

# Study on the Current Situation of Foreign Workers in Yunnan Province and Countermeasures

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**Abstract:** The development of economic globalization has promoted the international cross-border flow of capital, information, technology and other production factors. As the most active factor of production, labor force flows more frequently in the world. With the rapid development of China's economy, more and more foreign workers from countries and regions with abundant labor force are attracted to China for short-term employment. China has gradually changed from a traditional labor exporting country to a labor importing country. Yunnan Province is connected with three countries by land, providing a convenient channel for cross-border workers. This paper reviews the current situation of foreign workers in Yunnan Province, and puts forward some feasible suggestions on how to regulate these foreign workers, so as to protect the basic rights of foreign workers and regulate the labor market.

## 1. Introduction

Yunnan is located in the southwest border area of our country. It is adjacent to Vietnam, Myanmar and Laos. With the improvement of cross-border connectivity infrastructure, Yunnan has created good external environment for cross-border migrant workers. At present, migrant workers coming from surrounding countries are very common in Yunnan. Some foreign workers also use Yunnan as a transit station to enter the Pearl River Delta and other regions of China.

## 2. Current Situation of Foreign Workers in Yunnan Province

### 2.1 Current Situation on the Types of Foreign Workers

Foreign workers in Yunnan Province are mainly divided into two categories. One group includes foreign experts or senior managers; they need to apply for the “work permit for foreigners to China”. The other group is composed of low skilled migrant workers from countries with relatively abundant labor force, most of which cannot meet the conditions for foreigners to work in China. According to Article 43 of Exit and Entry Administration Law of the People’s Republic of China on the administration of exit and entry, it is illegal for foreigners to work in China without corresponding employment documents. There are doubts about the legality of the migrant status and residence of such foreigners, most of whom are classified as “three non personnel” (foreigners living, working and travelling in China illegally) and face the situation of being repatriated.

According to the survey, a large number of foreign workers in Yunnan Province are border people coming from neighboring countries. Yunnan Province has signed relevant regulations with Myanmar, Laos and Vietnam, allowing border people from both sides to simplify the entry and exit procedures. By handling the “border pass” or “border area pass”, they can enter and leave the border areas for many times in a certain period of time, which provides convenience for workers from adjacent countries to work in China. Most of these border people entering Yunnan Province have low education levels and are lack of working skills. They are unable to obtain the qualification documents such as “work permit for foreigners to China”. Once they are employed, they will be identified as illegal migrant workers and can only be repatriated, which has become a factor affecting the social stability of border areas. This kind of foreign migrant workers are engaged in labor-intensive work with low salary levels, high labor intensity and poor working environment in

border areas of Yunnan Province, which to some extent alleviates the problem of labor shortage in these areas. Among the 25 border counties and cities in Yunnan, there are 22 ethnic autonomous counties, which are typical border ethnic areas, with 16 cross-border ethnic groups living for generations. The languages of these ethnic groups are similar; the regions are connected; the customs are basically the same. Over the years, they have formed many kinds of connections, such as marriage, mutual market, work and so on.

## **2.2 Current Laws and Policies**

According to local conditions, Yunnan Province has formulated new flexible management regulations for foreign migrant workers who cannot meet the employment standards of China, allowing them to work in a certain area after handling relevant certificates. In January 2012, Dehong Autonomous Prefecture of Yunnan Province gave full play to its policy advantages and tried first. Ruili City firstly formulated and issued the Interim Measures of Ruili on Service Management of Overseas Entry Personnel (for Trial Implementation). In August 2014, Dehong Prefecture Government passed the Interim Measures for the Administration of Foreign Workers in Dehong Prefecture, which provided relevant legal basis for the standardization of migrant workers management in the whole prefecture. In October 2017, Dehong Prefecture Government published the Administrative Measures for Entry and Employment (Migrant Work) of Foreign Personnel in Dehong Prefecture. Compared with above two interim measures, the administrative objects of this document are no longer limited to overseas border people. All foreign personnel can enter Dehong Prefecture as long as they have legal and valid certificates and meet the conditions for employment (migrant work). In addition, Baoshan Municipal People's Government also promulgated the Interim Measures for the Administration of Overseas Border Migrant Workers of Baoshan City in June 2015; the government of Wenshan Zhuang and Miao Autonomous Prefecture issued Notice on the Implementation of Cross Border Migrant Management of Wenshan Prefecture (for Trial Implementation) in June 2015; the government of Hani-Yi Autonomous Prefecture of Honghe issued Administrative Measures for the Entry of Overseas Border Migrant Workers of Honghe Prefecture in July 2016. These policies played a positive role in regulating the entry of foreign workers in Yunnan Province.

## **3. Problems in Controlling the Illegal Entry of Migrant Workers**

### **3.1 The Service Management Needs to Be Strengthened**

In order to strengthen the management of migrant workers, Dehong Prefecture has established the first “service management center for expatriates”. According to the idea of “management after inclusion, specification after management, and improvement after specification”, the “service management center for expatriates” has been established in Ruili City, Longchuan County, Yingjiang County and Mangshi city respectively.<sup>[1]</sup> These centers, with the participation of the public security, the human resources and social security, the inspection and quarantine, the judiciary organ and other functional departments, provide “one-stop” services for overseas border people who are engaged in business, work, study and medical treatment in Dehong Prefecture in accordance with procedures of “physical examination, temporary employment permit, laws and regulations, health knowledge education and employment guidance, and temporary residence permit”. But at present, “Service Centers for Foreigners” have been built in counties and cities of Dehong Prefecture; other border states and cities in Yunnan Province have not yet built one-stop “foreign personnel service centers”. Foreign migrant workers need to go to multiple departments to handle employment documents, which is not conducive to the efficient and rapid handling of migrant procedures. For example, according to Regulations on the Management of Overseas Workers in Honghe Prefecture, foreign workers who work in Hekou County need to apply for a health certificate in the health department, register in the human resources and social security bureau and apply for a temporary work registration certificate, and apply for a temporary residence permit in the entry-exit management team by virtue of the health certificate and the work

registration certificate. This process requires a lot of time and energy, which makes it difficult for foreign workers and employers to go through relevant procedures, and to a certain extent promotes the emergence of non legal workers.

### **3.2 Contradiction between Current Regulations and Actual Operation**

Although many states and cities in Yunnan Province have issued relevant regulations on migrant workers, there are many problems in the actual time limit and the process of handling certificates. For example, according to the “implementation plan” of Wenshan state, migrant workers from Tinh Ha Giang of Vietnam who work flexibly in towns of the border county of Wenshan state need to apply for the “international travel health certificate” within 3 working days after entering the country, go to the local social security department to register for migrant workers within 2 working days after obtaining the certificate, and go to the public security organ for residence within 2 working days after obtaining the qualification of migrant workers registration. According to Article 15 of the Administrative Measures for Entry and Employment (Migrant) of Foreign Personnel in Dehong Prefecture, if the overseas border people enter the country to help with farm work, the employer shall, within 3 days, lead employees to apply for the International Travel Health Examination Certificate, the Registration Certificate for Entry and Employment (Migrant) of Overseas Border People, the Temporary Residence Permit for Border Residents Outside Yunnan Province and other certificates, and report to the local police station for registration.

From the content of above provisions, it can be seen that foreign migrant workers who help with farm work in rural areas need to handle all kinds of work certificates in accordance with the norms, which takes about a week. If they need to wait in line, the processing time will be longer. However, compared with migrant workers in cities and towns, most of the migrant workers in rural areas come from rural areas adjacent to the border of neighboring countries, and they only need to walk a short distance to reach the working site. Usually, their jobs are seasonal and in short time. The work generally only lasts for more than ten days, and their remuneration is low (according to the types of migrant workers, they can get remuneration of RMB 50-130 per day). To apply for above-mentioned certificates in the departments or management centers takes them several days and hundreds of yuan. Therefore, many foreign migrant workers feel uneasy about applying for certificates. They think that the time spent is too long and the cost is too high, so they use the way of illegal entry to help the farm work, and become illegal workers objectively.<sup>[2]</sup>

### **3.3 Insufficient Department Management Personnel; the Cooperation Need to Be Strengthened**

The number of service managers does not adapt to the task, which becomes the bottleneck of the illegal work. Taking Ruili foreign personnel service management center as an example, the center has four windows, namely, translation (in the charge of a translation company), service office of the human resources and social security bureau (with 3 staff and 1 assistant staff), the international travel health care sub center (with 5 staff and 5 auxiliary staff) and the public security service office for overseas personnel (with 1 police officer and 4 auxiliary police officers). From January 1 to December 31, 2018, there were 27969 overseas border people applying for the registration certificate of entry employment and migrant work, with an average of 116 persons per working day. Not only Ruili, the workloads of window service managers in all centers of Dehong are very heavy. Even if they work intermittently during the working hours, it is difficult to handle relevant formalities for foreign personnel waiting in line at the window. The staff can only use the method of number arrangement. For the foreigners who come, they will first issue the processing serial number (indicating the processing date and the time), and give priority to foreigners who hold the processing serial number on the same day. The shortage of personnel makes some foreign migrant workers unable to apply for employment documents in time after entering the country. They may stay beyond the time limit, thus turning into “three non” personnel. In addition, in the states and cities where there is no service management center for foreign personnel, there is also a shortage of staff in these service management departments. Because there is no “one-stop” service management center, relevant information among the public security, the inspection and quarantine, as well as the

human resources and social security departments cannot be fed back and summarized in time; the information is input repeatedly, which seriously affects the working efficiency.

### **3.4 Other Problems in the Management of Foreign Migrant Workers**

Yunnan Province has improved the employment environment for low skilled foreign workers to a certain extent. But a large number of foreign workers have entered Yunnan to work, resulting in the increase of the number of “three non” personnel, which brings safety risks that cannot be ignored. First of all, foreign workers in Yunnan Province have great mobility; their information is difficult to grasp in real time. After applying for relevant working permit, we cannot track whether the temporary residence of these foreign workers changes and whether the valid time of the permit expires, which leads to the occurrence of illegal residence.<sup>[3]</sup> Once the illegal residence occurs, foreign workers with “legal” work permit will also become illegal workers. Secondly, some foreign migrant workers bring their families to work together. Their families do not go through relevant residence procedures, and they also become illegal residents. Finally, after some migrant workers enter the country, they are forced to commit robbery, theft, drug trafficking, prostitution and other illegal and criminal acts because they cannot find suitable jobs with fixed incomes, and they do not have fixed living places, which produces a very bad impact on the local social security environment.

## **4. Suggestions for Improvement**

The new management mode created by Yunnan Province for low skilled foreign migrant workers is a new method of “replacing blocking with dredging” for the management of “three non personnel”. We can continue to improve the management system from following aspects.

First, the “one-stop” foreign personnel service management center should be set up as soon as possible in border prefectures and cities of Yunnan Province where the local governments have issued regulations and policies. The states and cities that have already built the center can consider setting up a pre certificate handling point in villages and towns with large flow of migrant workers, so as to facilitate foreign workers to handle relevant certificates and reduce the number of illegal migrant workers due to the difficulty in handling certificates.<sup>[4]</sup>

Second, relevant management measures should be amended to expand their scope. For foreign migrant workers who bring their family members, their families should also be required to go through relevant residence procedures at the same time, so as to prevent them from becoming illegal residents after entering the country.

Third, according to the needs of actual work, we should appropriately add personnel to departments of human resources and social security, public security, inspection and quarantine and other service management sections, simplify the working process and improve the working efficiency. By using modern information technology, we can strengthen the communication between different departments, share the basic information of foreign personnel, avoid repeated input, strengthen the linkage and cooperation between departments, and maximize the efficiency of the comprehensive service management of foreign migrant workers.

Fourth, in accordance with the principle of “who employs, who manages and who takes charge”, the employer is required to pay real-time attention to the validity period of the migrant and residence certificates of foreign employees, and implement the comprehensive management of foreign employees in accordance with the law and regulations. At the same time, we should strengthen border control measures, effectively investigate, dispatch, crack down on and control the “three non” personnel, strictly limit the entry and employment of foreign personnel to relevant areas, and avoid the illegal employment of foreign personnel in other areas of China.<sup>[5]</sup>

## **5. Conclusion**

In the new era, Yunnan's reform and opening up has reached a new stage and started a new journey. On August 30, 2019, the opening ceremonies of China (Yunnan) Pilot Free Trade Zone were held simultaneously in Kunming, Honghe and Dehong. The construction of the free trade pilot

area is a strategic move of the Party Central Committee with Comrade Jinping Xi as the core in advancing the reform and opening up in the new era. The establishment of the China (Yunnan) Pilot Free Trade Zone is not only a major mission entrusted by the state to Yunnan, but also a strategic opportunity for Yunnan to deepen reform and opening up. It brings new opportunities to Yunnan. According to the general plan of China (Yunnan) Pilot Free Trade Zone issued by the State Council, Honghe district will focus on the development of processing and trade, cross-border tourism, cross-border e-commerce and other industries, and strive to build an ASEAN oriented processing and manufacturing base, a trade and logistics center and an innovation and cooperation demonstration zone in the economic corridor connecting China and Vietnam. Dehong district will focus on the development of cross-border e-commerce, cross-border production capacity cooperation and cross-border finance, try to create open pilot zones along the border as well as a gateway hub for the economic corridor connecting China and Myanmar. Honghe and Dehong areas are located in the border areas of Yunnan, Vietnam and Myanmar. Unprecedented development opportunities will bring a large number of jobs, which will attract more and more foreign workers from neighboring countries to work in Yunnan Province. The continuous inflow of foreign workers will become a trend. How to establish a long-term mechanism for the management of foreign workers and actively promote the convenience of personnel exchanges in border areas are issues worth exploring and studying.

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### **References**

- [1] Zhang, A.H. Service Management of Foreign Floating Population in Yunnan Section of China Myanmar Border: A Case Study of Dehong Border Area. *Journal of Yunnan Police College*, vol. 94, no.5, pp. 114-121, 2012.
- [2] He, Y. Analysis of the Situation of Foreign Floating Population in Yunnan and Social Problems in Border Areas. *Journal of Yunnan Normal University*, vol. 41, no. 1, pp.18-25, 2009.
- [3] Li, Q. Study on the Global Legal System of Temporary Labor Migration, Hunan Normal University, 2011.
- [4] Li, C.L. Research on Trade and Human Rights in International Law, Wuhan: Wuhan University Press, 2007, pp.211-235.
- [5] Liu, G.F. Selected International Documents and Cases of Immigration Law, Beijing: China Economic Publishing House, 2009, pp.57-63.