Labor Export Management in Vietnam and Some Other Countries

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ABSTRACT

After 30 years of sending laborers to work abroad and especially 20 years of operating under the market mechanism, Vietnam has made significant progress in its labor export such as expansion of labor-employing markets, and substantial rise in labor market shares and efficiency. However, Vietnamese labor export is facing big challenges both locally and internationally, which requires the country to strengthen its management of labor export as well as learn from the experience of other countries.

Keywords: labor management, labor export management

1. SOME FOREIGN EXPERIENCE OF LABOR EXPORT MANAGEMENT

Many Asian - Pacific countries are now participating in labor export, such as the Philippines, Thailand and China. They are direct competitors to Vietnam in the international labor market but at the same time share similarities. Their experience in the management, administration and development of labor export is a valuable lesson for Vietnam to learn.

a. The Philippines:

The Philippines encourages legal and time-limited labor export, and restricts illegal employment and residence of local residents in foreign countries. In June 1995, the Philippine National Assembly passed the Migrant Workers and Overseas Filipinos Act. The country also signed the International Convention on the Protection of All Rights of Migrant Workers and Their Families. Additionally, it signed 60 labor agreements with 50 countries and territories. The documents created a legal corridor for the implementation of the National Program on Labor Export.

Philippine labor export is controlled by the government through the Philippine Overseas Employment Administration (POEA) under the Department of Labor and Employment. The recruitment and sending of workers abroad are undertaken by state-owned and private organizations. Workers who wish to work abroad should be recruited by these organizations or have a personal employment contract approved by POEA.

To protect the interests of workers, the government built legal systems and institutions that permit and promote the right of private enterprises to proactively exploit the labor market and recruit workers. It also encourages enterprises to establish welfare funds to guarantee that workers will receive their unpaid money at the termination of contracts. Enterprises are to take responsibility for any contract violation caused by

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themselves or employers and pay compensation for workers if the workers are not to blame for the violation. Enterprises' deposits are used by the government to pay workers if their employers fail to pay. In the event that bank deposits of enterprises are distrained, their operation will be suspended until they make full payments.

The Philippines only allows its workers to work in countries with laws protecting the rights of guest workers. It also stipulates minimum requirements for overseas Filipino workers and enforces them on parties using its labor, such as working time (eight-hour workday and six-day workweek) and overtime bonus (150% as much as regular wage).

To enhance the quality of migrant workers, the government encourages enterprises to set up their own training funds (or linking with foreign countries, especially labor-employing countries) without charging workers. There are government-funded special training programs for workers prior to their going abroad. Vocational education and training are the basic factor that has helped the Philippines gain the highest achievements in labor export in the region for many years.

Although the government assigns the autonomy and the recruitment task to enterprises, it maintains the managing and controlling roles to protect guest workers. The Philippines has more than 80 foreign representative offices whose heads are labor attachés. Workers also receive support from governmental and non-governmental organizations like Overseas Workers Welfare Administration, Overseas Employment Development Board, Employment Service Office, and Board of Social Sponsorship and Overseas Workers Protection. In addition, the country has one-stop centers in many countries which consist of representatives from all related organizations to provide aid for workers, such as medical care, free advisory services, administrative procedures, homeland money transfer, etc.

To facilitate the return and rehabilitation of guest workers, the government has built numerous policies such as the issuing of *"Batik Manggagawa"* certificates to guarantee that returnee workers can get back to former jobs, credit for rehabilitation, tax and financial incentives, etc.

b. Thailand:

Thai labor export was started in mid-1970s and boosted in recent years. In order to promote and guarantee the effectiveness of labor export, it promulgated the Labor Recruitment and Protection Act (1985) allowing private companies and agencies to recruit workers for export. The act permits Thai laborers to work abroad through five basic modes: (1) Labor export agencies belonging to the Department of Employment; (2) Private recruitment agencies licensed for labor export; (3) Personal employment contract; (4) Direct recruitment by labor employer; (5) Participants of refresher courses and apprentices. Nonetheless, workers seldom use services provided by the Department, but use recruitment services of private agencies and look for jobs on their own.

Thai workers must pay fees to recruitment agencies to work abroad. The fees will be repaid if the agencies cannot arrange jobs for them. The government specifies labor export fees for particular markets and particular types of job. It also encourages enterprises to set up welfare funds to help migrant workers in need. Moreover, the banking system creates favorable conditions for workers to get loan at low interest rates, which eradicates deceit, exploitation and usury.

In addition to state-owned enterprises, private enterprises are involved in recruiting workers for export on the condition that they are licensed by the General Labor Department. To obtain the license, they should meet the minimum registered capital requirement. As for joint-stock companies, the Thai employers should hold three quarters of the total shares and pay deposits in cash or government bonds. The license is valid for two years. The Employment Department issues labor export permits to enterprises with orders verified by overseas Thai labor attachés. State-owned enterprises do not compete against private ones and only serve prioritized workers like women, poor people, rural residents, and people from remote areas and depressed zones. These types of workers will receive governmental support such as secured or fiduciary loans, and bank guarantees as long as they use these banks to transfer money to their homeland.

To protect overseas Thai workers, the government specifies minimum standards and forces the workers and labor export contractors to comply with, for example salary, weekday, workday, and overtime bonus, etc. Additionally, there is a particular contract form for female workers serving as domestic helpers.

c. China:

China started to export labor in the 1970s. Its labor export has reached 1.27 million workers in 1996 and continued to rise in recent years. The country sends workers abroad through two modes: (1) overseas construction projects, a trend that has become popular recently; and (2) agencies with labor supply contracts, a principal mode of China's labor export.

In order to work abroad, Chinese workers should go through a process of selection and thorough training. Before going abroad, they must make commitments or have a local organization act as a guarantee to avoid contract violation or decamping. Moreover, they can only receive part of their income to sustain their lives while the rest are transferred to their families in the homeland.

China's Ministry of Labor and Social Security is in charge of creating a legal environment, policies and rules related to labor export. According to the Chinese regulations on the management of labor exporting agencies 1992, the establishment of companies of this type should be approved in writing by this Ministry and fulfill the functions of labor export in the order of giving vocation training, teaching foreign language, orienting, managing, providing social assistance and protecting the interests of overseas workers.

The Ministry of Commerce assumes the task of managing labor exporting companies with strict requirements. Accordingly, these companies should own minimum registered capital of CNY5 million or US$604,000. Furthermore, their debt/asset ratio must be kept below 50% and their bases must be located on an area of at least 300 m^2. They are also required to have ISO 9000 and management certificates as well as at least five experts in labor export and law. Any company that fails these requirements will be heavily fined and even prosecuted.

d. Lessons for Vietnam:

First, the aforementioned countries consider labor export as an important issue in their strategies for socioeconomic development and as a major step in industrialization, modernization, unemployment reduction, training human resources, and raising budget revenues. Therefore, they all have national programs for labor export.

Second, to ensure the effectiveness of labor export, the government should take the decisive role in all stages from setting up a legal environment, opening the market, orienting and administering labor export through managing migrant workers, and helping them adapt themselves back to society. In countries with successful labor export like the Philippines and China, the legal system and regulations are not only strict and transparent but also open and consistent. These make enterprises and workers more proactive, and the government controls the whole labor export business.

Third, the enhancement of competing capacity and the building of brands are considered as top priorities by the governments of these countries in order to increase fierce competition on the international labor market. Thus, they give great care to and strictly control the quality of their workers like skills, work ethics, discipline, and especially foreign language skill, a major factor helping workers easily adapt themselves in foreign countries. In some countries, besides their standardized and internationalized compulsory training programs, there are cooperative ones produced by migrating and host countries. They also promote their labor images to international recruiters through forums, conferences, workshops, and international fairs, etc.

Fourth, the governments of the countries above give special care to and tightly control the search, selection and sending of workers to work abroad. To reduce risks and additional costs for workers, they take numerous measures in recruitment: (1) Providing workers with accurate and detailed information about costs, income, living and working conditions, labor laws, etc.; (2) Keeping tight control of operations of organizations and individuals involved in exporting labor; (3) Simplifying administrative procedures and applying various recruitment methods; (4) In some cases, the government provides financial support to help workers overcome difficulties before their migration.

Fifth, the countries have taken various measures to enhance their labor export: (1) Building a network of representatives of the Labor Department in foreign countries to manage workers and meet their needs as well as expand the market and search for good orders; (2) Establishing welfare funds and assistance centers for overseas workers; (3) Setting up an information network on labor issue to exchange information between migrating and immigrating countries and protect the interests of workers based on bilateral or multilateral agreements and international conventions.

Sixth, it is necessary to create an open environment for enterprises belonging to all sectors to export labor. The government stipulates the rights and duties of migrant workers and recruitment companies. It requires companies that wish to export labor to satisfy certain conditions such as owning minimum legal capital, leaving deposits and having financial security for workers. Furthermore, the government encourages establishing of insurance funds, welfare funds and financial funds to support mishap workers.

Seventh, to encourage overseas workers to transfer money home using official methods, most countries have local commercial banks and other banking institutions linked with those in immigrating countries. The government operates policies on loans, bank guarantee and money transfer at preferential interest rates and exchange rates. The use of immigrant remittances is also assisted to improve their families' lives. Workers are also encouraged to make investment in economic development and offered employment to help them quickly re-adapt themselves after returning home.

Eighth, these countries have policies to take care of the families of workers and protect workers' interests when working abroad, especially in the case of abuse or unfair treatment by employers, or unexplained contract termination. There are also solutions to restrict the bad effects of labor export. Some other countries have policies to help returning workers apply the experiences and skills that they learned from overseas work, improve their ability to readapt to domestic society, and reduce unemployment and poverty.

2. LABOR EXPORT MANAGEMENT IN VIETNAM

a. Policies and guidelines of the VCP and the government:

Following the results and experience obtained in the period of international cooperation in labor with other socialist countries in 1980-1990, the VCP and the government changed their perception and guidelines for labor export. This is presented in documents submitted at the VCP Congress proceedings and legal documents of the government.

On Nov. 9, 1991, the government promulgated the Decree 370/HĐBT, which states, "Time-specified labor export helps solve unemployment, create income for workers, and increase foreign exchange revenues; it also contributes to strengthening the cooperative relations on economic, cultural and technological aspects between Vietnam and countries employing Vietnamese labor on the basis of equality, benefit for both parties and mutual respect of laws and traditions."

The VCP Eighth National Congress in 1996 and especially the Politburo's Instruction 41-CT/TW of dated Sep. 22, 1998 stated that labor export is a socio-economic activity that helps develop human resources, solve unemployment, create income, enrich workers' skills, increase foreign exchange revenues and enhance the cooperative relations between Vietnam and other countries.

The Political Report submitted at the VCP Seventh, Eighth and Ninth National Congresses confirmed the importance of sending workers to work abroad. Particularly, the Political Report submitted at the VCP Tenth Congress in April 2006 stressed, "Continue to develop labor export programs, expand trained workforce, tightly control and protect legitimate interests of workers..."

The Resolution submitted at the Seventh Central Conference of the Tenth Term on youth and rural emphasized, "Encourage youth to work abroad with a time limit, paying special attention to the education of discipline and skill for young overseas workers, taking measures to control, educate and help them and promoting rural labor export." By institutionizing instructions on labor export promotion, the amended Labor Law of 2002 specified regulations on labor export into an institution at Item V.a, Chapter XI. The institution was passed at the Tenth Session of the National Assembly of Term XI through the Overseas Vietnamese Workers Act and became effective as from July 1, 2007. Based on this, the government and relevant ministries promulgated documents specifying details and directions for implementation. The VCP views and instructions on labor export are shown in the following policies:

- Allowing all economic sectors to export labor: the government allows enterprises and economic organizations established by the Companies Law to export labor if they meet requirements about legal capital, organizational mechanism, labor export plans, and deposits.

- Expanding the labor exporting market: the government stimulates enterprises of labor export to survey, search and expand markets that are suitable for the skill and quality of Vietnamese workers.

- Offering courses in technical skills, foreign languages, and job guidance to workers: before sending workers abroad, enterprises should hold classes in vocational training, foreign languages, and job guidance for workers, depending on types of job and destination markets.

- Providing financial aid for labor export: the government offers partial support to workers in the fees of technical training, foreign language and job guidance courses by extracting the employment funds and giving the workers credit loans at preferential interest rates through the Vietnam Bank for Social Policies and other commercial banks. Preferred workers include preferentially-treated entities, decamped servicemen, poor people, remote residents and ethnic group members.

- Managing labor export: the government consistently governs labor export through policies and guidelines on the basis of equality and openness so that every organization and individual can take part in labor export.

b. Labor export management in Vietnam:

Labor export has commenced in Vietnam since 1980 and experienced two main phases thus far.

In phase 1 (1980-1990), Vietnam implemented labor collaboration with other socialist countries under the centralized and subsidized regime. In this period, around 290,776 Vietnamese laborers were sent to nine nations to work from two to six years. On average, around 26,434 laborers were "exported" each year. In which, those working in socialist countries were around 269,078 people, representing 92.5%; and those in other countries such as Iraq, Libya, and Algeria constituted 7.5% (around 21,698 laborers) (Table 1).

Table 1: Vietnam's labor export in the period 1980-1990

	Number of labor	**As %**
Total	**290,776**	
In socialist countries	269,078	92.5%
In other countries	21,698	7.5%

Source: Vietnam's Ministry of Labor, War Invalid, and Social Affairs

Labor export management was primarily based on labor collaboration treaties entered into by and between Vietnam's government and host countries. Vietnamese guest workers in a factory were grouped into small teams which would be headed by a team leader and an interpreter. Team leaders of a district would be put under the control of a higher leader who in turn is administered by the expatriate labor management board of Vietnam's embassy in the host countries.

In phase 2 (from 1991 until now), labor export is administered according to the market mechanism with the governmental management. This phase includes two sub-phases. The 1991-1999 period is labeled as the time for reform in labor export policy and legislation. Accordingly, many labor export enterprises were established and around 94,397 laborers were sent to 30 foreign markets (i.e. around 10,488 ones per year on average). In the period 2000-2008, labor export was expedited and Vietnam sent 577,706 workers to foreign markets (i.e. around 64,190 ones per year on average), representing 5% of labor force newly employed; and a lot of diverse occupations were born. The most noticeable achievement in this period is that a greatly improved legal system was introduced. At present, more than 490,000 Vietnamese guest workers and experts are working in 42 countries and territories.

However, due to job characteristics and labor export modes, Vietnamese guest workers have to work with co-workers who comes from different countries and live in various districts of the host country, and thereby hindering the administration and protection of Vietnamese labor's rights and benefits, especially in the context of global financial crisis and economic recession. Thus far, Vietnam's management of labor export has faced the following hardships:

First, it lacks a strategy of synchronous development. According to a survey by Vietnam's Institute of Social Sciences, Vietnam lacks a national development strategy that effectively combines activities related to labor export such as making a legal corridor for recruitment, finding new markets, training qualified human resources, and ensuring the living standard of exported labor after their homecoming. Those who are in need of working overseas (i.e. agricultural workers or the poor) have to carry out a complicated procedure related to recruitment dossiers, mortgage, bank loans, etc. and thereby easily falling prey to malpractices.

Second, the quality of exported workers is poor. Even though the ratio of professionally trained workers has risen from 35% in 2003 to over 53% in 2008, and Vietnamese labor force is appreciated for their industry, smartness, cleverness, and quick understanding, they still lack working experiences, professionalism, foreign language competence, discipline, knowledge of legal system of the host country, healthcare, self-protection, etc.

Third, those who breach the labor contracts or are expelled from the host country constitute a large ratio. According to the Bureau of Expatriate Labor Management under the Vietnam's Ministry of Labor, War Invalids, and Social Affairs, in the period 2003-2008, the ratio of workers expelled from the host countries sooner than expected for their violation of labor contracts reached 12.12% of the exported labor (i.e. 15.71% from Malaysia, 15.38% from Taiwan, and 5.37% from Japan). In most foreign markets, the ratio of Vietnamese workers who drops out halfway through the effective term of the labor contract or illegally work as a freelancer is always higher than that of other countries. In this period, the ratio of Vietnamese workers dropping out refresher courses in Japan constitutes 30% of the total number of refresher dropouts and roughly 10.86% of workers sent to refresher courses. In Korea and Taiwan, the corresponding pairs of ratio are 10% and 10.81%, 35% and 25.37% respectively. This fact has consequently complicated the social order in the host countries.

Fourth, management board of Vietnamese expatriate labor in host countries cannot meet practical needs. In some keynote and potential markets, there are management boards of Vietnamese expatriate labor that include experts of Vietnam's embassy. Specifically, there are four experts in Taiwan, four in Malaysia, two in Japan, three in Korea, one in the Republic of Czech, one in Qatar, and one in the United Arab Emirates. However, compared with the increasing scale of labor export and upheavals in the host countries, the organization and financial support for the operation of such management boards is weak, insufficient, and cannot meet practical needs.

Fifth, labor export enterprises in Vietnam are not professional. A report rendered by the inspection group of the National Assembly Standing Committee after its survey of 10 provinces has figured out a lot of shortcomings in introducing labor to work overseas. Such enterprises are not good enough and are small-sized ones. According to a recent report, there are around 17 enterprises who introduce 1,000 workers to work overseas, 29 enterprises with 500 to less than 1,000 workers, 50 enterprises with 300 to less than 500 workers, and 52 enterprises with less than 100 workers.

According to the Vietnam's Ministry of Labor, War Invalid, and Social Affairs, of 167 service enterprises, around 30% of them do not work effectively, 50% with mediocre performance, and 20% with poor performance. Although there have been 167 labor export brokerage firms and nearly 300,000

Vietnamese workers have been sent to 40 foreign markets, just around 22 enterprises establish their representative offices in the host countries. The quantity and quality of representatives and amenities of such brokerage firms cannot meet practical needs; some enterprises even contract a foreign enterprise to administer Vietnamese expatriate labor. Meanwhile, many enterprises intentionally avoid registering labor export contracts and send more labor than permitted.

c. Policy implications:

First, the government should actively develop the labor export market. Based on the analysis of demand for labor of each market, Vietnam can work out a specific strategy of labor export for each target market. It is also necessary to back labor export enterprises to expand their market share. Moreover, through diplomatic relationships, Vietnam can negotiate and enter into labor collaboration agreements with host countries that accept Vietnamese labor.

Second, it is crucial to enhance the quality of exported labor through professionally training courses and boosting the labor' awareness of the purpose of labor export; foreign language competence; industrial lifestyle; self-discipline; knowledge of culture, social life, legislation, traditions, etc. of the host countries; self-protection, etc. This is the keynote solution for improving the competitiveness of Vietnamese labor in the world market and paving the way for development of labor export market.

Third, it is necessary to polish and advertise the image of Vietnamese labor in the foreign markets via diplomatic relationships, international organizations, conferences, workshops, labor fairs, occupational contests, mass media, the Internet, etc.

Fourth, representative offices and divisions of expatriate labor management under the diplomatic agencies of Vietnam in the host countries should be established and expanded. Accordingly, Vietnam's authorities can promptly address changes in the demands for labor and labor policies of the host countries and work out appropriate strategies for the local labor export.

Fifth, it is advised to consolidate the system of labor export enterprises to be able to compete in the world labor market and enable enterprises to research target markets. Yet, they are also supposed to be careful when approaching new markets, choosing foreign partners, and signing labor supply contract as well.

Finally, there should be appropriate policies on workers after their overseas labor contracts. It is necessary to care for the next of kin of exportesd workers so that they can work with a peace of mind; promulgate incentive policies on land, taxes, etc. in order to enable labor to efficiently apply their acquired skills after their homecoming; and ensure that those whose labor contracts are going to expire can return to Vietnam on time without worrying about unemployment and thereby preventing them from dropping out halfway through the effective term of the labor contracts■

References

1. Nguyễn Thị Hồng Bích (2007*), Xuất khẩu lao động của một số nước Đông Nam Á- Kinh nghiệm và bài học* (Labor export of some ASEAN countries: Experience and lessons), Khoa học - Xã hội Publisher, Hà Nội .

2. Nguyễn Thị Minh Hằng (2003), "Tăng cường quản lý nhà nước về xuất khẩu lao động ở nước ta" (Enhancing the Vietnamese governmental management of labor export), Master thesis, Học Viện Hành Chính Quốc Gia.

3. *Quản Lý Nhà Nước*, No.8/2009

4. *Cộng sản*, No.207/2010

5. Websites www.thesaigontimes.vn, www.nhandan.com.vn, www.dolab.gov.vn, www.vneconomy.com.vn