

Report on Chinese Migrant Workers Rights Protection

1. According to the report of China National Bureau of Statistics the number of migrant workers in China has reached to 280 million¹, which is 1/5 of China's total population and 1/3 of total number of employees. They are the largest vulnerable group in China. Migrant workers have worked in cities and towns in search of higher income employment. However, due to the lack of capacity to claim their own rights, shortage of legal aid resources, the violation of migrant workers' rights is pervasive. In order to protect migrant workers' rights better, Chinese government has released a series of relevant regulations and policies and increased efforts to investigate and deal with illegal activities. The civil society organizations in China are taking various methods to help migrant workers safeguard their rights as well. Challenges still exist although migrant workers' rights protection has made significant improvements. The center will express its opinions, including improvements, challenges and suggestions, on Chinese migrant workers' rights protection in the last four years.

¹ See National Monitoring Report on Migrant Workers in 2016, issued by China National Bureau of Statistics on April 28, 2017, http://www.stats.gov.cn/tjsj/zxfb/201704/t20170428_1489334.html

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2. The Chinese government has been working hard to implement the “Labor Contract Law” and “Social Insurance Law” and other relevant laws and regulations in the past four years, to strengthen migrant workers’ rights protection. For example, aiming at the problems of migrant workers’ serious overtime work and low ratio of insurance coverage for construction workers, the government has devoted greater efforts to labor inspection and social insurance fund levy. According to the national report the average daily working hours of migrant workers has been reduced by 4%², and 36 million construction workers have been safeguarded by lump-sum workplace injury insurance premium at a certain percentage from construction budget³.

3. Chinese government has taken numerous regulatory measures to combat wage arrears of migrant workers in recent years. General Office of the State Council issued the No.1 policy was “Opinions on Comprehensive Control of Wage Arrears of Migrant Workers” in January, 2016. This policy demanded the implementation of wages being paid through bank but not by cash. The construction companies were

² See the parts of “migrant workers’ rights protection” in National Monitoring Report on Migrant Workers in 2016 and 2013, the websites are:

http://www.stats.gov.cn/tjsj/zxfb/201704/t20170428_1489334.html

http://www.stats.gov.cn/tjsj/zxfb/201405/t20140512_551585.html

³ see “36 million construction workers will be covered by workplace injury insurance”, issued by Xinhuanet, on January 5, 2015, http://news.xinhuanet.com/fortune/2015-01/05/c_1113884979.htm

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requested to apply for real-name wage payment card for migrant workers. Once the wage is confirmed by migrant workers it will be deposited to the wage payment card. In 2017, Ministry of Human Resources and Social Security issued a policy on Interim Measures for the Management of Wage Arrears Blacklist, in which the companies who don't pay migrant workers or deduct the wages will be put in blacklist and restricted on government funding, government procurement, production permit, financial loans, market access, tax benefit and etc.

4. In addition to national policies, provinces, autonomous regions and municipalities also issued regulations and policies on migrant workers' rights protection. For example, Zhejiang province implemented a regulation on mediation and arbitration of labor and personnel disputes in 2016, in which it said that the arbitration award on social insurance premiums paid, workplace injury insurance benefits paid and some other disputes would be a final decision for employers. According to the regulation, the arbitration award on disputes of workplace injury compensation is final no matter how much the amount is. However, if workers aren't satisfied with the award they have a right to file to the court. Such provisions not only greatly shorten the time for getting workplace injury compensation but also protect workers' right of action.

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5. In terms of legal aid, there are also new regulations that are favorable to migrant workers. For instance, Beijing had issued a notice on expanding the scope of legal aid in 2016. According to this notice, if migrant workers' rights were violated due to sign, performance, change or termination of labor contract, the workers are allowed to apply for legal aid. However, this was not allowed by the Regulations on Legal Aid and Beijing Municipal Legal Aid Regulation.

6. NGOs that provide legal services to migrant workers have played an important part in protecting migrant workers' rights. The center provides a full range services to migrant workers through legal consultation, case representation, legal training and policy advocacy based on empirical research. Besides direct provision of legal services to migrant workers the center has established a national network of 35 NGOs in more than 20 provinces, autonomous regions and municipalities as well. Up to November 2017, all these NGOs have provided legal aid services to over 550,000 migrant workers and got back about 600 millions of unpaid wages and compensations.

7. Migrant workers' rights protection has been improved greatly both from regulations and judicial practice, however, there still exist many

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challenges as China is the largest developing country. For example, although the rates of signing labor contract and social insurance coverage have risen, the overall level is still not high. Migrant workers' rights awareness and capacity of rights protection are still weak. NGOs for migrant workers are not enough to satisfy the needs of safeguarding migrant workers' rights, and more lawyers are also needed to provide legal aid services to migrant workers. These all need to further improve the policies and regulations and promote the development of NGOs in China.