

# The changes, causes and difficulties of China's international immigration governance under the changing international situation

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**Abstract:** Since the founding of The People's Republic of China, with the changes of the international situation, China's immigration governance has gone through periods of strict restrictions, opening and easing, and deepening and improving. Based on the basic national conditions in different periods, the motivation for the change of China's immigration governance policy and the dilemma faced in the new period have been explored. We should give priority to sovereignty, protect human rights, strengthen international cooperation and build a community with a shared future for mankind.

**Keywords:** international situation; international immigration; immigration governance; human rights

## 1. Introduction

With the accelerated development of globalization, the issue of international migration is linked to the political, economic and cultural factors of a country, and is closely related to the changes in the international situation. The topic of international migration governance has become an important issue in global governance. Therefore, as China continues to grow into a more responsible country, it is also playing an increasingly important role in the international arena. Faced with the changing international situation, China also needs to improve the international migration governance system, explore further participation in the global governance of international migration and provide Chinese solutions for global migration governance.

## 2. Changes of China's Immigration Governance since the Founding of New China

### 2.1. The Governance Concept of 'Strict Restriction' in the Early Days of New China

Since the founding of new China in 1949, due to the small demand for foreigners to enter and stay in China, China mainly draws on the Soviet model. The government has implemented a strict entry and exit policy. The management of foreigners in China mainly relies on policy documents, some regulations and rules. There are mainly 1951 'Interim Provisions on the Entry, Exit and Residence of Foreign Nationals', 1954 'Interim Measures for the Registration and Issuance of Residence Permits for Foreign Nationals', 1964 'Regulations on the Implementation of Entry, Exit and Transit of Foreign Nationals' and so on. At the beginning of the founding of New China, under the exclusion of capitalist countries such as the United States, China's immigration governance embodied the characteristics of 'strict prevention and control'. According to the regulations, the central government has made strict restrictions on the means of transportation, routes, destinations and stays of foreigners.<sup>[1]</sup> Given the small number of foreigners entering the country, immigration management focuses on governance of overseas Chinese affairs, and governance focuses on safeguarding the integrity of national sovereignty and political and territorial security. During this period, the country's international immigration management was strictly limited in general, with the purpose of preventing the destruction of hard-won revolutionary fruits for national sovereign security, political security and territorial security.

### 2.2. Theme of 'Transformation Development' in the Period of Reform and Opening-up

With the deepening of reform and opening up in 1978, the number of foreigners in China has been increasing. The purpose of coming to China has increased the types of long-term residence such as employment, study abroad and business. The central government has determined the policy of '

safeguarding sovereignty, safeguarding security, managing according to law, and being lenient and strict '. Under the guidance of this policy, the Ministry of Public Security has carried out reforms in response to the problems of cumbersome entry procedures and excessive restrictions on foreigners, determined a series of measures to simplify procedures and facilitate foreigners to come to China, and embarked on the pace of entering the era of reform of the entry and exit system for foreigners. In 1983, the Ministry of Public Security established the Exit and Entry Administration Bureau. In November 1985 and December 1986, the Standing Committee of the National People 's Congress, the Ministry of Public Security, the Ministry of Foreign Affairs and the Ministry of Transport successively passed and promulgated the " Foreigner Entry Administration Law " and " Implementation Rules. " With the advent of the era of reform and opening up, economic construction, opening up to the outside world and attracting investment and talent have become the central tasks of state building. China has also restored its legitimate seat in the United Nations, changed its relations with capitalist countries such as China and the United States, and further enhanced its international status. Driven by the reform and opening up policy, China 's loose immigration policy has promoted the further development of the immigration wave, and also promoted the development of scientific and institutionalized foreigner management.

### ***2.3. Focus on Improving Risk Response Ability Since the New Century***

Since the new century, the degree of globalization has deepened. The issue of international migration is closely related to the politics, economy, and culture of the destination country and the home country. The complexity has further increased and has become a hot topic. With the advent of the new era, the international situation is turbulent, and ' global governance ' has become the theme of the new era. China also bears an inescapable responsibility. However, the lagging entry management system for foreigners established in the era of reform and opening up cannot solve the new challenges of a series of problems brought about by the substantial loss of domestic population and the substantial growth of foreign population in China. Therefore, China 's international migration governance policy has also changed. In 2004, the Ministry of Public Security and the Ministry of Foreign Affairs promulgated the " Measures for the Administration of Examination and Approval of Permanent Residence of Aliens in China, " the " Exit and Entry Administration Law " in 2013, the " Regulations on the Administration of Entry and Exit of Aliens " were formally implemented, and the National Immigration Administration was established in 2018. This series of measures marks that China 's immigration management has entered a new historical period. First of all, the increase in the number of foreigners coming to China has deepened the integration with China 's political, economic, cultural and social aspects. How to balance the relationship between the full protection of their legitimate rights and interests and the legitimate rights and interests of domestic residents has also become the focus of China 's immigration governance. Secondly, with the rise of China 's economy and the rapid development of Internet technology, more and more Chinese enterprises go abroad, and the protection of overseas interests has also become a new focus in the field of immigration governance.

## **3. Motivation of Immigration Policy Change**

### ***3.1. After the founding of New China, subject to the exclusion of capitalist countries led by the United States, it was shrouded in the shadow of the ' US-Soviet Cold War '.***

In the early days of New China, China was under the dual pressure from both domestic and international. The country was in need of all kinds of things, and was under the pressure of liberating Taiwan and economic construction. Internationally, it is necessary to face the political, economic and military blockade measures taken by the capitalist countries led by the United States against our country. Under the dual pressure at home and abroad, the People 's Republic of China sought countermeasures. First of all, on the basis of the fact that the People 's Republic of China was established after years of bitter wars and arduous reforms, the domestic economy was in the recovery stage, and the demand for foreigners to come to China was small. Therefore, in the management of foreigners, the central government adopted strict restrictions on exit and entry policies, took the restoration of economic development and the protection of the People 's Republic of China as the focus of national work, and carried out socialist transformation. Secondly, internationally, in order to cope with the threat from the United States and the influence of the Cold War between the United States and the Soviet Union and reverse its disadvantageous position in the international world, China first implemented the one-sided policy towards the former Soviet Union, established friendly relations with

the Soviet Union and other people 's democratic countries, actively established diplomatic relations with the third world countries, and expressed its position to reshape China 's international image. The blockade policy of capitalist countries led by the United States against China has led to the general lack of diplomatic relations between China and European and American countries. However, the development of foreign relations is the key area of diplomacy. Based on the long-standing tradition of Chinese people to go abroad to Southeast Asia for settlement, the government seeks to establish friendly relations with Laos, Myanmar and other Southeast Asian countries, so the governance of overseas Chinese has become the focus of international immigration governance after the founding of the People 's Republic of China.

### ***3.2. During the period of reform and opening up, China continues to rise, ' bring in ' and ' go out ' become the theme of the times***

Before 1978, New China completed the socialist transformation, entered the primary stage of socialism, and carried out socialist economic construction, but the national economy was in a state of tortuous and slow development ; since the mid-1950s, China 's entry into the world diplomatic arena has gained more and more international recognition, but in the 1960s, the Sino-US relations broke down. Militarily, China has successfully developed hydrogen bombs and atomic bombs, and its strength has been further enhanced. However, due to the ' left ' mistakes, China 's economy retrogressed two decades to bring order out of chaos, the implementation of reform and opening up has become a must choice for China. With the advent of the era of reform and opening up, ' going out ' and ' bringing in ' have become the theme of the times. At the same time, with the deepening of reform and opening up, China 's economy has been developing healthily and comprehensively. National strength has been increasing, and large-scale population movements have become an irreversible trend. Coinciding with the 1970 s, China resumed its legal seat in the United Nations and established diplomatic relations with the United States, France, Japan and other countries. The relationship with capitalist countries has been eased and developed. The strict restrictions on immigration are no longer adapted to the requirements of the times. The relatively loose immigration policy has become inevitable, and management and service have become a new trend in immigration management. In the context of the transformation and development of immigration management policies, the " Nationality Law of the People 's Republic of China " promulgated by the People 's Republic of China in 1980 began an attempt to establish a naturalization system for immigrants. The " Law on the Entry and Exit Administration of Aliens " promulgated in 1985 stipulates that foreigners who come to China for employment or employment may be detained for a period of not more than one year in general (an extension is declared year by year according to the regulations). At this time, foreigners settling in China can truly operate without regional restrictions.<sup>[2]</sup> Compared with the previous period, China 's immigration management system is more standardized and reasonable.

### ***3.3. Since the beginning of the 21 st century, China has been growing stronger and playing an increasingly important role in the international community. The Sino-US game has become the driving force.***

After 2000, as the world enters the new century, China has also embarked on a journey of rapid development. Especially since entering the new era, China has become a veritable and influential power in the world. On the one hand, although the " one super " status of the United States has not changed fundamentally, its control ability has declined significantly. The contradiction between the unilateral hegemony and the multi-polar trend of the United States has become more acute and has increasingly become the main contradiction. This is reflected in the intensification of the comprehensive strategic competition between China and the United States, the internal differentiation and reorganization of the West, and the adjustment of trilateral relations between China, the United States and Russia, China, the United States and Europe. China is facing a more severe test than before. As non-state organizations play an increasingly important role in global governance, how to balance the relationship between state and non-state organizations has become a new challenge. On the other hand, the main contradictions in the domestic society have changed. In addition to considering how to meet the people 's growing material and cultural needs, China 's population aging, the increase of foreign population in China, the degree of social integration and the protection of rights, and the health and medical security of foreigners and overseas Chinese under the epidemic have also put forward new propositions for national governance. Therefore, it is urgent to continuously improve the international immigration governance system. Deepening reform has become the subject of the new era, creating a ' Chinese plan ' and providing Chinese ideas for the globalization of international immigration

governance. It is also one of the requirements for showing China 's international image and building a community of shared future for mankind.

#### **4. China' s Dilemma in the Globalization of Immigration Governance**

##### ***4.1. Differences with the international community in concept***

First of all, in terms of immigration governance, there are theoretical and conceptual differences between China and the international community. There is a view that transnational migration is one of the basic rights of human beings. For example, Article 13 of the 1948 Universal Declaration of Human Rights stipulates that " everyone has the right to freely migrate and reside in the territory of each country ; everyone has the right to leave any country, including his own, and to return to his country. Article 12 of the 1966 International Covenant on Civil and Political Rights states : ' Everyone lawfully in the territory of a State shall have the right to freedom of movement and freedom to choose his residence in that territory. Everyone is free to leave any country, including his own. No one shall be arbitrarily deprived of the right to enter his own country. Therefore, migration and immigration are of course one of the basic human rights. But there are also views that encouraging or even inducing the flow of people will undermine the development and stability of the country, especially illegal immigrants will seriously undermine the stability and harmony of a country or region. More importantly, if these abstract concepts and principles of human rights and sovereignty are put into specific time and space, or put into specific countries and regions, there will be more problems and disputes. For example, the integration of black people in Guangdong has always been the focus of social governance. Giving too much rights and freedom to black groups may intensify the contradictions and conflicts between local residents and black immigrants, increase the difficulty of government governance, and become China 's governance dilemma.

##### ***4.2. The persistence of sovereign states***

At present, the subjects of international migration governance are diversified, covering countries, regions and international organizations. The International Organization for Migration (IOM) and other relevant non-governmental organizations and agencies, among others, have contributed significantly to migration governance by providing a wealth of migration studies, data, information and policy recommendations, as well as providing practical assistance to many migrants, but my country has always upheld the principle of sovereign priority and insisted that migration governance is a domestic matter. China 's international immigrants are mainly managed by the National Immigration Administration in accordance with the " Entry and Exit Administration Law " and the " Regulations on the Entry and Exit Administration of Foreigners. " According to the regulations, China 's ordinary visas for foreigners are divided into 16 categories according to their purpose of coming to China. Local foreign affairs departments authorized by the National Immigration Administration, the Ministry of Foreign Affairs and the Ministry of Foreign Affairs, China 's diplomatic missions in foreign countries, consular agencies or other agencies authorized by the Ministry of Foreign Affairs are responsible for reviewing and issuing entry and transit visas to China according to the different purposes and needs of foreigners coming to China. Although China has actively applied to join the relevant International Organization for Migration and participated in the work, joined the " New York Declaration on Refugees and Immigrants, " " Global Compact for Secure, Orderly and Normal Migration " and a series of international treaties related to immigration governance, and also recognized the internationally accepted concept of protecting the human rights of migrants, China itself still plays a decisive and key role in immigration governance. The immigration management policies formulated by China cannot be easily interfered and influenced. China can independently handle international immigration management affairs and is not interfered and restricted.

##### ***4.3. The Complexity of International Migration***

International migration is not only a cross-border flow of population, but also related to international political issues, such as national security and development, nation-building, national identity, brain drain in poor countries, talent attraction in rich countries, capital and intellectual mobility, and inter-state relations. As a result, international migration governance is not simply a matter of population management. Once the population flows across borders and is integrated into the destination country, it will be fully integrated with the political, economic and cultural aspects of the destination

country. It will become a direct bridge of communication between the home country and the destination country. While bringing development to the destination country, it will also carry potential risks of instability and insecurity. For example, there are illegal and criminal activities of aliens smuggling in the southwest border areas of China. They will also use the Chinese nationality in the border to induce them to participate in smuggling activities with their own interests, and provide themselves with convenience such as guidance, transportation and accommodation, which seriously affects the stability and security of China's borders and also endangers China's national security. In order to cope with the tense and complex international forms, China has been actively exploring the road of cross-regional economic cooperation, striving to build a community with a shared future for mankind, and striving to create a development environment for human solidarity and political security around the world. Although China has formed a complete international migration management system after more than 70 years of construction, it is not enough to resist the unpredictable migration trend. Especially when international migration governance involves international political factors, its complexity is further deepened.

## **5. Countermeasures for Optimizing Immigration Governance in China**

### ***5.1. Uphold the principle of sovereign priority***

The principle of sovereignty priority refers to China's insistence on dealing with issues related to international migration governance independently and independently, without being influenced and restricted by international organizations or other countries. Implementing the principle of sovereignty priority is conducive to adhering to China's position. Under the changing international situation and the changing foreign policies of various countries, we should grasp the right direction, base ourselves on China's reality, and carry out China's immigration governance work in a timely manner. Practice has proved that adhering to the principle of sovereignty priority plays an irreplaceable role in resolving the risks of unconventional immigrants. The international community, including international organizations, believes that irregular migrants should also enjoy basic rights guarantees. The destination country should not arbitrarily expel them on the grounds that they do not have legal documents. Even the international community will publicly condemn such expulsions or interfere with them. In upholding the principle of sovereignty, my country has chosen to take appropriate measures to expel illegal immigrants, guiding them in principle to leave the country voluntarily. When illegal immigrants refuse to leave the country, coercive measures can be taken to force them to leave the country.

No matter how much international organizations contribute to international migration governance today, China's attitude is always to insist that sovereign states should be the central subject of migration governance. We recognize the contribution of international organizations such as the International Organization for Migration and do not exclude cooperation with international organizations and other countries, but more importantly, we should learn from effective governance programs around the world and constantly improve the socialist migration governance program with Chinese characteristics in combination with China's specific national conditions.

### ***5.2. Adhering to the Guiding Concept of Human Rights Protection for Governance***

The "New York Declaration" reaffirms the purposes and principles of the "Universal Declaration of Human Rights" of the Charter of the United Nations and the core human rights conventions of the United Nations, emphasizes the full protection and respect for the human rights and fundamental freedoms of all immigrants and refugees, and proposes to adopt a combination of people-oriented, considerate, humane, dignified, gender-responsive, timely and many other concepts to deal with global immigration and refugee issues. Safeguarding human rights has become a universally recognized principle in all countries. Migrant governance from the perspective of 'human rights protection' is a combination of multiple perspectives and governance measures to comprehensively safeguard the legitimate rights of non-citizens and citizens, provide remedies for the damage to their rights, and coordinate and supplement the fragmented international human rights protection mechanisms for migrants.<sup>[3]</sup> However, adhering to the "human rights protection" as the center of migration governance is not to abandon the "principle of national sovereignty priority," but to add the "people-centered" concept to the national migration governance policy, to clearly protect the rights and interests of migrants, and actively assume state obligations. Secondly, adhering to the 'human rights protection' also needs to be based on the existing international human rights legal norms. The standards and

principles in the field of human rights have provided basic guidance for immigration governance in various countries, actively practicing the principle of non-discrimination, and effectively protecting the human rights of immigrant groups.

It is the proper meaning of China 's national governance system to integrate the concept of " human rights protection " into all aspects and the whole process of national governance. China is also constantly implementing " human rights protection " into the national system and governance system. For example, China 's accession to the International Organization for Migration is mainly devoted to : participating in the governance of international illegal immigrants and doing a good job in the governance of domestic illegal immigrants. Within the framework of international organizations, strengthen what to do to combat the crime of illegal immigration governance ; revision of the Entry and Exit Administration Act to govern illegal immigrants in the country, with a focus on illegal entry, illegal residence, illegal employment of foreigners and repatriation of illegal immigrants. It is an international humanitarian obligation to receive and resettle refugees. Since its founding, the People 's Republic of China has received and properly resettled hundreds of thousands of refugees, including Vietnamese refugees in Southeast Asia and Korean refugees in Northeast Asia, and has assumed the international refugee assistance obligations of a major country.<sup>[1]</sup> It reflects China 's recognition of the human rights of international migrants, and even focuses on the rights of " three non " migrants, which is in line with the basic concept of putting the protection of individual rights, dignity and basic freedom at the center of immigration governance.

### ***5.3. Forging closer ties with international organizations***

In 2016, China officially joined the International Organization for Migration, committed to participating in the governance of international illegal immigrants, and assumed its due refugee relief obligations, marking that China has closer ties with relevant international migration organizations. The establishment of cooperation with non-state organizations is conducive to the development of international migration governance. The establishment of the Migration Authority is one of the practices of international migration governance. One of the goals of its establishment is to promote international integration and establish a stable and lasting working relationship with IOM, UNHCR and other international organizations and national migration agencies. As a corresponding agency, the establishment of the Immigration Administration is conducive to introducing international useful experience and legislative practice, promoting the adaptation of domestic law to international law, and facilitating international exchanges and cooperation. It is worth noting that in this process, we should uphold the principle of " taking China as the center and making use of it " and actively provide China 's experience and suggestions for international law. In order to maximize the dual well-being of immigrants and the country, it is necessary to establish a national immigration management system with the nature of socialism with Chinese characteristics. We should not rely too much on the guidance and assistance of international law and international organizations.

### ***5.4. Actively buildings' community of shared future for mankind ' and providing China 's solutions to international migration governance***

On March 23, 2017, the 34th Session of the UN Human Rights Council included for the first time the concept of ' Building a Community of Shared Future for Mankind ' in a resolution adopted by the General Assembly, marking the emergence of this concept as an integral part of the international human rights discourse system. Throughout the world, China 's concept of " a community with a shared future for mankind " has gradually been recognized, which coincides with the core essence of global governance. It has become a common value norm to deal with major global crises and challenges, and of course, it has become a fundamental criterion for solving the problem of international migration governance, one of the issues of global governance.

To explore the new path of international migration governance with the ' China plan ' and to run the concept of ' community of shared future for mankind ' through the whole process of migration governance, we must first deepen the ' Belt and Road ' initiative. As one of the practical manifestations of the ' community of shared future for mankind ', the ' Belt and Road ' initiative is conducive to the ordering of migration governance. " The Belt and Road " helps to establish industrial docking, capital docking, network docking, technology docking, market docking and so on between China and the countries along the route.<sup>[4]</sup> It creates jobs, promotes a win-win situation between China and the countries along the route, and is conducive to realizing the unity of interests between the two. Secondly, the ' China Program ' type of immigration governance also needs to focus on changes in the

international situation, scientifically and objectively view the relationship with other countries from a macro perspective, and use the advantages of overseas Chinese widely distributed in the world to steadily build a community of human destiny for the benefit of China and the world. In view of the fact that as early as before the founding of the People's Republic of China, China has the habit of Chinese people going abroad to do business and work. After many years, overseas Chinese have a dual cultural advantage, so they can rely on various important carriers such as Chinese media, Chinese communities and Chinese elites to promote the community of shared future for mankind. For example, some of China's official mainstream views have landed in many overseas newspapers such as 'Brazilian' South American Overseas Chinese Newspaper', Malaysia 'Sin Chew Daily', Philippines 'United Daily', Thailand 'Sin Siam Daily', Cambodia 'Chinese Business Daily' Cambodian Chinese Business Daily' and Indonesia 'Indonesian Business Daily', and excerpted opinions through overseas social media platforms. It has played a guiding and balancing role in overseas public opinion. Building a 'community of shared future for mankind' is the embodiment of China's wisdom in exploring better and better global governance under the ever-changing international situation, and it is also one of the manifestations of China's dedication to the world.

## 6. Conclusion

The world is changing with each passing day. How to maintain Chinese characteristics in the changing world trend and use Chinese solutions to solve China's problems has always been an important proposition of national governance and an important means to solve the immigration problem. In the future, upholding the supremacy of national sovereignty will always be an important criterion for China to govern international migration. Building a community with a shared future for mankind will also promote the smooth integration of migrants into society and provide new ideas for countries and regions around the world to solve problems arising from the process of migration governance.

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