 37) - Pension benefits are paid to participants who have reached the retirement age, in accordance with the formula established. (Article 41)
5.	Government Regulation No. 45/2015 on the Administration of Pension Program.	<ul style="list-style-type: none"> - Regulating pension benefits administration. - Detailing membership and registration procedures. - Defining pension benefits and contribution requirements. - Specifying administrative sanctions for violations.
6.	Government Regulation No. 46/2015 on the Administration of the Old Age Security Program.	<ul style="list-style-type: none"> - Regulating old-age benefits program administration. - Outlined membership and registration procedures. - Defining contribution amounts and payment methods. - Specifying old-age benefits. - Establishes administrative sanctions for violations. - Covering program supervision and complaint handling.
7.	Presidential Regulation No. 88/2021 on the National Strategy for Ageing.	Established as an effort to realize an independent, prosperous, and dignified elderly population. To accelerate this objective, the regulation stipulates coordination across sectors between the central government, local governments, and all relevant stakeholders.

1 year or more but less than 2 years of service, which receives 2 months' salary; and so on, increasing progressively up to 9 months' salary for those with more than 8 years of service.

In the same regulation, workers are also entitled to Length of Service Compensation, a benefit designed to recognize and reward workers' loyalty and length of service, thus applies to workers who have completed a minimum of 3 years of service. The calculation of this benefit is determined based on years of service, starting from 2 months' salary for workers with at least 3 years but less than 6 years of service. Entitlement increases, reaching up to 10 months' salary for workers with more than 24 years of service.

In addition to the above benefits, workers are also entitled to Compensation Rights Pay. This includes payment for unused annual leave, transportation costs to return to the workers' hometown, and other benefits as stipulated in the Employment Agreement, Company Regulations, and/or Collective Labor Agreement (CLA). The specific amount payable may differ depending on each company's regulations regarding this entitlement.

Apart from the previous benefits, all workers are also guaranteed access to the Pension Security and Old-Age Security programs, as stipulated in Law No. 40/2004 on the National Security System. A key component of this system is the Pension Security program, regulated by Government Regulation No. 45/2015 on the Implementation of Pension Security Program, which outlines membership requirements, contribution regulations, and entitlements. Under this program, workers who have paid contributions (*premi*) for at least 15 years before retirement are eligible for monthly pension payments. In the first year, the amount payable is calculated based on a formula, which correlates both the workers' total contribution period and their average salary during the contribution years. In the following years, the pension amount is adjusted annually based on an indexation factor to account for inflation and shifts in the cost of living. Additionally, workers who continue employment beyond retirement age can choose to defer receiving benefits for up to three years.

Complementing the Pension Security program is the Old-Age Security program, governed by Government Regulation No. 46/2015 (later revised by Government Regulation No. 60/2015). Workers will receive Old-Age Security benefits not monthly, but in a lump sum. Workers who have paid contributions (*premi*) for at least 10 years can withdraw partially of their funds before reaching retirement age, up to 30% for home ownership or 10% for other retirement-related expenses. The contribution is deducted from the worker's monthly salary at a rate of 5.7%, with 3.7% covered by the company and 2% by the worker. Both the Pension Security and Old-Age Security programs are regulated to be paid out to participants or workers who have reached retirement age, experienced permanent total disability, and/or passed away.

Despite this comprehensive legal framework, many workers in the informal sector lack awareness of their rights and available benefits, limiting program participation. Additionally, pension adequacy is affected by the gap between wages and the rising cost of living, making it difficult for some retirees to sustain themselves solely on pension payments. Another complicating factor is that retirement age regulations often depend on individual company agreements, as outlined in Law No. 13/2003 amended by Law No. 6/2023 on Manpower, allowing flexibility but also creating inconsistencies in implementation.

To expand coverage, the law mandates the inclusion of informal sector workers and the unemployed over the coming years, ensuring broader access to financial protection in retirement.

IV. Issues

The productivity of the elderly is vital for maintaining their well-being while also contributing to national economic development. A considerable proportion of the elderly population continues to participate in the workforce well beyond the conventional retirement age. For many, the necessity of continuing to work is

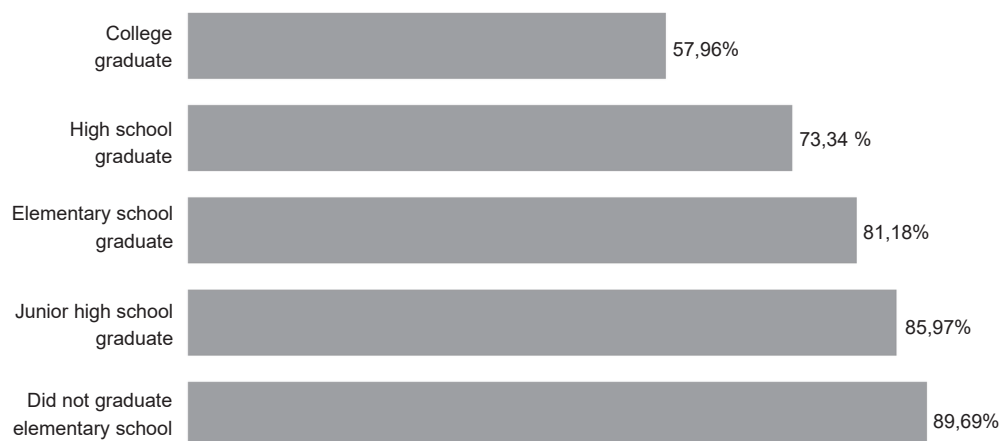
not a choice but a matter of survival. Alarming, approximately one-fifth of those aged 80 and older fall under the national poverty line, experiencing extreme poverty (Directorate of Social Welfare Statistics 2024, 204–6). With one-third of the Indonesian population projected to be over the age of 60 in 2050, coupled with the elderly’s declining economic participation, millions face the risk of falling into poverty in old age. Additionally, more than 80 percent of the older population works in the informal sector, and 33.6 percent of them have only graduated elementary school or lower.

Pension Security (JP) in Indonesia does not currently cover informal workers, including those employed in agriculture, plantations, and street vending. This presents a significant concern, as over 80% of the elderly population—equating to more than 7.5 million individuals—are engaged in the informal sector. The absence of pension protection for this group increases the risk of financial insecurity in old age. Additionally, informal workers in rural areas are often involved in physically demanding labor, which can adversely affect their health and overall quality of life as they grow older. These factors underscore the critical need to extend Pension Security programs to include informal workers.

One of the factors behind the large number of workers in the informal sector is the low level of education. Only around 32 percent attained elementary school as their highest education, while almost 40 percent did not finish elementary school or not even started school at all (Directorate of Social Welfare Statistics 2024, 46–48). This limited educational background has historically hindered their access to formal employment, even during their prime working years, leaving informal work as the only option. As a result, it is more likely that, as people enter retirement age, they do not have savings and thus are more likely to be trapped in poverty line.

Furthermore, the high number of workforces, combined with very limited job opportunities (job vacancy), has led to a diminished focus on the needs and well-being of senior citizens. Due to the high number of workforces, while the labor demand/job vacancies remain limited, the government has prioritized efforts to expand labor demand and enhance the employability of the productive-age population. One of the key strategies includes the establishment of diploma (D3) and vocational education programs aimed at equipping graduates with practical skills that align with current labor market needs.

The government is focusing more on creating Labor Demand/Job Vacancy because every year, more than 4 million graduates enter the labor market, whereas the available vacancies are less than 2 million.



Source: Statistics Indonesia 2024.

Figure 4. Educational attainment of elderly workers in Indonesia's informal sector

Consequently, competition for jobs is intense, often leading to the exclusion of older workers from employment opportunities, including the non-renewal of work contracts. For this reason, the government appears to be paying less attention to elderly workers.

From the perspective of employers, there is a tendency to favor the recruitment of younger workers, under the assumption that they are likely to exhibit higher productivity levels. With the lack of senior-focused framework within the law, this might lead to the marginalization of older workers within the labor market. Moreover, as aging is often accompanied by a decline in physical capacity, it becomes the biggest impediment for reintegration as the process directly impacts labor productivity (Directorate of Social Welfare Statistics 2024, 6).

In regard to the pension program's participation, only 8.5% of households with elderly members in Indonesia are covered by pension schemes, with most elderly individuals (86.2%) working in the informal sector (Directorate of Social Welfare Statistics 2024, 120–21). The same issue extends to their participation in old-age benefits programs. One of the factors that might contribute to the low adoption of such program can be attributed to the inconsistent implementation of regulations pertaining to old-age benefits in Indonesia.

For instance, the previous regulation (Government Regulation No. 60/2015) mandated that old-age benefits be disbursed to participants who have reached retirement age, experience permanent total disability, or passed away. However, the Ministry of Manpower in 2022 revised/amended that those who have ended their employment relationship with the company are also considered as retiring. Those rules are inconsistent with each other.

That changes of rules have led many participants/workers to claim Old-Age Security before reaching retirement age, leaving them with insufficient savings upon reaching retirement age. If this happens, they will have no access to Pension Security programs, and this will make the elderly informal workers suffer more. To address this issue, the Indonesian government has implemented conditional cash assistance programs for elderly individuals living in poverty, such as providing Rp 200,000 (or around \$12) per month. However, the coverage of this assistance remains limited, reaching only around 14% of elderly individuals, with the amount provided insufficient to meet their daily needs (Hastuti et. al 2020, 24).

Several barriers contribute to this, including a lack of awareness on available programs, inadequate income preventing contributions, limited access to employer-sponsored pension schemes and financial institutions, the absence of official documentation for policy targeting, frequent job changes, and residence in rural areas with limited financial infrastructure. Additionally, these workers often come from low-income backgrounds with lower educational levels, resulting in limited knowledge about pension and savings products, as well as insufficient resources for long-term savings.

V. Conclusion

While the country is currently benefiting from a demographic dividend, this advantage will diminish as the proportion of the elderly population grows, increasing the dependency ratio and placing pressure on economic sustainability. By 2050, Indonesia's elderly population is projected to reach 74 million, making it imperative for policymakers to adopt comprehensive strategies to support aging citizens.

The Indonesian government has recognized these demographic shifts and has implemented several law and regulation aimed at ensuring the well-being of the elderly. However, these law and regulation have not addressed the unique circumstance that Indonesian seniors face. First, inconsistent regulations can result in disharmonious relationships with other regulations. For example, allowing Old-Age Security benefits program to be disbursed when the participant has ended their employment relationship with the employer (not

due to retirement age) can threaten their financial security in later years.

At the same time, there are very few regulations protecting elderly workers in the informal sector. While Indonesia has no mandatory retirement age, the ever-increasing minimum age for a participant to disburse their benefit keeps increasing. This may minimize the participants' ability to enjoy the program benefits as the limit keeps going up. Lastly, recent amendment has reduced the share of benefit received by workers who are laid off, including those who are laid off due to retirement.

Moving forward, Indonesia must strengthen its social protection mechanisms, ensuring that pension and healthcare systems remain sustainable. One possible solution is to allow informal workers to participate in the Pension Security (JP) programs by paying premiums. This will provide them with more financial support upon retirement age. Further, Indonesia needs for further comparative studies and observations, especially from countries with high composition of working-age, that also are facing transition into an aging society. For example, by learning from their experiences and regulations, Indonesia can advance the strategies to create a more inclusive and sustainable approach to an aging society.

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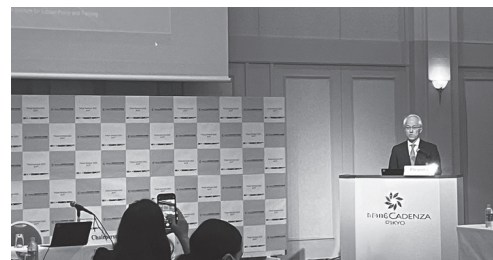
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Keynote Lecture (Recorded):

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