

A Study on the Problem of Cross-border Employment between China and Myanmar and its Countermeasure

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Abstract—In recent years, with the further opening up of border areas in China and its rapid development, such as the further advancement of the construction of the Golden Port in Dehong Prefecture of Yunnan Province, a large number of foreign personnel, especially Burmese migrant workers, have been attracted there to engage in work, business and education, etc. As a non-negligible mobile group, they have had a profound impact on the economic and social development of China's inflow areas, and meanwhile give rise to social, cultural, and security issues. Therefore, it is an important issue of great practical significance to study on the management of the Burmese migrant workers at the China-Myanmar border.

The thesis aims to analyze the existing problems of management of Burmese migrant workers in Yunnan province, in order to propose some corresponding countermeasures to better promote the economic development and social stability of China-Burma border areas.

Keywords—cross-border employment; burmese migrant workers; countermeasures

I. INTRODUCTION

China's Yunnan is bordered by Laos, Vietnam and Myanmar. It is relatively convenient for people to go out by land, sea and air. Economic development and industrial structure have certain advantages over other three bordering countries. With the implementation of the current "Belt and Road" initiative and a new round of China's western development, Yunnan has the internal strengths and external opportunities to develop frontier trade. However, the frontier trade in Yunnan still faces many problems such as unbalanced trade pattern, low added value of export goods, heavy dependence on import of resource products, single frontier trade model, and lack of complementation between regions. The following will be focused on the analysis of the problems existing in the cross-border employment in frontier trade between China and Myanmar and their countermeasures.

II. LIVING STATUS OF THE BURMESE MIGRANT WORKERS IN YUNNAN PROVINCE

With the opening up of ports and the expansion of frontier trade, border workers in Yunnan Province has increased dramatically, especially the Dehong Dai and Jingpo Autonomous Prefecture, which is located in the southwest of Yunnan Province in China, bordering Myanmar with a line of 503.8 kilometers. It is a region where China-Myanmar economic and cultural exchanges are frequent with the largest number of Burmese migrant workers.

The current living status of Burmese workers in Yunnan Province is as follows: Firstly, the number of Burmese workers is increasing. as Ruili City has been listed as a national key development and opening pilot area and port clearance has become handier, a large number of foreign workers from Myanmar's mountainous regions, northern areas, and other underdeveloped regions have flooded into Ruili [1]. As of October 23, 2017, there were 43,700 Burmese border residents who had legally stayed in Dehong State within the period of validity of the Temporary Residence Permit. Secondly, People there generally received little education and low labor skill. Most of the Burmese migrant workers are young adults, largely graduating from primary school and even being illiterate, and are mainly engaged in logistics, wood processing, construction and other labor intensity industry which only have low requirement for educational attainment. Third, transnational mobility is more frequent. Burmese workers are mainly engaged in seasonal and temporary work. They are casual, easily satisfied and frequently mobile. Besides, due to the lack of low discipline and restraint consciousness, they are easy to knock off, which contributes to frequent mobility. Fourth, the "three non-staff"(illegally immigrated, illegally reside, illegal employed) have repeatedly emerged with continuing prohibition. Due to the devoid natural barriers and numerous sidewalks in the Dehong section of China-Burma border, it is convenient for Burmese personnel to enter into China. In addition with the lack of effective management and penalties, the number illegal Burmese workers continues to increase [2].

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III. THE IMPACT OF BURMESE MIGRANT WORKERS ON THE ECONOMIC AND SOCIAL DEVELOPMENT OF THE CHINESE FRONTIER CITIES

The entry of these workers has helped boost regional economic development, meanwhile bringing with it many social management problems.

A. *The Impact on Economic Development.*

- Effectively supplementing the shortage of local labor. Due to the lacking employment opportunity and low wage in Yunnan, people living in the border areas have chosen to work in other areas inner Yunnan and other economically developed provinces, which in turn exacerbates employment shortages and unused land. However [2], the severely unbalanced social-economic development and salary treatment in the border areas between China and Burma caused a large number of Burmese workers to infiltrate into Dehong Prefecture and engage in low-end physical occupations such as furniture production, construction, logistics, and sanitation, effectively making up for the shortage of labor force in the border area.
- Stimulating the consumption and further development of the border region economy. The influx of Burmese laborers who have lived a long time in border areas make it possible to do business in clothes, food, accommodation, transportation, etc., which has promoted the gathering of merchants and the prosperity of the market there. In the field research of Dehong Ruili, we can see the widespread Burmese slippers shop in the local Huafeng business town, as well as the billboards with the Chinese-Burmese bilingual words.
- Improving the local division of labor in the border areas. Businessmen from Yunnan, Fujian, Guangdong and other places have developed rosewood furniture producing, jewelry processing factories and other related industries in some border areas with developed processing technology in China and Myanmar rich recourses from Myanmar, such as precious wood and jewelry minerals. Those Burmese laborers who can bear hardships but require less wages than their local counterparts in Yunnan have become a new labor force favored by these companies and become a part of labor market in China and even the world at large [2]. In addition, people-to-people exchanges on both sides of border have formed a free market and a simple division of labor. For example, Burmese workers are usually invited to help in the busy farming season, and a large number of Myanmar traders and consumers are frequently involved in the regularly held morning market in Jiegao county.

B. *The Impact on Social Management*

- Increasing the cost and pressure of social management. According to the data from relevant departments, the

vast majority of Burmese businessman are proficient in the Burmese, while those who engaged in low-end manual labor are mainly dependent on their native language (local dialects), and almost unable to communicate with people from outside world [5]. In general, very few workers can speak Chinese. Therefore, many professional translators are required additionally in some government departments in order to provide the translation of documents and information exchange.

In addition, data shows that Burmese criminals accounted for about 6% of the total in the criminal cases of a border city from 2011 to 2012, while about 24.2% of the total among 20,000 AIDS cases between 1989 and 2013 [2]. What's more, due to the historical differences in culture and customs, conflicts happen occasionally between Burmese and Chinese people, which has brought additional work costs and pressures to related administration in border cities and counties such as police stations, civil affairs, and etc.

- Exacerbating the hidden dangers of social security in the border areas. Some of Burmese migrant workers are stateless "refugee" and "three non-staff" with no fixed place of residence, fixed income, legitimate and valid documents. Most of them live in dire straits and get involved in many types of criminal cases, drug dealing and the spread of AIDS, which brought serious hidden dangers to local public security.
- Bring great difficulty to management. Numerous folk channels on the border between China and Myanmar facilitate the illegal entry and exit of stowaways. Those illegal Burmese workers are mostly engaged in manual labor or even being unemployed. They didn't register in the local administrative departments, thus bringing great difficulty to the standardized management of local government.

IV. STATUS-QUO AND EXISTING PROBLEMS OF THE SERVICE AND MANAGEMENT OF MIGRANT WORKERS IN YUNNAN PROVINCE

A. *The Status Quo of Management*

In order to manage the entry of foreign workers more effectively, the government of Dehong State has revised and implemented the "Administrative Measures on Entry and Employment of Foreign Nationals in Dehong Prefecture" (Defu Regulations [2017] No. 2) in October 2017. Here is as follows.

- Overall situation. Since June 18th, 2013, Dehong state has established the "Foreign Personnel Service Management Center" in Ruili City, Quzhou County, Yingjiang County, and Mangshi City according to the concept of "incorporation first, management next, and improvement last". Ministry of Public Security, Human Resource and Social Security, The General Administration of Quality Supervision, Inspection, and Quarantine, Health care and translation agencies stationed in center and provide "one-stop" services for

foreign workers in Dehong based on the procedures of “reviewing documents—translating documents and taking photos—health examinations—employment registration certificates handling—temporary residence permits applying”. Statistics shows that since 2017, the “Foreign Personnel Service Management Center” has handled a total of 88,427 relevant documents for foreign workers and 783 recruitment registration documents for enterprises within the whole state [7].

In addition, some relevant departments make full use of news media to publicize the law so as to improve their legal awareness, and use labor supervision groups and job-creating campaigns to explain related policies to migrant workers in their meeting place. Moreover, governments at all levels actively explore the establishment of a long-term mechanism for the China-Burma policing talks, so as to strengthen exchange and cooperation of border intelligence information, intensify the transfer of repatriation of “three non-staff” repatriation, and also to crack down on illegal criminal activities at the border.

- Establishing and improving foreign worker management system. In 2017, the newly implemented “Administrative Measures on Entry and Employment of Foreigners in the Dehong Prefecture (Working)” has broadened the scope of its applicable workforce and territories, and set the threshold criterion of foreign workers based on various backgrounds. It further refines responsibility of recruiting entity and applies the management standard of foreign workers to the employers for protecting the rights of both parties.
- Exploring and innovating new-type management models. Dehong State government launched the “one hall, two stations and three centers” management model on the basis of the provisional measures mentioned above in August 2014. The “one hall” is to establish a “family hotel”, allowing foreigners to live there, and applying the real-name registration system with full implementation the “housing managers” concept. The “two stations” are to establish the “service and management station for foreign migrants” in order to involve all personnel into in the actual population management, and the “management transfer station for foreign three-non personnel” carrying out temporary identity examinations, life and medical assistance for the repatriated “three non-members”, as well as the centralized reception and repatriation of some suspicious individuals. The “three centers” are co-established by the civil affairs and public security departments, including the “Cross-Border Marriage Registration and Registration Management Center”, the “Distribution Center for Foreign-related Controversy Disputes,” and the “Migrant Mobile Employment Service Center”, which aim to provide better services for foreigners living in Ruili city [8].

B. Existing Problems

- Imperfect foreign labor input system and mechanism. For now, China has not signed labor service cooperation agreement or memorandum with Myanmar. There are mainly two way to recruit Burmese laborers: First, to recruit by themselves, that is, employers go to the local labor market to select unemployed Myanmar workers; second, to recruit through the intermediary. However, the insufficient professional quality of the intermediary industry and imperfect labor market at the current stage, along with “snakeheads” who have been colluding with each other to tempt Burmese laborers to illegally work in the Chinese mainland, result in the disorderly labor import system of Burmese personnel. It also plays adverse effort on the social management and public order in the areas within China.
- Non-standard employment and a low level of capability in shielding against labor risks. In general, there is no formal agreement between the Burmese laborers, agents and employers, but mainly with oral agreements, thus resulting in many problems, such as non-standard work done by Burmese migrant workers, early departure, arrears and reduction of wages, etc. These problems are difficult to be solved by legal means and will further lead to some unexpected criminal acts such as social violence, theft and robbery, and etc. At the same time, due to the fact that the Burmese laborers are mainly engaged in dirty, heavy, dangerous work and unable to purchase industrial injury and medical insurance, their employment risks are relatively high.
- The increasingly conspicuous recurrence of “illegal workers”. Statistics shows that as of September 30, 2017, a total of 12522 foreigners were repatriated in Dehong, of whom 1548 were illegal workers, accounting for 12.4% of the total. However, due to the lack of effective management and facilitation of the Sino-Burmese border, together with the appealing Chinese economy, the repatriated Burmese people formed a “vicious circle” of “repatriation-return-repatriation”.
- Increased difficulty in prevention and control of infectious diseases. Frequent drug dealings and movement of Burmese personnel have intensified the spread of AIDS in border areas. In addition, diseases such as malaria and dengue fever have been widespread in Burma. The rate of malaria parasites in Burma is as high as 18%, while up to 30% of people in some villages is diagnosed with malaria in Kachin, Burma, and the morbidity is maintained at high incidence of over 17%. In this case, with the increasing bilateral trade and frequent personnel flow, the prevention and control of infectious diseases will be more difficult.

V. SUGGESTIONS FOR THE MANAGEMENT OF BURMESE MIGRANT WORKERS.

A. *Strengthening Bilateral Cooperation.*

The management of foreign workers involves the sovereignty and human rights of both countries. Therefore, it is necessary to establish an inter-governmental cooperation mechanism, of which the judicial mechanism is a fundamental one. First of all, from the perspective of legislation, most current disputes are settled by Chinese authorities unilaterally in accordance with Chinese law, which is not law-binding. Therefore, it's of great importance for China and Myanmar government to formulate complementary laws and regulations on the management of cross-border migrant workers .

Secondly, from the perspective of law enforcement, it is vital for each country to improve the level of service management and further strengthen their existing corporation mechanism, such as China-Burma police cooperation mechanism and the border intelligence information exchange mechanism, etc. Besides, effective methods of some typical cases should be summarized and further be legalized to be finally applied to other cases and fields.

B. *Regulating Employment Practices of Enterprises.*

Putting the source of employment first, the operation of the foreign labor intermediary industry should be regulated in the following aspects: Firstly, all those who engaged in intermediary business should be registered with relevant administration and obtain their business licenses. Meanwhile, the intermediary business that inveigles Myanmar workers into other regions of China illegally should be defined as criminal behavior. Secondly, there should be unified and reasonable intermediary charging standards and reasonable tripartite agreement among Myanmar workers, intermediaries, and employers. Thirdly, the government should encourage the establishment of non-profit employment service agencies and a supervision mechanism conducted by the joint supervision among the public.

From the perspective of recruitment process, the government should intensify the supervision and responsibility awareness of employers, and set strict requirement for contract deals signed between employers and foreign workers with a combination of encouragement and punishment. Moreover, never can government engage in localism to shield local illegal employment enterprises.

C. *Protecting the Legitimate Rights and Interests of Burmese Workers.*

It is important for the government to establish a more targeted insurance system for Burmese personnel, a specific working group in China, with reference to the local insurance system. For example, Burmese with completed formalities should be allowed to participate in health or labor insurance, and enjoy the corresponding compensation resulted from unexpected injury, illness, disability, and death within the period of insurance validity. It can encourage them to handle legal procedures and documents simultaneously and finally help solve the problem of illegal foreign workers management.

D. *Promoting Mediation Mechanisms with Distinctive Features.*

It is known that the “Joint Center for Foreign-related Contradictions and Disputes” has been established in some border areas (for example, Yinjing Township, Ruili City). These local regulatory agencies work mainly under the laws of both countries and regulations of villages. According to the workflow of application, verification, investigation, and mediation, agencies also adopt on-site mediation as well as court mediation during which senior citizens in local villages from both China and Myanmar were invited to serve as third-party notaries. This mechanism has played an important role in actual settlement of some border disputes, which can be generalized to other border areas with appropriate adjustment according to regional features, thus reducing the number of vicious events caused by improper handling of disputes.

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