

# The Legal Minimum Employment Age in China Should be Advanced to 15

Wei Bu <sup>1\*</sup>, Chongye Huang <sup>1</sup>, Qin Wang <sup>2</sup>

<sup>1</sup> School of Economics and Management, Beijing Jiaotong University, Beijing 100044, China

<sup>2</sup> CTV Boler (Beijing) Media Co., Ltd., Beijing 100102, China

**Abstract:** Through close reading of the Compulsory Education Law and the Labor Law, we found that there exists a group of “hot seat people” in the provisions of Chinese law. Through analysis of the China Statistical Yearbooks and statistics collected by some local courts and procuratorates, we found that the number of “hot seat people” is large and the criminal tendency of these people is serious. By collating data from the United Nations, we found that about four-fifths of the countries’ minimum employment age is lower than or equal to the terminate age of compulsory education. On this basis, the paper holds that with the constrains of initiative and terminate age of compulsory education, the legal minimum employment age in China should be advanced to 15.

**Keywords:** hot seat people; legal employment age; idle minors

## 1. Introduction

Article 2 of the Compulsory Education Law of the People’s Republic of China, which was adopted at the Fourth Session of the Sixth National People’s Congress on 12 April 1986, and amended at the 22nd Session of the Standing Committee of the Tenth National People’s Congress on 29 June 2006, stipulates that “the State adopts a system of nine-year compulsory education”, Article 11 stipulates that any child who has attained to the age of 6, his or her parents or other statutory guardians shall have him or her enrolled in school to finish compulsory education. Therefore, under normal circumstances, minors who have finish nine-year compulsory education, namely, who have graduated from junior high school, are at least 15 years old. Since senior secondary education is not included in the scope of compulsory education, while the majority of junior high school graduates choose to receive senior secondary education, a number of eligible minors choose not to receive senior secondary education for various reasons. Article 15 of the Labor Law of the People’s Republic of China adopted at the eighth meeting of the Standing Committee of the Eighth National People’s Congress on 5 July 1994, Article 2 of the Prohibition of the Use of Child Labor Regulations adopted at the 63rd executive meeting of the State Council on 18 September 2002, and Article 38 of the Decision of the Standing Committee of the National People’s Congress on Amending the Law of the People’s Republic of China on the Protection of Minors adopted at the 29th meeting of the Standing Committee of the Eleventh National People’s Congress of the People’s Republic of China on 26 October 2012, stipulates that employing units are prohibited from recruiting minors under the age of 16. Consequently, this group, having completed compulsory education but no

longer receiving senior secondary education, finds themselves in an extremely awkward “gap year” immediately after leaving school at the age of 15–16, becoming “hot seat people” in the provisions of Chinese law. The healthy growth of minors is related to family harmony and social stability [1], and must be given full attention.

## 2. A Large Amount of “Hot Seat People”

The official website of the National Bureau of Statistics of the People’s Republic of China publishes historical data on the Promotion Ratio of Graduates of Regular School by Level, including the data on the Promotion Ratio of Junior Secondary School Graduates. Subtract “the Promotion Ratio of Junior Secondary School Graduates” from “1” and multiply the result by the number of junior high school graduates in that year, the approximate figure of “hot seat people” who choose not to continue their education can be obtained (the results are shown in Table 1). The Table 1 shows that the amount of “hot seat people” remains quite substantial: more than three million people in 2007–2008, more than two million people in 2009–2010, more than one million people in 2011–2013, and seven or eight hundred thousand people in 2014–2016. Naturally, the actual number of people may be less, as there is no exclusion of the number of people aged 7 and above enrolled and/or restudy grade 3 in junior high school.

**Table 1.** The number of “hot seat people” in China from 2007 to 2017.

Year	Number of Junior High School Graduates (10,000 Persons)	Promotion Ratio of Junior Secondary School Graduates (%)	Number of Hot Seat People (10,000 Persons)	Year	Number of Junior High School Graduates (10,000 Persons)	Promotion Ratio of Junior Secondary School Graduates (%)	Number of Hot Seat People (10,000 Persons)
2007	1963.71	80.5	382.92	2013	1561.55	91.2	137.42
2008	1867.95	83.4	310.08	2014	1413.51	95.1	69.26
2009	1797.70	85.6	258.87	2015	1417.59	94.1	83.64
2010	1750.35	87.5	218.79	2016	1423.87	93.7	89.70
2011	1736.68	88.6	197.98	2017	1397.47	94.9	71.27
2012	1660.78	88.4	192.65				

Note: (1) According to the official website of the National Bureau of Statistics of the People’s Republic of China—Education Indicators—Enrollment rate of school-age children and the promotion ratio of graduates of regular school by level (<http://data.stats.gov.cn/easyquery.htm?cn=C01>, accessed on 10 May 2023), the numerator used in calculating the promotion ratio of junior secondary schools is the enrollment number of senior high schools, which includes: the number of students enrolled in ordinary high schools, vocational high schools, technical schools, and ordinary secondary schools for junior high graduates, as well as the number of students enrolled in adult secondary schools organized by ordinary secondary schools and adult secondary schools for fresh junior high graduates. The denominator is the number of junior high school graduates. (2) The data on the “hot seat people” in this table overestimates the number of persons aged 15 but under 16 at the end of junior high school who did not continue their schooling, as they include people aged 7 and over who started and/or restudy a year or more (including restudy grade 3 in junior high school).

Data source: The data of “number of junior high school graduates” and “promotion ratio of junior secondary school graduates” from 2007 to 2016 are sourced from National Statistical Bulletin on the Development of Education (2007–2016); the data of “number of junior high school graduates” in 2017 are sourced from “2017 National Statistical Bulletin on the Development of Education” <[http://chuzhong.eol.cn/focus/201808/t20180813\\_1620913.shtml](http://chuzhong.eol.cn/focus/201808/t20180813_1620913.shtml)> (accessed on 13 May 2019); the “number of hot seat people” is obtained by multiplying the “number of junior high school graduates” by “1-promotion ratio of junior secondary school graduates”.

### 3. The Status of “Hot Seat People”

Among the large amount of “hot seat people”, some people choose to work in large towns, becoming part of the child labor group. Because the legal employment age stipulated by national regulation is 16 years old, the “hot seat people” child laborers, like their counterparts of other ages, lack legal protection for their rights and interests, often facing wage deductions, arbitrary extension of working hours, and being assigned excessively heavy and hazardous work. Furthermore, due to the absence of legitimate labor status, child laborers often face discrimination or mistreatment without the support and protection of relatives. Moreover, Article 6 of the Prohibition of the Use of Child Labor Regulations stipulates that any employing unit who recruits child labor shall be penalized by the labor security administrative department with a fine of 5,000 yuan per month for each child laborer employed. In order to avoid inspections, these child laborers often have to move around the labor market as if they were guerrillas. The usual shyness of minors leads to the reluctance to return to factory work once abandoned, which leads to a large number of idle minors. Under the threat of meeting survival needs, some idle minors may go astray in minor theft [2].

Another people are socially idle, doing nothing and becoming a part of the special group, that is, idle minors. Idle minors are those who are “out of school, unemployed and socially uncontrolled”. The existing psychological theory holds that whether a normal actor evolves into a criminal often follows two evolution processes of three state levels. The three levels are the adaptation to the mainstream of society level, the emergence of non-indication level, and the anti-social personality level. Idle minors are in the transition state between the second and the third state level, they are highly susceptible to embarking on the path of illegal crime without correction [3]. Statistics from some local court and procuratorate also indicate that idle juvenile offenders are significantly more than non-idle juvenile offenders among the juvenile criminal groups (the results are shown in Table 2). Idle minors’ casual interactions with negative peers increases the likelihood of violent crimes committed by them [4].

**Table 2.** Cases of the proportion of juvenile delinquents who are out of school.

Reporting Time	Proportion	Source
1 April 2013	87 percent of the juvenile offenders are out of school and unemployed.	Xu Huasong, Research Report on Juvenile Delinquency, Website of the Court of Duji District of Huaibei City*
11 September 2015	Unemployed people who have dropped out of school or who do not continue their schooling after graduation (from junior high school) account for more than 95 percent of the total number of offences.	The press conference of the Court of Yingshan County **
17 January 2018	In the first quarter of 2014-2017, 77.8 percent of the cases of juvenile violent crime handled by the court were the unemployed.	Ding Lin and Zhu Yu, Research Report on Violent Crimes of Minors, the People’s Procuratorate of Sheyang County ***

Note: \*URL is <<http://www.hbdjfy.gov.cn/page.php?act=diaoyan&id=71&idd=1972>> (accessed on February 3, 2018); \*\*URL is <<http://news.cnhubei.com/xw/hb/hg/201509/t3383716.shtml>> (accessed on 3 February 2018); \*\*\*URL is <[http://ycxs.jsjc.gov.cn/zt/lasjgk/201801/t20180117\\_254124.shtml](http://ycxs.jsjc.gov.cn/zt/lasjgk/201801/t20180117_254124.shtml)> (accessed on 3 February 2018).

It should be noted that there is no evidence indicating that the proportion of juvenile delinquency in the age group, which is under the age of 16 to 16 years old after junior high school graduation, is lower than that of other age groups; nor has information been found that the proportion of juvenile delinquency in the age group, which is under the age of 16 to 16 years old after graduation from junior high school, is lower than that of the same age group who have not graduated from junior high school. Therefore, the criminal circumstances of the “hot seat people” are characterized by the local statistical data in Table 2.

#### 4. International Compulsory Education

China has ratified ILO Convention No. C138, which sets the minimum working age at 16 years and entered into force on 28 April 1999. Consequently, it is possible to compare the situation of countries participating in the convention internationally. According to the data table of the initiative age of compulsory education, duration of compulsory education in the United Nations database and the ratification of Convention No. C138 on the official website of the International Labor Organization, a total of 166 countries can be obtained complete data on the initiative age of compulsory education, duration of compulsory education and the minimum employment age (the details are shown in Table 3 and 4).

From Table 3, it can be observed that: (1) The majority, accounting for 87.35 percent of the total, enter school before the age of 6, indicating that delaying the initiative age of compulsory education to 7 is not appropriate in China. (2) Duration of compulsory education of more than/equal to 9 years is also in the majority, accounting for 77.71 percent of the total.

**Table 3.** International compulsory education.

Initiative Age of Compulsory Education	Number of Countries	Proportion (%)	Duration of Compulsory Education ( Years )	Number of Countries	Proportion (%)
7	21	12.65	≥10	84	50.60
6	93	56.02	9	45	27.11
≤5	52	31.33	≤8	37	22.29

Data source:

(1) Data table on the initiative age of compulsory education in United Nations databases <[http://data.un.org/Data.aspx?d=UNESCO&f=series%3aCEAGE\\_1](http://data.un.org/Data.aspx?d=UNESCO&f=series%3aCEAGE_1)> (accessed on 11 February 2018); Data table on the duration of compulsory education in United Nations databases <[http://data.un.org/Data.aspx?d=UNESCO&f=series%3aCEDUR\\_1](http://data.un.org/Data.aspx?d=UNESCO&f=series%3aCEDUR_1)> (accessed on 11 February 2018).

From Table 4, it can be observed that: (1) The minimum employment age is up to 16 years old, with a total of 41, accounting for nearly a quarter of the total; that is 14 or 15 years old in other 124 countries, except Myanmar, where it is 13 years old.

(2) There are 38 countries whose minimum employment age is greater than the terminate age of compulsory education, accounting for about one fifth of the total. Among them, the longest duration of compulsory education is 9 years, and the rest are less than/equal to 8 years; only 12 countries, including China, have a minimum employment age of 16 years old (7 percent of the total), while the remaining 26 countries have a minimum employment age of less than/equal to 15 years old.

(3) There are 128 countries whose minimum employment age is less than/ equal to the terminate age of compulsory education, of which 99 countries have a minimum employment age less than/equal to 15 years old, and only 29 countries have a minimum employment age of 16 years old.

(4) Among the 29 countries with a minimum employment age of 16 years old, only 4 countries have a duration of compulsory education of 9 years, including Kyrgyzstan, Lithuania, Moldova and Tajikistan, and the remaining 25 countries have a duration of compulsory education greater than/equal to 10 years.

Data source:

(1) Data table on the initiative age of compulsory education in United Nations databases <[http://data.un.org/Data.aspx?d=UNESCO&f=series%3aCEAGE\\_1](http://data.un.org/Data.aspx?d=UNESCO&f=series%3aCEAGE_1)> (accessed on 11 February 2018); Data table on the duration of compulsory education in United Nations databases <[http://data.un.org/Data.aspx?d=UNESCO&f=series%3aCEDUR\\_1](http://data.un.org/Data.aspx?d=UNESCO&f=series%3aCEDUR_1)> (accessed on 11 February 2018); Ratification of ILO Convention No. C138 on the official website of the International Labor Organization <[http://www.ilo.org/dyn/normlex/en/f?p=1000:11300:0::NO:11300:P11300\\_INSTRUMENT\\_ID:312283](http://www.ilo.org/dyn/normlex/en/f?p=1000:11300:0::NO:11300:P11300_INSTRUMENT_ID:312283)> (accessed on 11 February 2018).

**Table 4.** International minimum employment age and the duration of compulsory education.

	Total	Minimum Employment Age ( Years )	Number of Countries	Duration of Compulsory Education ( Years )	Number of Countries
		16	41	-	-
General	166	14–15	124	-	-
		13*	1	-	-
The minimum employment age is greater than the terminate age of compulsory education	38	16	12**	-	-
		≤15	26	-	-
The minimum employment age is less than or equal to the terminate age of compulsory education	128	16	29	9	4***
		≤15	99	≥10	25
				-	-

Note: “-” indicates that the data has not been accounted for in this paper; \*for Myanmar; \*\*including China, the other 11 countries are Albania, Azerbaijan, Belarus, Brunei, Guinea, Hungary, Portugal, Qatar, Suriname, Trinidad and Tobago, Tunisia; \*\*\*for Kyrgyzstan, Lithuania, Moldova and Tajikistan.

In addition, among the 128 countries whose minimum employment age is less than/equal to the terminate age of compulsory education, the minimum employment age and the terminate age of compulsory education in Vietnam, Thailand, South Korea and Japan are all 15 years old; In the Philippines, the initiative age of compulsory education is 5 years old, the duration of compulsory education is 13 years, and the terminate age of compulsory education is 18 years old, but the minimum employment age is 15 years old; In India, the minimum employment age and the terminate age of compulsory education are both 14 years old. It can be seen from this that implementing the protection of the rights and interests of minors requires specific institutional guarantees [5].

## 5. Conclusions

In most countries, the initiative age of compulsory education is no later than 6 years old, and the duration of compulsory education is no less than 9 years. Considering Article 3, Paragraph 2 of the ILO Convention No. C138, which stipulates, with the exception of Paragraph 4, that “in any case, shall not be less than 15 years”, as well as the fact in China, where the initiative age of compulsory education is 6 years old and the duration of compulsory education is 9 years, the advancement of the minimum (legal) employment age from 16 to 15 years old is still in compliance with the provisions of the ILO Convention No. C138 and carries the following four aspects of significance.

(1) Consistent with the statistical approach of working-age population in China. The calculation of the population dependency ratio in China Statistical Yearbook 2017 defines the working-age population as those aged between “15-64 years”, which is contrary to the legal employment age stipulated by the current Labor Law.

(2) Consistent with vast majority of countries worldwide. In countries with a similar situation in China, the minimum employment age is 16 years old, which is greater than the terminate age of compulsory education, accounting for only 7 percent of the total, which is a minority.

(3) Conducive to China’s economic competition with Vietnam, the Philippines and Thailand. The minimum employment age in these countries is 15 years old.

(4) In line with the national conditions of China, where the initiative age of compulsory education is set at 6

years old and a system of 9-year compulsory education is implemented. It is helpful to end the state of “idle minors” from the legal provisions for minors aged 15-16 who have graduated from junior high school but do not continue education at senior high school, work and live normally, which in turn contributes to a reduction in juvenile delinquency among this group.

### **Funding**

This research received no external funding.

### **Author Contributions**

Conceptualization, W. B.; methodology, W. B.; software, C. H.; validation, W. B.; formal analysis, W. B.; investigation, C.H.; resources, Q.W.; data curation, C.H.; writing—original draft preparation, C.H.; writing—review and editing, W. B.; visualization, C. H.; supervision, Q. W.; project administration, Q. W.; funding acquisition, W.B.; All authors have read and agreed to the published version of the manuscript.

### **Institutional Review Board Statement**

Not applicable.

### **Informed Consent Statement**

Not applicable.

### **Data Availability Statement**

Not applicable.

### **Conflicts of Interest**

The authors declare no conflict of interest.

### **References**

- 1 Jia X. The Corrective Mechanism and Path for Deviant Behavior Among Minors in China. *Beijing Social Science*, **2023(4)**: 108–117
- 2 Zhang Y., Jiang C. Discretion: Behavioral Strategies and Patterns of Minor Theft among Mobile Minors. *Sociological Review*, 2024, **12 (1)**: 5–24.
- 3 Wang Z. Analysis of the Crime Sensibility for Urban Minor Idlers. *Journal of Chinese Youth Social Science*, 2005(5): 1–8.
- 4 Sun W., Chen G., Wang Y. Left-Behind Experience, Deviant Peer Affiliation and the Minor’ Violent Crime. *Youth Studies*, 2023(3): 50–59,95.
- 5 Chen W. The Value Basis and Normative Application of the Prohibition of Employment for the Protection of Minors. *Academic Circle*, 2023(3): 80–94.

© The Author(s) 2024. Published by Global Science Publishing (GSP).



This is an Open Access article distributed under the terms of the Creative Commons Attribution License (<https://creativecommons.org/licenses/by/4.0>), which permits unrestricted use, distribution, and reproduction in any medium, provided the original work is properly cited.