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## **Analysis on Protective System of Migrant Worker's Right and Rational Thought on Employee-employer Relations in the New Era**

**[CN] Rongrong Chen & Jun Gu**

**Abstract:** Deficiency of migrant worker's right is one of the principal contradictions against present contradiction of harmonious society. It has become a rigorous challenge to prove the capability of the CPC in holding the reigns of government. The unequal national treatment brought about by the faultiness in binary domiciliary register system, discriminatory employment system and public interest claiming mechanism etc is the root of the deficiency of migrant worker's right in system. Meanwhile, it has also made the employee-employer relations in our country presenting a lot of new features. The disharmony of employee-employer relations seems complicated. It makes a variety of contradictions intercrossed together. If the contradictions are mishandled, they could usually be evolved into social problems. Therefore, it's of all-important significance to summarize the causes that could bring about industrial dispute in the new era while searching after a new way to harmonize employee-employer relations for sticking up for social stability and pushing ahead with overall development of economy, society and people.

## **I. Development and Status Quo of the Migrant Workers in Beijing**

In company with the development in reform and open of our country and the flexibility of national urban and rural harnessing system, farmers started to migrate to cities for doing manual work or carrying on business, and such a course got up to a high tide in the year 1989, so that a "Tide of migrant workers" was shaped up in the period of the Spring Festival at the beginning of the next year. Since 1990's of the 20th century, The "Tide of migrant workers" is much higher one wave after another. It indicates in the result of the 5th National Census that the population of migrant workers reached 88.00 million by then, and until the year 2005, the figure came up to 1-2 hundred million; if the work force employed in local township and village enterprises is added, the total population of the migrant workers are estimated to be over 2 hundred million. In terms of the conditions in Beijing, there are 2~3 millions of migrant workers working in Beijing Municipality, which occupy over 70% of the total migrants from outside Beijing. These migrant workers came mainly from the five big agricultural provinces, including Hebei, Henan, Anhui, Shandong, Sichuan etc. The present annual financial revenue of Beijing is over RMB 700 hundred million Yuan, among which at least 1/5 are created by the migrant workers. Along with the economic and social development of Beijing Municipality, the total amount of migrant workers also keeps increasing year after year.

The migrant workers doing laboring job in Beijing have offered relatively low-cost resource of labor force. They've created enormous economic benefits at their respective working fields and made specific contributions for the development of Beijing Municipality.

## **II. The Deficiency Conditions of Migrant Worker's Right**

Although migrant workers have made enormous contributions to the prosperity and development of Beijing, and "they have become the momentous constituent of the industrial workers in our country", however, the lawful rights of the migrant workers have not been secured for quite some time. It not only brings about plenty of problems, such as the migrant workers are underprivileged, hard to get employment in cities, their working conditions are very bad, and their adverse psychology and antagonistic emotions are aggravated etc, but has also impeded normal transfer of surplus labor forces from countryside, delayed urbanization course, even it's easy to cause contradictions between city and countryside and imperil construction of harmonious society. For these reasons, we ought to study these issues earnestly.

### **III. Case Study on Industrial Dispute Caused by Violation of the Right of the Migrant Workers Working in Beijing**

Industrial dispute means the extrinsic manifestation of contradiction and conflict thereof engendered when the main part of both the labor and capital, as well as their representatives are involved in economic interest related with labor and other lawful rights. Owing to the fact that the buyer's market of labor force is so enormous, therefore, it has destined the status of the weak in the employee-employer relations. To protect the rights of such enormous disadvantaged groups are not only related with their own interests, but also with long-term stabilization of the society and sustainable development of China's economy in good health.

In analysis of economic structure: The social structure of the urban and rural dual economy is the institutional cause for violation of migrant worker's right to bring about industrial dispute. In analysis of social background: labor redundancy and disunity of labor market are the immediate causes for the injury of migrant worker's right to trigger off industrial dispute. In analysis of lawmaking conditions: The correlative laws, regulation and supporting measures in our country are unsound; it's the substantial clause for the injury to migrant worker's right to bring about industrial dispute. In analysis of administrative execution of law and judicature etc: The weakness in labor supervision and insufficiency of judicatory protection are the key cause for initiating industrial dispute. Insomuch as the new system for city supervisory service has not yet completely set up, it's the social cause for the hurt of migrant worker's right to bring about industrial dispute. Deficiency of organizational safeguard is the key cause for violation of migrant worker's right to trigger off industrial dispute. In analysis of the conditions of laborers: The lower self-quality of the laborers is the immanent cause for violation of the migrant worker's right to initiate industrial dispute.

Both of the gradual establishment of the institutional framework of socialist market economy and the fast development of economic globalization require us to face up to the issues existing in the employee-employer relations of the enterprises as well as new features. A series of manner systems for properly handling the employee-employer relations under the new situation must be taken shape to hasten healthy and stable development of our economic society.

Although the migrant workers working in cities are unlikely to become a self-conscious organized social cohort that could induce turmoil or upheaval, but the impact on normal peace due to large quantity of aberrances and criminalities occurred with them should also never be underrated. It's indicated in relevant information that in the criminal cases in Beijing region, the flagrant crime cases of exotic population constitute around 40%. Therefore, the issue to secure migrant worker's right has become a rigorous and actual

challenge to prove the capability of CPC in holding the reigns of government. The issue of migrant workers must be thrashed out earnestly in the course to structure harmonious society. This is favorable to protection of civil lawful rights, urban and rural harmonious development, accelerate the construction of industrialization and urbanization, settlement of the issues concerning agriculture, countryside and farmers ("3-farming issues"), as well as harmony and stabilization of the society.

#### **IV. Proposals for the Policy to Protect Migrant Worker's Right and Harmonize Employee-Employer Relations**

**1. Further improve legislation to get really done with that there are laws to abide by.**

The existing "Labor Law" shall be revised, so as to enhance its operability. Establish unified system of laws and regulations while strengthen the construction of legal systems in the aspect of labor relations.

**2. Adopt puissant measures to execute laws strictly; abide by all existing laws and regulations; strengthen supervision and stifle crime in the cradle.**

It's the important means for prevent labor dispute from being brought into existence to strengthen labor supervision and punish act of labor tort severely. Reform the institutional framework for treatment of labor dispute and set up labor judicial tribunal while improve the quality of arbitration and judgment; push ahead actively with "Legal Aid System" in the juridical practice to support the disadvantaged groups sticking up for lawful rights and interests.

**3. Strengthen skill training for migrant workers and propaganda of law popularization.**

Strengthen skill training for migrant workers and vocational education; strengthen the work to propagandize and educate the migrant workers popularization of law.

**4. Attach importance to the work of Labor Union and the organizations of CPC and Communist Youth League and highlight construction work of the organizations of CPC and Communist Youth League.**

Consummate Labor Union organization and bring the action of the Labor Union as bridge and link into full play. Further implement collective negotiation system and collective contract system. Lead business owners to establish democratic management system for enterprises. Encourage migrant workers to participate in enterprise management.

**5. Bring the leading role of government into play in remission of the contradictions between labor and capital; strengthen market supervision and control, and stick up for social stability.**

Establish conflict pre-warning mechanism for employee-employer relations; shift

labor-coordinating organ downward. Government ought to build satisfactory social environment.

#### **6. Reform domiciliary register system.**

The ultimate objective for reform of domiciliary register system is to allow inhabitants changing residence at liberty, so as to accomplish equality for civil right given by the constitution. Sequentially the impediments to migrant workers in the aspects of living, employment and schooling problems of their sons and daughters etc relating the problem of domiciliary register could be excluded effectively. In case the domiciliary register system is reformed, the miscellaneous associated institutions appended to the domiciliary register system should be stripped off.

Knock out the binary management system between farming and non-farming registered permanent residence, and abate the factor of "Pre-assignment" of a domiciliary register.

#### **7. Create the employment system of competition on an equal footing**

Consummate employment admission system and vocational qualification certificate system, as well as equal schooling system continually.

#### **8. Perfect social security system**

The development of market economy needs social security to be its auxiliary, and social security is the last resort of social disadvantaged groups, as well as the "safety valve" of the society. It's indispensable for market economy. Although the government of our country attaches importance to its effect increasingly and has accomplished substantial progress and improvement, but taking it all in all at present, the construction of social security system orienting migrant workers seems still unwonted pale. Even though some regional governments issued numbers of policies and measures relating with migrant workers, nevertheless the actual result is not so ideal. For instance, Beijing government has enacted a series of policy documents in progression since 2001, such as "The endowment insurance tentative methods for the migrant workers in Beijing Municipality", "The employment injury insurance tentative methods participated by the non-local migrant worker in Beijing Municipality" and "The hospitalization insurance tentative methods participated by the non-local migrant worker in Beijing Municipality" etc. However, the actual result is not so in evidence.

For instance, it's specified in the "The endowment insurance tentative methods for the migrant workers in Beijing Municipality" that the employer ought to handle the formalities for migrant workers to participate in endowment insurance and undertake responsibility to pay 19% of the monthly minimum wage of the last year while the migrant worker shares 7%-8% of the monthly minimum wage of the last year. Although this policy has dispelled the discrimination in the former endowment insurance system against most of migrant workers and contributed to shaping actually unified labor market, but due to frequent liquidity of the majority of migrant workers, it has made the social insurance department

increased the difficulties in management and cost in operation. In addition, much higher expense makes the employers to treat the policy passively, even maybe dismiss large quantity of migrant workers. Under such circumstances, some migrant workers would rather earn much more money than pay endowment insurance premium or take unemployment as the first into account. In view of what aforesaid, the present writer believe that only if assorted and graded security method is adopted for migrant workers or even rural populations, could their fear of disturbance in the rear be effectively relieved.

The employment injury insurance system for migrant workers should be taken root, and the hospitalization security mechanism for serious diseases or sicknesses ought to be established.

Anyhow, the design of social security system shall be based on the entire people of our country to achieve maximization of benefit and embody a sort of justice and equal spirit, so as to make migrant worker's right being secured effectively and get the migrant workers rid of the "disadvantaged status" as early as possible.

To outward seeming, the issue of migrant workers is to protect the lawful rights of migrant workers, slake unreasonable restriction against migrant workers of their employments, and render migrant workers their due national treatment etc. However, the essence is what kind of working class team shall be built up and what kind of social strata structure shall be constructed in our country? It's the problem to build up an institutional framework of socialist market economy with city and countryside as an organic whole or still maintain the current structure of dualistic society with barriers between city and countryside. Only if adequate solution is found for the deficiency issue in right security of migrant workers, restoration of migrant worker's national treatment to enable migrant workers become the formal worker and staff member of the second and the third industry and the city dwellers that are merged in cities in deed, could the great mission for overall construction of affluent society be accomplished and the harmonious society, in which either people make effort according to their ability and are in their proper place, or get along with each other harmoniously.

In conclusion, the manpower resources in China that is just in the period of social transformation are relatively surplus and the quality of labor force is generally lower. Under the circumstances of buyer's market of labor force, The precondition for achievement of harmonious and stable labor relations in enterprises and overall equity and justice in the game between labor and capital requires legislation done by the NPC, government, court and Labor Union etc. It's the systematic engineering in cooperation of administration, judicature, various organs, departments, as well as all circles in the society through associated efforts. Only in this manner, could the momentous practical problems be solved properly. Thus, either worker's right could be secured, or a safe, stable, well-ordered and efficient market environment could be provided for foreign investors to make healthy development in our country on the basis to avert social contradictions effectively.