

# Discrimination Against Migrant Workers in China: An Examination of the *Hukou* System and its Impact on Migrant Workers

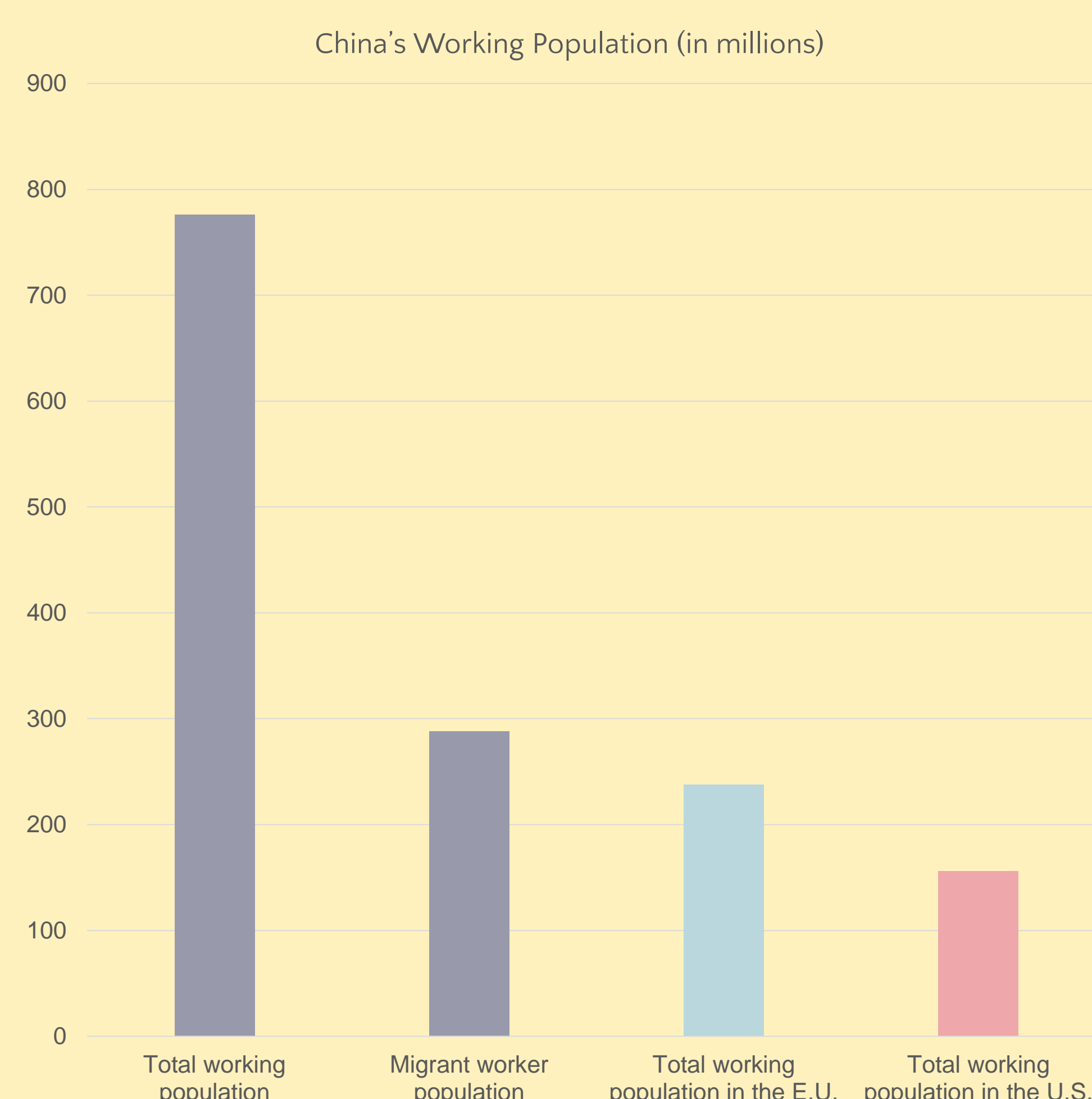
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## Abstract

With an estimated 288 million rural migrant workers in 2018, China has what is considered the largest population of voluntary migrant workers in human history. Although this population makes up more than one-third of China's working population, they are often excluded from social benefits and exploited through loopholes in their *hukou* system, which is a domestic passport that bases residents' access to social welfare services on where the person lives and restricts migration and migrant rights. A person's social status is heavily based on whether their *hukou* is agricultural/rural or non-agricultural/urban, as non-agricultural *hukou* holders have access to many more benefits than agricultural *hukou* holders do. Because *hukou* status is inherited, this caste system makes socioeconomic mobility near impossible for migrant workers. Chinese migrant workers face severe working conditions, receiving below minimum wage pay, working far more than the lawful number of hours, encountering dangerous and illegal workplace hazards, experiencing sexual harassment, and a plethora of other rights violations. While there have been efforts to reform this system, Chinese migrant workers have been extremely impacted by the institutionalized inequality that the *hukou* system promotes, and the rights of migrant workers continue to be violated. In this paper, the Chinese *hukou* system will be analyzed through case studies and research conducted by various scholars in order to determine effective policy reform that will benefit Chinese migrant workers.

## China's Working Population



## Laws and Policies

*Employment Promotion Law of the People's Republic of China* (effective as of Jan. 1, 2008)

- Article 31 states: "Rural workers who move to urban areas to seek employment shall enjoy equal labor rights to urban workers and shall not be subjected to discriminatory restrictions."

*Labor Law of the People's Republic of China* (effective as of Jan. 1, 1995)

- Article 3 states: "Labourers have the right to be employed on an equal basis, choose occupations, obtain remunerations for labour, take rests, have holidays and leaves, receive labour safety and sanitation protection, get training in professional skills, enjoy social insurance and welfare treatment, and submit applications for settlement of labour disputes, and other labour rights stipulated by law."

*UN Universal Declaration of Human Rights*

- Article 2 prohibits discrimination on the basis of social origin

*International Covenant on Economic, Social, and Cultural Rights*

- Guarantees economic, social, and cultural rights "without discrimination of any kind as to...social origin...or other status."

## Hukou System



The *hukou* is a family registration program that is used as a domestic passport in order to regulate both population distribution and rural-to-urban migration.

The *hukou* has three main functions:

- The control of internal migration
- The management of social protection
- The preservation of social stability

*Hukou* is a classification system that identifies Chinese citizens as either rural or urban residents. The government uses this classification to determine the social benefits that residents receive, including healthcare, education, social security, and working rights. Urban residents receive far more benefits than rural ones, and obtaining an official rural-to-urban *hukou* is extremely difficult because the Chinese government has very tight quotas on conversions per year, converting only 1.5% on average. *Hukou* status is also inherited, which creates a caste system that determines one's status at birth and causes generational poverty.

## Issues with the *Hukou* System

Despite the policies in place, the *hukou* makes discrimination based on social origin legal and places limitations on migration within the country.

*Permits and High Costs*

- Under the *hukou* system, migrants must obtain a departure permit to leave their home, a residence permit to live in a new city, and a work permit for employment.
  - Workers have to pay high fees to government officials in order to obtain these various permits. Often times these fees can be equivalent to or more than a month's wage for migrant workers.

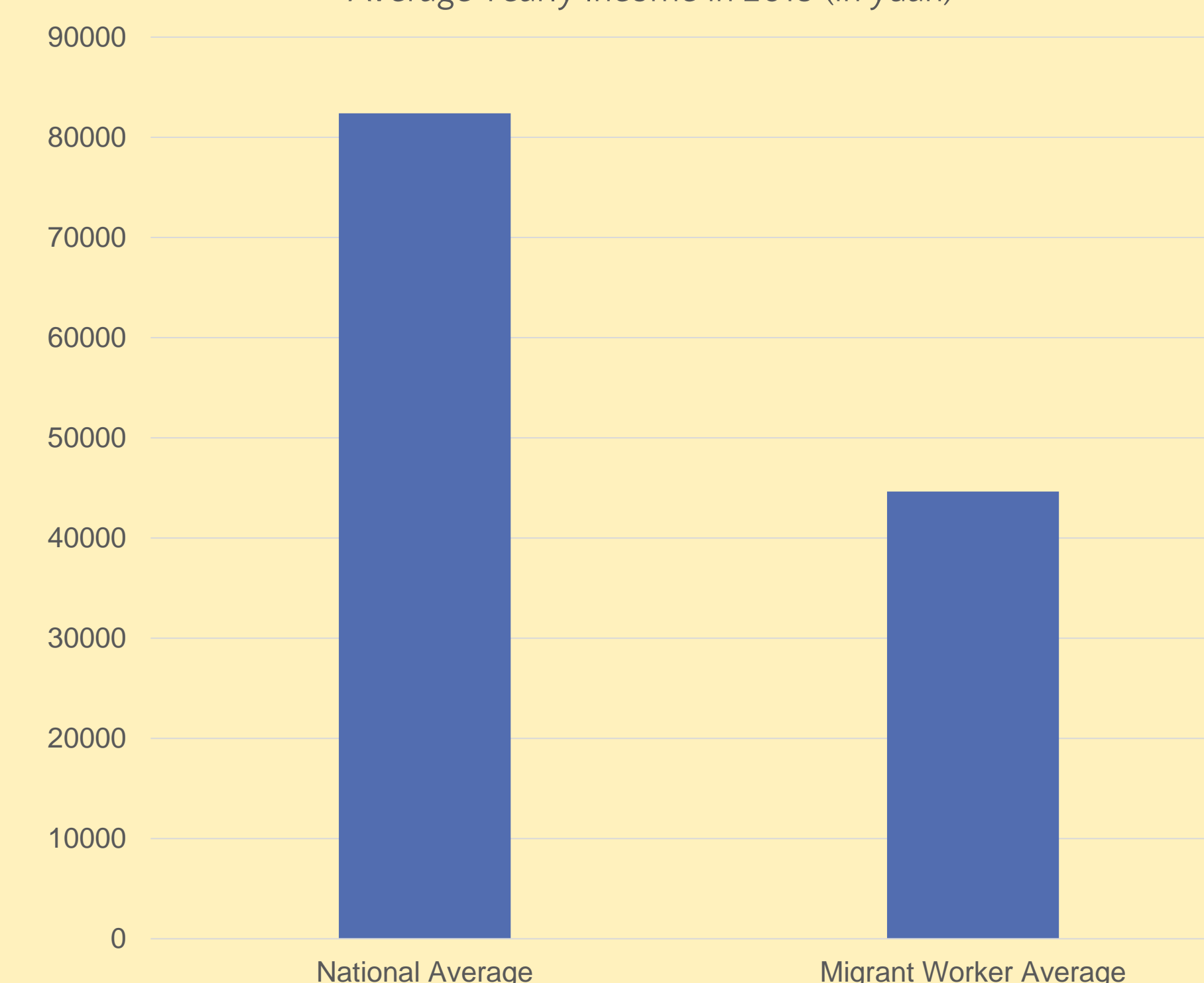
*Limitations of Employment Opportunities*

- In 1998, Beijing prohibited migrant workers from working in finance, insurance, management, accounting, and sales,

*Employer Exploitation*

- Employers can require migrant workers to pay a deposit that can be worth several months of wages or withhold their wages to ensure they remain at work, but many employers keep the money knowing that migrant workers rarely have the time or money to take legal action against them.
- China's labor law specifies eight-hour workdays and 40-hour workweeks as normal, with the legal maximum overtime limit as three hours per day.
  - However, loopholes allow exceptions based on waivers by local authorities, "special circumstances," and the "special nature" of a company's production process.
  - Employers use these loopholes and threaten migrant workers with dismissals or wage penalties to force them to perform massive overtime labor without receiving overtime pay.
  - In a survey conducted by the Guangdong labor department, they found that 85% of the 26 million migrant workers in the province work 10-14 hours per day, and 50% work seven days a week.

Average Yearly Income in 2018 (in yuan)



## Conclusion and Final Recommendations

There are a plethora of issues that inhibit migrant workers from socioeconomic mobility in China. Migrant workers are exploited and mistreated through the *hukou* system that systematically discriminates against rural citizens. Although the government has attempted to reform its caste system, they have not done enough to reverse the negative impact the *hukou* system has had on migrant workers. The following recommendations should be considered:

- Provide the same resources for both rural and urban residents regarding education, healthcare, insurance, pensions, and other social welfare programs.
  - Enact policies that protect migrant workers from exploitation and address loopholes that employers take advantage of.
    - For example, requiring employers to pay at least the minimum wage to migrant workers and ensuring payment of any overtime hours.
  - Promote and fund education and training for migrant workers that seek white-collared jobs or areas of employment, as well as prohibit the limitations of employment opportunities.
  - Enforce policies and laws that prohibit discrimination based on social origin by consistently monitoring workplaces, particularly workplaces that attract many migrant workers.
  - Remove the *hukou* system entirely so that Chinese citizens have the freedom to move if they choose to.
- These are only a few of the many potential solutions to reconcile the discrimination migrant workers face in China. Some may be more plausible than others, but ultimately, China needs to recognize their rural citizens as equals to their urban citizens and treat them as such.

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