

HEALTH, HIV AND LABOUR MIGRATION IN THE GMS

Country in focus

Last updated

China

March 2014

China is both a source and destination country for migration in the Greater Mekong Sub-region (GMS). Chinese migrants work in all GMS countries, primarily as professional or low-skilled workers employed in Chinese companies along the GMS economic corridors or as informal sector workers and small traders. From Yunnan province the largest migration is to Myanmar,¹ with an estimated 2 million Chinese workers,² followed by Laos PDR. As a destination country, China hosts migrants from all GMS countries. Yunnan province attracts a large number of migrants from Myanmar (an estimated 100,000 Burmese worked in two border towns in 2012)³ as well as from Viet Nam and Laos to work in agriculture, factories, construction, and trade – especially in border zones where migration is largely informal. Guangxi province attracts migrants mainly from Viet Nam in border trade zones, and increasingly other GMS countries, to work primarily in agriculture – including seasonal and processing work – and on construction projects. Women from Viet Nam and Myanmar also migrate to China for marriage, in response to the demand for ‘foreign brides’ driven by China’s one-child policy, which has created a gender imbalance. Internal labour migration in China is also common, with an estimated 242 million⁴ migrant workers in urban coastal and economic border zones and cities, where most of China’s economic development occurs.⁵

China’s adult HIV prevalence was 0.1 per cent in 2011, with elevated rates for intravenous drug users (6.4 per cent), men who have sex with men (6.3 per cent), and sex workers (0.3 per

AT A GLANCE

HIV prevalence among injecting drug users

6.4% *av.*

HIV prevalence among sex workers

0.3% *av.*

HIV prevalence among men who have sex with men

6.3% *av.*

Total number of migrants

848,511

SUPPORTED BY





cent). Countrywide, in 2011 there were an estimated 780,000 people living with HIV, and antiretroviral therapy (ART) coverage reached 76.1 per cent of these.⁶ Yunnan and Guangxi have the highest HIV prevalence of all provinces in China, with key high-risk groups found primarily among sex workers and their clients, men who have sex with men, and injecting drug users. In Yunnan, drug users account for 70 per cent of reported HIV cases, while rates for men who have sex with men have reached 13.2 (in Kunming, 2007)⁷ and sex workers 10.3 per cent (in Kaiyuan, 2006).⁸

While reliable data on HIV prevalence among migrant populations in China is limited, studies indicate that the risk of HIV can be linked to some occupations of high mobility, to high-risk sexual or drug taking behaviour, to certain geographical locations, and to limited access to affordable health care and HIV prevention and treatment.⁹ Migrants in the GMS also face specific HIV vulnerability due to exploitative living and working conditions, government policies that confine migrants to specific locations or employers, and high levels of stigma and discrimination.¹⁰

Surveys conducted in Yunnan in 2007 showed elevated HIV prevalence for Chinese male migrant workers (1.8 per cent)¹¹ and Chinese male miners (HIV 1.8 percent, sexually transmitted infections 14.9 per cent).¹² Surveys in both Yunnan and Guangxi also point to: low levels of knowledge regarding HIV; high levels of stigma towards the virus; comparatively high levels of engagement in commercial and casual sex; and low levels of condom use.¹³ HIV risk is also elevated in areas of high injecting drug use, particularly along the traditional heroin transmission route from the Golden Triangle of Thailand, Myanmar, and Laos, into the northern provinces of Viet Nam, and thence into China's Guangxi province.¹⁴ The overlap of two high-risk behaviours – paid sex work and injecting drug use – greatly exacerbates the risk of HIV in the Viet Nam/China border areas.

National policies / development initiatives on migration, health, and HIV

The Ministry of Labour governs outgoing migrant workers from China under the Legal Rights and Interests of Overseas Labour Ordinance (1998), which mandates a minimum age for migration of 16 years, written work contracts with health insurance, minimum labour conditions, and the protection of rights of Chinese workers, especially women and fishermen. Migration is implemented via authorized labour agencies for hiring overseas workers.¹⁵ For migrants coming into China, the Rules for the Administration of Employment of Foreigners in China (1997) requires health tests, written employment contracts, and employment permits for all incoming foreign workers. In addition, the China Labour Act 1994 guarantees standard labour entitlements and special protections for women and youth (16–18 years) workers. Foreigners or registered migrant workers are eligible for social security benefits (Social Insurance Law, article 97), which include illness, injury, occupational



disability, and childbirth entitlements. China has no HIV-specific restriction on entry, stay, or residence. Three basic medical insurance schemes cover urban employees, urban residents, and rural populations (the New Cooperative Rural Medical Scheme).¹⁶

Implementation of labour, migration, and HIV law at the provincial level is the responsibility of provincial authorities. China has 13 border areas designated as Cross-Border Economic Cooperation Zones, including five points along the Myanmar/Yunnan border, two points on the Laos PDR/Yunnan border, and four along Guangxi/Viet Nam border. Migration policy in these areas differs according to the context in each province, with some areas on the Myanmar border using a border pass system with week-long stays for migrants, while in many border areas migration is mostly irregular.¹⁷

The national Regulations on AIDS Prevention and Treatment (2006) prohibits discrimination against people living with HIV in education, health, and employment settings; and require local governments to provide voluntary counselling and testing and universal access to HIV prevention and treatment programmes. In addition, the Employment Promotion Law (2008) prohibits employment discrimination for people with infectious diseases, including HIV. The Notice of the State Council on Further Strengthening HIV/AIDS Response (2010) includes migrants as a key target group for HIV/AIDS health education, and aims to promote mechanisms for free ART for migrants and methadone substitution treatment (MMT) for drug users among migrant populations. China's Action Plan for Reducing and Preventing the Spread of HIV/AIDS (2011–2015) sets a target for HIV/AIDS knowledge among migrants of above 85 per cent by the end of 2015. The country's 'Four Frees and One Care' policy has increased the number of people living with HIV/AIDS on antiretroviral treatment from some 100 patients in 2003 to 126,448 in 2011. Current national programmes targeting migrant populations with support of the Global Fund include an HIV-prevention programme for vulnerable migrants in seven south-eastern coastal provinces and a tuberculosis and HIV treatment and prevention programme targeting migrants in 31 provinces.

At the province level, the Yunnan HIV/AIDS Prevention and Treatment Regulations (2007) provide for the non-discrimination of people living with HIV in job recruitment, wage distribution, medical services, pension benefits, and dismissal. In addition, the Yunnan 2008 Guidelines on Community Organizations support the role of Yunnan civil society in the AIDS response. Similarly, the Guangxi Zhuang Autonomous Region AIDS Prevention Act was implemented in 2013. At the national level, China has ratified the GMS Memorandum of Understanding (2011) on HIV vulnerability and population movement, which targets HIV prevention and treatment for migrant populations and promotes improvements in policy and collaborative GMS development strategies.



Good practice programme and advocacy initiatives on migrant health/HIV

Documented registration certificate for border residents in the cross-border marriages (Blue Card policy): This is a trial project implemented by the Yunnan Provincial Government to register cross-border marriage migrants and certify Burmese foreign brides so that they have access to rural cooperative medical care and other public health and welfare services.¹⁸

HAARP-HIV/AIDS Asia Regional Programme: This programme – which is ongoing in Yunnan and Guangxi provinces as well as Cambodia, Laos PDR, Myanmar, and Viet Nam – provides harm-reduction services to more than 34,500 injecting drug users, and employing a multi-sector approach to strengthen the will and capacity of GMS governments and communities to reduce HIV-related harm associated with injecting drug use. Activities include condom and clean needle distribution, law enforcement training, MMT clinics, gender awareness, human rights advocacy, and mechanisms for cross-border communication and cooperation. The project is funded by the Australian Government with GMS and international partners.

Health Poverty Action: This programme works with communities across the Myanmar/China border to reduce drug use and the spread of HIV among vulnerable populations, including drug users and sex workers. Activities include a needle exchange programme, basic healthcare, voluntary counselling and testing, and health education for sex workers.

Current policy incoherence and gaps on migrant health and HIV

HIV prevention and treatment gaps: While the national AIDS strategy targets migrants, it needs to have a more specific policy response for the large number of irregular migrants – including undocumented migrants from China working in the GMS and undocumented foreign migrants from GMS countries working in China. Irregular migrants in both source and destination countries have limited access to affordable HIV treatment and comprehensive sexual and reproductive health services due to their irregular status and vulnerability to exploitation.

Large numbers of irregular, informal-sector workers from the GMS face barriers in accessing HIV prevention and treatment in the Yunnan and Guangxi border zones and cannot access the national rural health insurance schemes. In addition, high levels of poverty, a lack of labour protection, low wages, and long working hours are further barriers to accessing services. Existing laws governing



emigration from China have been framed along the lines of security control, rather than preparing Chinese migrants for work in other GMS countries; and China has yet to develop a comprehensive migration policy for border zones to deal with the increasing cross-border flow of GMS migration.¹⁹

Although migrant populations are not required to undergo mandatory HIV testing, the national AIDS regulations and some provincial regulations mandate premarital testing in high HIV-prevalence areas for certain occupations, and mandatory disclosure of HIV to spouses.²⁰ For example, the Yunnan HIV/AIDS Regulations (2007) mandate HIV testing before marriage, and six-monthly HIV testing for entertainment venue workers.²¹ Similarly, the Guangxi AIDS Prevention Act (2013) requires ID for HIV testing and mandatory disclosure of HIV status to spouses or sexual partners. These regulations restrict individual rights, and compromise the principles of voluntary and confidential HIV testing.²²

More effective collaborations with international and local non-governmental organizations (NGOs) are needed in order to respond to issues related to the health and human rights of migrant workers in provincial areas. Effective community-based HIV-prevention initiatives in border regions are hindered by laws that restrict the work of NGOs, including the national HIV Guidelines and Provincial Guidelines for community-based organizations in Yunnan.²³

Barriers to an enabling environment: While national AIDS regulations have provisions prohibiting discrimination on the grounds of HIV-positive status, the law lacks specific mechanisms for enforcement. Similarly, the Employment Promotion Law lacks implementation guidelines, thereby limiting its success in achieving legal redress for HIV discrimination related to employment.²⁴ In border provinces, migrants and sex workers have limited access to justice to challenge this situation,²⁵ which undermines an effective rights-based approach to HIV prevention.

Law and policy on prostitution and drug use create barriers to HIV prevention and treatment for high-risk and mobile populations. The Law on Penalties for Administration of Public Security (2005) penalizes sex workers with fines, detention up to two years, and re-education through detention and labour for up to three years.²⁶ The Narcotics Control Law (2008) includes harm-reduction approaches, but mandates compulsory treatment for drug offenders with up to two years in state drug rehabilitation centres. The enforcement of anti-prostitution and anti-drug laws takes priority over the enforcement of the administrative HIV-related public health law, which thus undermines the efficacy of responses to HIV.²⁷



RECOMMENDATIONS for Yunnan and Guangxi Provinces	LEAD AGENCIES
<p>1. Review and harmonize provincial-level migration and health policy to provide an optimum package of sexual/reproductive health and HIV prevention/treatment service for all migrants regardless of legal status, without discrimination, and of the same quality as citizens. This includes a review of discriminative clauses in the HIV law and in provincial HIV/AIDS policies to meet international standards and non-discrimination principles for effective HIV prevention.</p>	<p>Yunnan and Guangxi Provincial AIDS Bureaus / National: Ministry of Health / Ministry of Labour and Social Security / Ministry of Foreign Affairs</p>
<p>2. Improve national data collection to include: sentinel surveillance for HIV; health-seeking and HIV-risk behaviours among migrants; health management information systems for mobile populations; and outflows and return migration data.</p>	<p>Yunnan and Guangxi Provincial AIDS Bureaus / National: Ministry of Health / National AIDS Association</p>
<p>3. Review national and provincial regulations to develop an enabling policy environment to support the role of community-based organizations and organizations led by key populations affected by HIV/AIDS in the national response. Expand community-based, peer-outreach models with dedicated financing for long-term programming.</p>	<p>Yunnan and Guangxi Provincial AIDS Bureaus / National: Ministry of Health / National AIDS Association</p>
<p>4. Consider measures to improve access of national population and foreign migrants to national health insurance systems and social security protection.</p>	<p>Yunnan and Guangxi Provincial AIDS Bureaus / National: Ministry of Health / Ministry of Labour and Social Security / National AIDS Association</p>
<p>5. Review and amend laws and policies that criminalize sex work and intravenous drug use to create a more enabling environment for HIV prevention and harm reduction.</p>	<p>Yunnan and Guangxi Provincial AIDS Bureaus / National: Ministry of Justice / National AIDS Association</p>
<p>6. Develop a comprehensive, sustainable, multi-sector policy response to HIV and migration in the GMS to define: specific entitlements for <i>all</i> migrant workers to HIV prevention, treatment, and care; subnational delivery mechanisms supported by technical and financial resources; guarantees of confidentiality and prevention of punitive measures for irregular migrants who seek health care; a clear statement regarding migrants rights and mechanisms to access ART.</p>	<p>Yunnan and Guangxi Provincial AIDS Bureaus / National AIDS Association / Ministry of Health / Ministry of Labour and Social Security</p>
<p>7. Develop intraregional collaboration mechanisms and an effective model for HIV referrals and treatment, and for general health insurance for GMS migrants in source, transit, and destination countries.</p>	<p>Yunnan and Guangxi Provincial AIDS Bureaus / National: Ministry of Health</p>



8. Improve access to formal migration mechanisms that guarantee decent work, labour rights, and comprehensive health entitlements for all migrants; and strengthen the implementation of formal bilateral migration mechanisms with neighbouring GMS countries.	/ Ministry of Labour and Social Security / Ministry of Foreign Affairs / GMS partners
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