

# Research on Factors that Influence the Employment of Foreigners in China

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## ABSTRACT

In the era of global economic integration and a rapidly changing international workforce, China has witnessed a significant increase in the number of foreign workers, especially since its accession to the WTO. This influx has disrupted China's labor market equilibrium and raised substantial challenges related to national sovereignty, security, social order, and public health. The Chinese legislative landscape grapples with various issues, such as delays in legislation, unclear regulatory boundaries, gaps in emerging sectors, lenient penalties for illegal employment, and inadequate coordination among law enforcement agencies. This paper holds both theoretical and practical importance as it aims to tackle these problems, proposing potential solutions to issues arising from the illicit employment of foreigners.

Drawing insights from global legislative practices and emphasizing the safeguarding of domestic labor, this paper seeks to establish a comprehensive legislative framework for foreign employment in China, including provisions for exceptions to equal treatment. Additionally, it advocates for stricter employer accountability and penalties for illegal employment, highlighting the urgent need for improved cooperation and efficiency among law enforcement agencies. Beyond addressing domestic challenges, this paper also promotes international cooperation in foreign labor management, aligning with evolving global standards and continuously enhancing China's legal framework.

**Keywords-** Foreign employment, Illegitimate employment, Labor management.

## I. INTRODUCTION

As globalization has led to the rational flow of global resources in the economy, populations have also migrated due to this resource movement (Wang et al., 2020). China, as one of the fastest-developing countries in the world, is experiencing significant changes in its human resources market (Cutcu et al., 2023). On one hand, the rapidly developing Chinese context requires the introduction of foreign high-tech talents. However, the excessive influx of talent also competes for positions in China's labor market, resulting in a recurring phenomenon of talent oversupply in the country (Zou et al., 2022).

In recent years, the difficulty of employment for university graduates has become evident, and there are instances where university graduates remain unemployed even years after graduation. This indicates that China's employment resources are still insufficient to accommodate more foreign individuals. This demands a comprehensive consideration of China's labor market's actual capacity when addressing the issue of foreign employment in China. While abiding by international law, it requires the coordination of the contradiction between domestic employment pressure and the demand for foreign labor employment in China (Huang et al., 2019).

The research of this topic holds significance in both theoretical and practical aspects. Theoretical

significance arises from the development of economic globalization, particularly after China's accession to the WTO, which has drawn attention to the increasing number of foreign workers employed in China. The formulation and regulation of laws pertaining to the employment of foreigners in China have become key and challenging aspects of the legal framework (Froese et al., 2019). Some scholars argue that the excessive number of foreign workers employed in China significantly disrupts the stability of the labor market, advocating for strict control over their numbers. In response, scholars need to analyze whether a country should permit foreign nationals to work within its borders and determine the principles for such permissions as well as the potential exceptions (Peidong et al., 2019).

In practice, both blindly advocating for foreign workers and heavily restricting their employment would negatively impact China's existing economic order (Iwasaki et al., 2022). China has implemented the "Thousand Talents Plan" as part of its legislative efforts, primarily targeting foreign experts and scholars who offer guidance and work opportunities in the country after the reform and opening-up policies. This plan provides favorable policies to attract more foreign elites to work in China, thereby promoting rapid and efficient economic development.

On the other hand, due to the inadequacies in China's foreign labor employment management system, an increasing number of residents from neighboring less developed countries have entered China for illegal employment due to geographical proximity. The presence of illegal workers disrupts labor market stability, causes economic losses, and poses potential threats to China's national sovereignty, social security, and public order. Hence, exploring the deficiencies in the management system for foreign workers' employment in China through legislation and finding practical solutions, while also ensuring the rational allocation and utilization of this resource in reality, is the true practical significance of researching this topic.

### **1.1. Current Research Status at Home and Abroad**

Currently, with the continuous increase in the number of foreign workers employed in China, many scholars have identified legal issues related to their employment. The country also attaches great importance to researching this issue and has introduced numerous relevant laws. In 1996, when China formulated the "Regulations on the Employment of Foreigners in China," it emphasized the need to adhere to reform and opening-up and continuously improve the employment management system.

In terms of policy documents, as early as 1985, China promulgated the "Law of the People's Republic of China on the Entry and Exit of Foreigners," which, although obsolete, contained two provisions related to the management of foreigners' employment in China. Subsequently, in 1986, China implemented the

"Implementation Regulations of the Law of the People's Republic of China on the Entry and Exit of Foreigners," which has also become obsolete. Furthermore, in 1988, the Chinese Ministry of Labor issued the "Notice on Several Issues Concerning the Management of Employment of Foreigners in China," which is also now obsolete. In 1996, China's Ministry of Labor, Ministry of Public Security, Ministry of Foreign Affairs, and other departments jointly issued the "Regulations on the Employment of Foreigners in China," which is currently in effect and remains operational. It is one of the most comprehensive laws concerning the management of foreign employment in China (Lan., 2022).

As China entered the new millennium and aimed to adapt to its economic development and fulfill its demand for foreign high-tech talents, the "Thousand Talents Plan" was implemented in 2008. This plan delineates China's phased demand for foreign workers and outlines the preferential policies that can be extended to them. By July 1, 2013, China implemented the new "Law of the People's Republic of China on Entry and Exit Administration," which is the most comprehensive legislation regulating the entry and employment of foreign nationals. This law refines the visa system, relaxes qualifications for foreign nationals to work in China, and introduces the "Talent Introduction" visa category, attracting a greater number of overseas talents (Feng et al., 2018).

However, there are significant loopholes in China's management of foreign employment within its borders. For instance, the "Regulations on the Employment of Foreigners in China" impose relatively strict limitations in Article 6, Article 7, Article 8, and Article 34 on the types of employment, conditions, and geographical areas where foreign laborers can work in China (Qi et al., 2018). These regulations stipulate that individuals who are not considered essential talents needed by China are not to be accepted. It raises questions about whether these regulations violate the principle of national treatment and whether they contradict China's understanding of foreigners' right to work under international obligations. The regulations restrict individuals and individual economic organizations from hiring foreigners. Those who wish to work in China must first contact their prospective employers before submitting their employment materials. After entering the country, they are only permitted to work at the unit they've made prior contact with, and they cannot change employers or work part-time at multiple units without undergoing the employment procedure again. This requirement imposes significant inconvenience on foreigners seeking employment in China. The regulations are overly coercive, leaving no room for foreigners to deviate from the designated unit, and this lack of flexibility in choosing employment opportunities is seen as unfair for foreign workers (Hoyle et al., 2019).

Additionally, the procedure for obtaining an employment permit is intricate and complicated. The interference of various factors contributes to the occurrence of serious illegal employment activities. In the management of foreign employment in China, the competent authorities are currently the Ministry of Public Security, Ministry of Foreign Affairs, Ministry of Human Resources and Social Security, and several auxiliary bodies such as the Ministry of Education, Ministry of Commerce, State Administration of Foreign Experts Affairs, Ministry of Health, and Ministry of Commerce. This multitude of departments can easily lead to overlapping and misplaced management, which not only increases the enforcement costs for law enforcement agencies but also raises the compliance costs for foreigners working in China (Fu et al., 2019).

The management of foreign employment is inherently related to national sovereignty and falls under the purview of entry and exit administration, which is a central-level affair and should not be interfered with by local authorities without authorization. However, since the enactment of China's current "Regulations on the Employment of Foreigners" in 1996, which has been in operation for 21 years, it no longer adequately meets the demands of today's rapidly developing society. As a result, various provinces and cities have introduced region-specific regulations concerning the management of foreign employment to address these shortcomings. For example, in Guangdong Province, the "Guangdong Province Employment Promotion Regulations" categorize foreign workers to be introduced as "encouraged high-end, controlled general, restricted low-end," providing clear classifications for different types of foreign workers (Thun et al., 2018).

Abroad, there are more comprehensive legislations and regulations concerning the employment of foreign nationals and their management. Learning from the research of foreign scholars on foreign employment management issues and borrowing methods from abroad can provide valuable insights. Taking the United States as an example, as a country with significant immigration, it established international labor laws related to foreign employment early on to accommodate immigrants. The current system in the US is well-developed and specific based on the legislative content.

The US "Immigration and Nationality Act" classifies work permits for foreign nationals based on the duration of their employment, distinguishing between permanent and temporary employment. Permanent work permits are primarily issued to high-end talents who have made significant contributions or demonstrated outstanding performance in their fields. The requirements for permanent work permits set by the immigration authorities are high, leading to detailed and specific regulations (Margulies., 2019).

For temporary workers employed in the US, the immigration law issues different types of visas based on

the nature of the work, accompanied by detailed review criteria. To counter illegal employment, the US introduced the "Employer Verification System," where employers are obligated to verify the legality of their employment, and employees must confirm their eligibility for employment (Harrington et al., 2020). Employers are required to conduct proper checks on their employees during their working hours to prevent illegal employment. If an employer fails to conduct proper checks and illegal employment is discovered among their employees, the employer can face civil and criminal penalties. Strengthening the employer responsibility system in this manner is a valuable practice that China can learn from and adapt (Amuedo-Dorantes et al., 2019).

## II. METHODOLOGY

This paper employs various research methodologies to comprehensively address the issues of foreign employment in China, both by examining existing relevant information from domestic and international sources and by integrating the practical context of foreign employment in China. The specific methodologies used include:

1. **Conceptual Analysis Method:** This involves explaining and defining the fundamental concepts relevant to the paper's topic.
2. **Comparative Research Method:** A comparative approach is taken to analyze and contrast the foreign employment management legislation and practices of other countries with those of China's current practices.
3. **Literature Review Method:** Extensive analysis and study of both domestic and international literature and resources are conducted. The insights gathered from these materials contribute to the overall understanding of the issues and provide theoretical support for addressing legal matters related to foreign employment in China.

## III. CURRENT EMPLOYMENT SITUATION OF FOREIGNERS IN CHINA

### 3.1 Comprehensive Component

#### 3.1.1 Defining the Term "Foreigner"

The term "foreigner" serves as a juxtaposition to "domestic citizens." It generally denotes individuals residing within a country's borders who lack its nationality. Alternatively, it serves as a collective reference by a country's nationals to individuals hailing from other nations (Rudolf., 2021).

As per the "Black's Law Dictionary" definition, a foreigner is someone hailing from another nation. This definition is particularly focused on foreigners in a strict sense, denoting those without the host country's

nationality but with the nationality of another foreign nation. Conversely, "alien" encompasses a broader spectrum, encompassing individuals residing within a country without its nationality, as well as those devoid of any nationality such as foreign nationals and stateless individuals. Essentially, all individuals covered by the "alien" definition are classified as foreigners.

According to the "Oxford Law Dictionary" an "alien" is a citizen living within a country's borders without possessing that country's nationality under its domestic laws. In the "Yuanzhao English-American Law Dictionary" an "alien" refers to a citizen residing within a country's borders without possessing its nationality nations (Muhammad., 2020). The "International Law Dictionary" defines a "foreigner" as a natural person devoid of the host country's nationality. Regardless of whether an individual holds the nationality of a single foreign country or multiple foreign countries (dual citizenship), they are all considered foreigners. Based on these dictionary definitions, this article categorizes foreigners into two groups: "foreigners" and "aliens." Both groups share a common characteristic, namely, classification based on nationality, distinguishing between domestic citizens and foreigners. The distinction lies in the fact that "foreigner" specifically refers to foreigners in a narrow sense individuals residing within a country's borders who lack its nationality but possess another nationality. "Alien" refers to foreigners in a broader sense, encompassing individuals who lack the host country's nationality, whether they possess another nationality or are stateless (Caramani et al., 2018).

In China, the definition of foreigners aligns with the broader sense outlined in the "People's Republic of China Nationality Law." Essentially, anyone without Chinese nationality is collectively termed a foreigner, including foreign nationals, stateless individuals, and individuals with multiple nationalities.

### 3.1.2 Defining the Term "Employment"

The definition of employment is intricate and can vary depending on various perspectives. Economically, employment involves labor combining with production resources to create social wealth and its subsequent redistribution (Zhao et al., 2022). Sociologically, it represents a means of livelihood for workers. Legally, employment denotes the lawful engagement of workers within a country's borders, in compliance with its domestic laws, for work within the legally prescribed age range, and the receipt of compensation for their labor. In China, employment, as stipulated in labor laws, is defined as follows: "Individuals with specific labor capabilities who, within the legally defined age range, willingly engage in certain work activities to receive compensation. Compulsory labor or service does not fall under the purview of employment (Lu et al., 2019)." The legally defined age refers to individuals at least eighteen years old, with special labor protections applying to those aged sixteen

to eighteen. Recruitment of workers under sixteen is prohibited (Fang et al., 2022). In the realms of arts, sports, and specialized crafts, recruiting workers under sixteen necessitates adherence to relevant national regulations, ensuring their right to continue education. Labor activities covered by this law encompass employment, where laborers establish a labor relationship with employers, delineate rights and obligations, and enter into labor contracts. Short-term labor, hourly labor, and compensation for tutoring are not considered forms of employment.

As per the "Regulations on the Administration of Employment of Foreigners in China," enacted and implemented in 1996, the definition of foreigners' employment in China is as follows: "The act of foreigners who have not obtained permanent residence in China engaging in social labor in accordance with the law within the territory of China and receiving remuneration for their labor." This definition primarily narrows the scope to foreigners lacking permanent residence status, mainly due to disparities in the employment process and requirements (Wei et al., 2022).

Nonetheless, in a broader context, this article asserts that foreigners' employment in China should not be confined solely to those without permanent residence status. Foreigners who possess permanent residence status in China, as long as they meet the employment conditions prescribed in China's domestic labor laws and adhere to the specialized regulations for foreign employees in China, engage in lawful activities, and receive compensation for their labor, should also be regarded as part of the category of foreigners employed in China.

### 3.2 Diverse Categories of Foreign Employment in China: Evolving Trends

In the nascent stages of China's economic reform and the advent of its open-door policy, the nation was primarily focused on cultivating foreign economic and trade relations. This initial push attracted the inaugural wave of expatriates who ventured to work within the country. As China's economy continued to burgeon, an influx of foreign corporations began investing in the nation, catalyzing a substantial upswing in the number of foreign employees. In the year 1996, China introduced the "Regulations on the Administration of Employment of Foreigners in China." During that period, the count of foreigners gainfully employed in China numbered less than 10,000. By the year 2011, the tally of foreign individuals holding employment permits and actively participating in the Chinese workforce had soared to 241,900, marking an astounding nearly 25-fold increase over a span of 15 years. Remarkably, during the 2015 population census, it was estimated that approximately 2 million foreigners were engaged in employment within China, with an estimated 300,000 operating outside the boundaries of legality.

These substantial figures underscore that as the total number of foreigners employed in China has risen, so too has the incidence of unauthorized foreign laborers, year after year. A notable fraction of foreign workers has voiced challenges in securing employment in China, often citing the formidable hurdles associated with obtaining a coveted "China Green Card." This credential, initiated in 2004 by the Ministry of Public Security and the Ministry of Labor, confers permanent residence rights upon foreign nationals who have worked in China for an extended period. However, from its inception until May 2014, only a modest 4,900 such cards had been issued. The escalating environmental concerns in China have prompted highly skilled foreign laborers in the nation to contemplate whether to continue residing or to return to their countries of origin. Additionally, the conundrum of illicit foreign employment in China stands in opposition to the government's overarching objective to "promote high-end employment while curbing low-end employment."

Foreign nationals employed in China can be classified based on the specific industry they operate within. Particularly in high-tech sectors, foreign experts are often recruited by the Chinese government to impart their expertise in various technical domains. Furthermore, certain foreigners migrate to China for employment tied to investments and other purposes. With regard to the industry of employment, foreigners engaged in work in China fall into four primary categories:

**Foreigners Employed with an Expert Certificate:** This category encompasses foreign experts and senior management personnel who are engaged by the Chinese government, state agencies, or public institutions to contribute to China's annual national economic development projects. These individuals hold a "Foreign Expert Certificate" granted by the Foreign Expert Bureau. They are exempt from the requirement of obtaining an employment permit or foreigner employment certificate for their work in China.

**Investment-Related Employment:** China actively seeks to attract foreign individuals to invest in the nation, offering favorable immigration and residence conditions to incentivize economic growth. Regulations established in 2002 by China's Ministry of Public Security, in collaboration with various departments including the Ministry of Foreign Affairs, outline preferential entry and residence terms for investors. Individuals who invest over \$1 million in economically disadvantaged areas, such as the Western Development Region, or over \$3 million in other regions of China, along with their spouses and children under 18, qualify for streamlined entry and residence procedures. This policy is designed to foster foreign investment and provide advantageous immigration and residence conditions to investors contributing to China's economic advancement.

**Sino-Foreign Joint Ventures:** This category pertains to the recruitment of foreign workers for Sino-foreign joint ventures, often referred to as three-capital enterprises. These foreign laborers are required to hold a Foreigner Employment Permit to legally work in China. Two employment models exist within this category. The first involves Chinese companies hiring foreigners through labor contracts. The second model pertains to foreign companies dispatching their nationals to work within Chinese enterprises. In the latter scenario, remuneration for foreign representatives is sourced from overseas entities and falls beyond the purview of Chinese labor laws. However, if the duration of employment for dispatched foreign workers exceeds three consecutive months, they are considered as being employed within China and are obligated to apply for an Employment Permit from relevant authorities. The second model has gained prominence with the rapid growth of the Chinese economy, facilitating the infusion of advanced technologies and the exchange of mid- to high-level technical management talents while safeguarding core technologies of foreign-funded enterprises.

**Directly Recruited Foreign Workers:** This category encompasses foreigners directly hired by Chinese employers for employment in China. China's "Regulations on the Administration of Employment of Foreigners in China," implemented in 1996, explicitly stipulate that the employment of foreigners by Chinese employers extends to individuals with specialized talents who meet specific needs of China and do not contravene applicable national regulations. While China can now produce most of the talent it requires, certain specialized fields still face a shortage of professionals. For instance, in response to the demand of Chinese football clubs for foreign professional coaches, it may be necessary to enlist specialized coaches from abroad to work in China. This exemplifies a scenario in which Chinese employers hire foreigners to meet specific skill or expertise prerequisites.

### 3.3 *Illegal Employment of Foreigners in China*

In China, strict regulations govern the employment of foreigners, explicitly prohibiting employment for those visiting as students, tourists, or on short-term visas. However, a troubling trend has emerged wherein many exploit these categories to engage in unauthorized employment (Liu et al., 2018). This illicit foreign employment mainly falls into two categories:

**Language Teaching:** The demand for English language education, driven by foreign-owned businesses, has led to a proliferation of English language training centers. Some hire foreigners as English instructors without proper qualifications or work permits, exploiting legal loopholes. This has led to fraudulent practices and the exploitation of Chinese students.

**Service Industry Personnel:** This category includes entertainment venue performers, restaurant staff, and

domestic workers. Hiring foreign domestic helpers or "English-style butlers" for private households contravenes Chinese law, yet underground agencies in major cities facilitate such hiring.

Economic factors are a root cause, as China's robust market attracts individuals from various countries seeking employment opportunities (Ji et al., 2022). Economic disparity among neighboring nations like Vietnam, Myanmar, and Bangladesh fuels illegal entry into China for employment.

Institutional shortcomings also contribute to the problem. China's immigration system is outdated, with stringent restrictions on emigration for its citizens but less control over foreign entry. Addressing these institutional gaps is crucial to resolving illegal foreign employment.

The implications of this issue are multifaceted: National Sovereignty and Security: Illegally employed foreigners pose a significant threat to national sovereignty and security, as some may have ulterior motives, including espionage.

Social Order and Health Safety: These practices undermine social stability and health safety. Some illegal laborers come from countries with poor healthcare standards, potentially carrying contagious diseases.

Labor Market Equilibrium: Illegal foreign workers, especially in general positions, deprive Chinese citizens of job opportunities, affecting the labor market equilibrium and the livelihoods of domestic workers.

To addressing the pervasive issue of illegal foreign employment in China is vital for maintaining national security, social order, health safety, and a balanced labor market. Reforms in immigration management, stricter enforcement of existing regulations, and international cooperation are necessary steps toward resolution.

## IV. THEORIES OF FOREIGN EMPLOYMENT LAW

### 4.1 Promoting Discrimination-Free Employment Rights

The International Covenant on Economic, Social, and Cultural Rights underscores the importance of non-discrimination in employment rights for foreign workers in China. This covenant, a cornerstone of global human rights, guarantees foreign workers, regardless of nationality, the same employment opportunities as Chinese citizens. This includes the freedom to choose their profession, access to favorable working conditions, the right to join labor unions, and the ability to strike (Zhou et al., 2022). Foreign workers are also protected from arbitrary dismissal and are assured safe and healthy workplaces. They are entitled to fair compensation for equivalent work, as well as regular breaks, paid leave, and compensation for public holidays. Career advancement opportunities are equal for foreign and Chinese workers, with the right to join labor unions and

strike, provided national security or public order is not compromised (Lan., 2022).

The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, a United Nations treaty, extends comprehensive labor rights to foreign workers and their families. It explicitly prohibits discrimination based on factors such as race, color, sex, religion, or political opinion (Antwi-Boateng et al., 2020). States are obligated to ensure that migrant workers receive treatment no less favorable than their own nationals in terms of remuneration, working conditions, and social security. These international agreements underscore the commitment to upholding labor rights for all while rejecting discrimination against foreign workers in China. The focus is on equal employment, job security, labor union rights, and social security. The principles of equal employment and social security guarantee foreign workers the same treatment as domestic workers, ensuring fair working conditions and job opportunities on equal terms (Debrah et al., 2019).

The Convention on the Elimination of Discrimination in Respect of Employment and Occupation by the International Labour Organization further reinforces equal employment rights for foreign workers and the elimination of employment discrimination in China. It ensures that foreign workers engaged in lawful employment are protected from unfair dismissal and provides safeguards in cases of unemployment under specific conditions.

### 4.2 Employer's National Treatment Principle

The national treatment principle dictates that foreign workers in a country should receive equal treatment as its own citizens under specific conditions and limits, based on reciprocity. This principle is essential for global peace and development. It originates from historical practices like the French Civil Code of 1804, which granted foreign nationals equal civil rights in France if their home country reciprocated.

Reciprocity involves mutual recognition of rights, preventing unfair treatment of citizens abroad. National treatment in employment means foreign workers are eligible for the same job positions, working conditions, holidays, rest periods, and paid leave as domestic workers. They should receive comparable remuneration but not more (Shanock et al., 2019). However, this practice is discretionary and based on national sovereignty considerations.

### 4.3 National Treatment Exceptions

Exceptions to the national treatment principle in employment occur when foreign workers receive equal treatment in specific job categories but face restrictions or prohibitions in certain sectors due to national security concerns. These exceptions reflect a nation's exercise of sovereignty. Common exceptions include roles in government administrative agencies, border security, and industries vital to economic development. For instance, public office positions, airline pilots, customs officers,

and bank executives may be exceptions. The United States encourages foreign workers but restricts employment in sensitive sectors like telecommunications and nuclear energy. European Union member states extend national treatment but prohibit employment in public office and the national economy (Eyer et al., 2021). These exceptions safeguard national sovereignty, security, social order, and economic interests. They ensure a stable social environment, protect against illegal employment, and preserve the rights and interests of the nation and its citizens.

## V. IMMIGRATION LAWS AND LABOR MANAGEMENT

### 5.1 *Abroad Immigration Laws and Labor Management*

The United States has a long history of immigration and has continually refined its immigration laws over the years (Bonjour et al., 2020). The Immigration and Nationality Act of 1965 categorized immigrants based on employment needs. Section 274 of this act mandated authorization for foreign workers, with strict penalties for illegal employment. Employers were required to verify authorization and report discrepancies. The Immigration Reform and Control Act of the 20th century heightened scrutiny of employers, aiming to prevent illegal residency after work permits expired. The U.S. consolidated immigration agencies under the Department of Homeland Security post-9/11. The Immigration Act of 1990 established penalties for hiring illegal workers, with varying fines and criminal charges. Foreign workers are categorized into professional immigrants and international laborers, each with distinct regulations. U.S. labor laws protect foreign workers against discrimination and provide equal treatment with citizens (Giuliano et al., 2020).

Russia's "Federal Law on the Legal Status of Foreign Citizens" prioritizes domestic labor and controls foreign labor numbers based on demand (Joo et al., 2022). It restricts foreign labor permissions, imposes qualifications on employers, and specifies seven prohibited industries for foreigners. Employers hiring foreign workers must fulfill obligations such as notifying employees of contract terms and assisting with departure when permits expire. The revocation of an employer's permit does not affect legally employed foreign workers. Russia employs an invitation and work permit system and emphasizes aligning with the country's interests (Korneev et al., 2022).

Japan manages foreign workers through its residency qualification system, categorizing them as skilled or simple laborers (Endoh et al., 2019). The Technical Intern Training Program is vital for acquiring cheap labor to address its aging population (Oishi et al., 2021). Japan has strict regulations on employment duration and types. The Labor Dispatch Act was introduced in 1985 and expanded in 1999 to legitimize the talent dispatch market. Japan's authorities for

managing foreign employment are the Immigration Bureau and overseas consulates. A rigorous registration process is in place for foreign employees.

### 5.2 *Adapting International Practices to China*

The United States' "Employer Verification Mechanism" could serve as a valuable model for China in addressing illegal employment. The U.S. focuses on curbing unauthorized foreign labor by penalizing employers, employing civil, administrative, and even criminal measures against serious offenders. To hire foreign employees legally, U.S. employers must provide valid explanations to the Department of Labor, ensuring proper qualification checks and periodic document inspections. China lacks such employer authority, primarily resorting to fines for illegal employment, incentivizing risky hiring practices. Therefore, China should adopt a U.S.-style employer responsibility system. China can learn from the U.S. in safeguarding the rights of foreign laborers. The U.S. has regulatory agencies and a unified supervisory mechanism, while in China, this is currently lacking.

The U.S. promotes equal rights and protections for foreign laborers in labor dispute resolution, aided by the Equal Employment Opportunity Commission, ensuring fairness for both parties. China should emulate these practices to protect foreign labor rights effectively. China should also consider adopting principles from Russia's labor management mechanism. Russia prioritizes domestic labor, controls foreign labor numbers, and aligns them with actual demand. Clear restrictions on work permits are in place, ensuring national security and labor market stability. China's regulations lack such clarity, leading to an excessive influx of foreign workers. Emulating Russia's approach can help address this issue. In Japan, the Labor Dispatch Act's strict time limits and labor dispatch types offer another example for China to consider. Japan regulates the working time of "simple laborers" and enforces strict exit orders for those overstaying their limits. China currently lacks clear time limits for such workers. Japan's legislative model, treating foreign workers the same as domestic ones, protects foreign worker rights and avoids legal conflicts, a model China should adopt in its regulations.

China can benefit from emulating elements of the U.S., Russia, and Japan's labor and immigration practices to enhance its system for managing foreign labor and protecting their rights.

## VI. CONCLUSION

In light of the ongoing development of Chinese socio-economic landscape and the establishment of stable social conditions, China has become an increasingly attractive destination for foreign workers seeking employment opportunities. However, the influx of foreign labor has brought forth a multitude of legal challenges. Within the confines of this article, the author

has meticulously examined the current state of foreign employment in China, shedding light on the intricate web of legal complexities, particularly those arising from illegal employment practices. Through this analysis, the author has discerned critical deficiencies within the existing legal framework governing foreign employment in China and, in response, offers a set of comprehensive strategies aimed at its refinement.

Moreover, the author underscores the imperative need for bolstered international collaboration in the management of foreign labor. Concrete steps in this regard encompass the enhancement of formal mechanisms for analysis and dialogue among nations concerning issues related to the management of foreign workers. China, as a proactive host, can convene forums that beckon countries with a substantial presence of foreign labor within its borders. These forums would serve as a platform for the collective examination of real-world cases and the challenges faced in managing foreign workers, ultimately leading to policy reforms and preemptive problem-solving. Through these exchanges, other nations can gain insight into the nuances of China's management practices, potentially forging liaisons with relevant Chinese authorities to jointly address these shared challenges.

The journey towards enhancing China's legal framework for foreign employment is bound to encounter obstacles along the way. The establishment of a unified legislative framework for foreign employment, the delineation of exceptions to national treatment, the reinforcement of macro-level oversight of foreign labor, and the augmentation of international cooperation in the realm of foreign employment management are not mere rhetorical aspirations. They necessitate a coordinated effort involving various governmental agencies and scholars in our nation. It is the fervent hope that this article will serve as a catalyst, igniting further research and discourse on the intricate legal issues surrounding the employment of foreigners in China. In doing so, it can contribute meaningfully to the ongoing dialogue and evolution of policies in this crucial area.

### **STRATEGIES AND RECOMMENDATIONS**

1. **Unified Legislation:** Establish comprehensive and standardized legislation to govern foreign employment, prioritizing the protection of domestic workforce interests and incorporating labor rights protection for foreign workers.
2. **Macro-Control:** Strengthen control over the number, scope, and geographical distribution of foreign workers in China to maintain labor market stability, ensuring local workers can fill general and low-skilled positions.
3. **National Treatment Exceptions:** Clearly define and expand the scope of national treatment exceptions in legislation, considering emerging sectors like

network security, while balancing expanded privileges for foreign workers with increased exceptions.

4. **Penalties for Illegal Employment:** Intensify penalties for employers hiring foreign labor illegally, significantly raising fines and imposing criminal charges for serious violations, while also holding employers accountable for regular review reports. Increase fines for illegal foreign workers and shift deportation costs to them.
5. **Enhanced Law Enforcement Cooperation:** Clarify departmental jurisdiction, streamline responsibilities, and establish a shared information platform for better cooperation among law enforcement departments, promoting effective regulation and supervision of foreign workers. Integrate QR code technology for streamlined information access and control of illegal employment.

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