



International Conference “Best practices in Protecting Labour Migrants’ Rights and Perspectives of its Application in Kyrgyzstan”

Report and Recommendations

**Bishkek, Kyrgyzstan
3-4 June 2013**

TABLE OF CONTENTS

Introduction	3
Section I. Situation analysis and main problems in protection of labour migrants' rights	4
Section II. Recommendations for improvement of labour migrants' rights protection on the basis of the best practices	
<i>1. Preparation for migration</i>	6
<i>2. Support of labour migrants in destination countries</i>	8
<i>3. Return, adaptation and rehabilitation of labour migrants, work with special categories of labour migrants</i>	10
<i>4. Improvement and institutionalization of labour migration management mechanisms</i>	12
Conclusion	14

Introduction

On 3-4 June 2013, the International Conference “Best practices in protecting labour migrants’ rights and perspectives of its application in Kyrgyzstan” was held in Bishkek.

The Conference was organized by the Tyan-Shan Analytical Centre of the American University in Central Asia and supported by a number of international, foreign and national organizations, including the Open Society Foundations (OSF), the Danish Church Aid in Central Asia (DCA), the Dutch Organization for Development of Cooperation (ICCO), and Civil Partnership Platform “Central Asia on Move”.

The representatives of civil society, the Jogorku Kenesh of the Kyrgyz Republic, the Government, international organizations, and independent experts attended the Conference.

The Conference was acknowledged with presentations of international and national experts on international standards of labour migration management, best practices existing in other countries, current trends in labour resources management, the work of international organizations dealing with these issues, and with analysis of migration situation in the Kyrgyz Republic.

Presentations were made by Kathryn Anderson, Vanderbilt University Professor, United States; Dmitry Poletaev, Director of the regional public organization “Center for Migration Studies”, leading researcher of the laboratory of Migration analysis and scientific prognostics of the Institute of economic prognostics of the Russian Academy of Sciences; Asel Akmatova, International Organization for Migration; Asiya Kalieva, Head of the PF “Public Position”, Almaty; Shukhrat Latifov, PA “Centre for Mental Health and HIV/AIDS”, Tajikistan; Chyngyz Tabyldiev, Chief of the programme on employment in Korea, Chief specialist of the Center for employment of the Kyrgyz Republic citizens abroad, Ministry of Labour, Migration and Youth (MLMY); Svetlana Bashtovenko, Head of the Civil Partnership Platform “Central Asia on Move”.

Basing on the progressive international practices, experience gained while working with migrants, and the available analyses, the Conference discussed the situation and problems of labour migrants’ protection in the Kyrgyz Republic, having reviewed all migration process phases, its negative and positive aspects, gender issues, working practice of governmental bodies and non-governmental organizations in assisting migrants.

The aim and result of the Conference was the development of recommendations for labour migrants’ rights protection in the Kyrgyz Republic focused on providing the necessary support and assistance for migrants in all the stages of labour migration.

Section I. Situation analysis and main problems in protection of labour migrants’ rights

(1) Labour migration and related issues, in particular in the sphere of labour migrants' rights protection continues to be the important activity of NGOs, but over the years it never became an important component of the Kyrgyz Republic's state policy.

Due to various estimations, nowadays, continuous and circular labour migration in Kyrgyzstan reached from 500 to 700 thousand people (constituting one fifth of the working population). Generally, the economic reasons/factors spur the process of external migration. For most migrants, migration is a long-term strategy.

(2) The world has accumulated tremendous experience of both state and international, national and regional non-governmental organizations in protection of labour migrants' rights, establishing effective systems of migration flows management, problems solution in the process of labour migration in all its stages: in pre-departure preparation, in destination countries and in post-migration stage.

(3) The migration policy, practically executed by the Kyrgyz Republic, is characterized by the absence of mechanisms for gathering and exchange of migration data and other information. Focus groups and interested stakeholders groups (migrants and members of their families, labour migrants' diasporas, etc.) are not involved in the decision-making process. The comprehensive situation analysis is not executed and the integrated services for migrants in all the stages of migration process are missing.

(4) There are no sufficiently effective mechanisms of labour migrants' pre-departure preparation, they do not get full information on the terms and rules of stay and employment in host countries, do not possess the necessary knowledge and skills, including language, professional to comply with all the requirements of the stay legislation of the host country, to compete in the labour market, to protect their rights.

(5) The root cause of labour migrants' most problems in the host country is a violation of the legislation on stay in the territory of the host country. The difficulty to obtain legal status and work permit alongside with difficulty to rent a low-cost housing are the factors that spur workers in the illegal migration, with all its risks and consequences, where the respect for human rights, beginning with the fundamental human rights and living conditions, is not even mentioned. While more than 60% of labour migrants have the undocumented status, the activities of private recruitment agencies specializing on employment abroad are still not legally stipulated.

(6) The big problem is the social protection of migrant workers. Employers of undocumented migrant workers do not pay contributions for compulsory health insurance in accordance with the Federal Law No. 212 as of 24.07.2009 "On Insurance Contributions to the Pension Fund of the RF, the Social Insurance Fund of the RF, the Federal Compulsory Medical Insurance Fund and the territorial funds of compulsory medical insurance", so the labour migrants cannot get medical services in scope stipulated under the Obligatory Medical Insurance (OMI) policy.

Differences in organization of pension systems in the countries of destination and origin create difficulties in pensions' registration. The common inter-governmental mechanisms to ensure migrants' pensions are not developed. The RF has adopted the law requiring employers to pay the insurance deductions to the Pension Fund for migrants temporarily staying in the country. These sums are deducted from the wages

of labour migrants, but bi-lateral netting with Kyrgyzstan does not exist. Migrants are not even informed of the private pension insurance' existence in the KR.

(7) Labour migrants, in particular those in irregular situation, among whom the most vulnerable are women and youth, are mostly exposed to the risk of becoming victims of deception in recruitment and labor exploitation.

(8) The main destination country Russian Federation has introduced a number of amendments and addenda to its migration legislation (mandatory testing on mastering the basics of the Russian language and denunciation of the agreement on obtaining the Russian citizenship through a simplified procedure), which pose new challenges for migrants from Kyrgyzstan. Due to initiatives of Kyrgyzstan to join the Customs Union and the Common Economic Space (CES), capacity enhancement of the workforce to work outside the country, ensuring equal conditions of work and social security for labour migrants of our country in the CES countries, becomes relevant.

(9) The returning labour migrants face numerous problems associated with the need to maintain their health, to adapt to the changed conditions in the origin country, to resolve the issue of new employment and pension.

(10) Problems of members of labour migrants' families, in particular, children remain outside the sphere of state and public attention. Many of them do not have the opportunity to learn, to gain sufficient medical treatment, are deprived of normal living conditions and family upbringing values.

(11) The State does not provide the proper evaluation of the social and cultural consequences of migration of the large number of its population, and does not undertake measures to minimize the problems arising out of it. In general, the state of migrants' health, especially of the illegal ones, is being lowered. The mass labour migration brings imbalance to the demographic situation and destroys the institution of family.

(12) Insufficient attention is being paid to implementation of the best practices existing in various countries and international organizations in the sphere of labour migrants' rights protection, provision of the civilized migration processes, enhancing the interaction between the state authorities of various countries and the non-governmental organizations active in the area of migration policy and its implementation.

(13) Up to nowadays, neither effective migration management state-owned mechanisms, nor the national human resources management strategy were elaborated, including in the field of migration policy; the relevant section is also missing in the recently adopted "National Sustainable Development Strategy of the Kyrgyz Republic for the Period 2013-2017".

Section II. Recommendations for improvement of labour migrants' rights protection based on the best practices

1. Preparation for migration

It is necessary to have the functioning operational analysis system to analyze the situation at the global, regional and domestic labour markets. This analysis technique and its organization, communication of results to all the stakeholders are advisable to be ensured by the MLMY.

Via mass media and Internet, and with the wide distribution of brochures or publications in newspapers, airing on TV and radio, in particular for remote areas, there should be ensured the dissemination of comprehensive and accessible information about available employment opportunities in destination countries, on vacancies and qualifications thereof, the relevant employment legislation, labour migrants' rights and duties, their social securing in employment country, as well as informing labour migrant workers, in particular women, and their families' members on their rights and obligations, and on the problems related to migration and work outside their home country. To do this, it is necessary to create the public information portal that could be accessed via the Internet, as well as to open the hotline for provision of information on the labour market, conditions of travel, work and stay, on the legislative basis of stay in the country of destination.

It is also vital to draft the short reference books (booklets) for travelers and members of their families on various issues arising in migration process.

To create the system of pre-departure preparation of labour migrants by NGOs at the expense of state resources through the system of state order.

The most effective solution made by the Government could be the support of development of private employment agencies networks, constituting the important part of labour migration "infrastructure", methodical, information, legal support of their activities, monitoring of their compliance with the norms of legislation on migration and employment of our citizens and protection of their human rights.

The essential task of the Government is the drafting and signing of the inter-governmental agreements outlining the agreed mechanisms of the organized recruitment and employment of the KR citizens in Russia, Kazakhstan and other countries.

The Ministry of Education should provide support to potential migrants through conduction of destination countries language courses, cultural and legal orientation. Organizing the courses designed for practicing them in labour-abundant regions becomes an urgent task in connection with the adoption by Russia of the new legislation requiring confirmation of labour migrants mastering the basics of Russian language.

Migrants already living in Russia and facing difficulties in connection with the introduction of compulsory Russian language exam must have the opportunity to get ready for it directly at their residence places in Russia through signing agreements with the education authorities of the RF on such assistance.

The Ministry of Education and the vocational training agency are advised to create the special programme that would bring the system of vocational training in conformity with the existing labour market (both external and internal) conditions and would provide:

- creation of resource centres within the vocational education establishments with adoption of the best access practices.

It is necessary to draft and sign cooperation agreements on vocational education between our educational establishments and the leading profile establishments in the major Kyrgyz labour migration destination countries and territories.

Curricula of vocational education system should include the training modules helping to find work, such as resume composing, developing business communication skills.

The specific modules should be developed to educate the adults meeting their additional needs, such as retraining, raising of qualification, further training and various short courses.

The Ministry of Health Protection should provide the non-costly medical examination of the citizens leaving the country for labour purposes.

The Ministry of Health Protection should develop and pilot the mechanism of voluntary medical insurance for migrants that have to be operative prior to their departure to the country of destination. It also should explore the possibility of introducing compulsory health insurance for migrants leaving abroad for labour purposes.

It is necessary to develop and approve the contracting system between migrants leaving the country for labour purposes, and private employment agencies and employers in the destination countries.

The Ministry of Foreign Affairs should provide for specific measures of state support in cases when labour migrant needs to obtain visa to enter the country of destination.

2. Support of labour migrants in destination countries

Since the support of labour migrants in destination countries is essential for protection of their rights, it is necessary to consider the possibility of introducing the institute of labour attaché with responsibilities including registration, assistance in employment and respect for the rights of Kyrgyz labour migrants.

The Kyrgyz Government should initiate with the other states, having membership in the Common Economic Space, or seeking to obtain it, to consider the possibility of introducing not permissive, but notifying order of labour migrants' employment.

It is necessary to actively develop the system of interaction with the management of the RF provinces (provinces with provinces, cities with cities) on the issues of work with labour migrants. This should be not only the task for the Government, but for local authorities as well.

In destination countries, in cooperation with non-governmental organizations, diasporas' structures, on the basis of public-private partnership, the Government should implement the programme of creation the Centres for adaption of labour migrants, assisting them in finding housing, employment, and other issues.

On the website of the MLMY and with participation of other information resources, there should be established the system of informing about the unscrupulous employers in the destination countries ("black lists of employers").

It is necessary to consider the participation of the state in financial and economic projects of labour migrants on a shared basis. For this purpose there could be developed a special programme with creation of a special state-owned fund.

In places of mass accommodation of migrants, the Government should support construction (or organizing) of guest houses for arriving labour migrants for the period of their finding housing and employment.

In cooperation with non-governmental organizations, associations of labour migrants and trade unions, the Government should consider and implement the system of using the capacity of diasporas, following the example of Mexico, involving them in solving infrastructure and family problems of labour migrants. It will contribute to strengthening of cultural and historical links between “home” country and diaspora.

There should be reached the agreement with the Ministry of Education of the RF on the unhindered admission of labour migrants’ children in preschools and schools accordingly to their place of residence and work of parents and on free education in them in case of parents’ legal stay and employment.

The Ministry of Education should provide methodological and organizational assistance in the establishment of Sunday schools in places of labour migrants’ residence with the possibility of educating there both children and adults, which should include teaching of the Kyrgyz language, history, literature, basics of law and state structure of the Kyrgyz Republic, and other knowledge about Kyrgyzstan that migrants need.

The Ministry of Culture, Information and Tourism should develop and implement the special programmes for migrant children providing them with the opportunity to stay in Kyrgyzstan and familiarize with the home country.

It is necessary to undertake measures to improve the informing of labour migrants on their social rights and guarantees, including through publication and dissemination of reference book on medical and social services available to labour migrants.

The Ministry of Health Protection should consider and, jointly with authorities of destination country, assist in establishment of medical centres for labour migrants, with participation of labour migrants themselves on the basis of self-financing.

It is necessary to develop the draft bilateral agreements with the Governments of the Russian Federation, the Republic of Kazakhstan on cooperation in the field of pension and medical insurance, which will provide pension and health care mechanisms for our citizens temporarily staying on the territory of both states.

Operatively, prior to signing the international agreements, the Ministry of Health Protection should conduct talks and reach agreement with the health insurance and health protection authorities in the destination countries on recognition of health insurance cards issued in Kyrgyzstan, and servicing labour migrants having such cards.

The wide public information campaign should be conducted with population to raise the insurance culture.

The National Bank and the Ministry of Finance should explore with companies and banks the opportunity to access banking services in the destination countries, and the possibility of preferential transfer of labour migrants' financial resources.

The Government and the Social Fund should develop the system of alternative pension provision for migrants and make appropriate legislative initiatives.

The Government should learn from the experience and existing practices of other countries and develop proposals on establishment, legal status and working procedures of the Welfare Funds for migrants.

The Ministry of Interior and the General Prosecutor Office shall supervise the observance of the Kyrgyz citizens' rights in the destination countries, prosecute the activities of criminal networks among labour migrants, crimes related to trafficking in human beings in human beings (THB), labor exploitation and abuse committed by employers.

The Ministry of Emergency, in cooperation with the Ministries of Foreign Affairs, Health Protection, MLMY, need to create the center of assistance to labour migrants in emergencies, with functioning mechanisms of providing emergency assistance to labour migrants.

The Ministry of Education shall initiate the introduction of programmes on tolerance in schools and other organizations in the destination countries, with possible involvement of representatives of national migrants' diasporas.

The non-governmental organizations and donor organizations shall create the small grants programmes for educational events and festivals of various diasporas with a view of labour migrants' integration into the cultural life of local communities.

The important component is the integration of labour migrants themselves in organizations/projects/funds for assistance to labour migrants.

3. Return, adaptation and rehabilitation of labour migrants, work with special categories of labour migrants

It is necessary to create a database on returning migrants (profession, skills, family, children, plans for future for themselves and for the family, wish to invest, the perspective spheres for investment, the problems they encountered, information on their work in the destination country and on the obtained qualifications).

The analysis of labour migrants' complaints and post-migration surveys, carried out by the Ministry of Foreign Affairs and the MLMY, would help to monitor the situation, to develop amendments and addenda to the strategies of work with labour migrants.

The Government should elaborate the special measures for dealing with particular categories of labour migrants: victims of THB, persons who acquired a disability in course of work abroad, persons returning with acquired social disease (HIV, STI, tuberculosis), those deported for crimes commitments or violations of migration legislation. Specific categories of labour migrants should include migrants with dual nationality, qualified Kyrgyz specialists working abroad.

In coordination with the destination countries, to introduce the system of skills certification obtained by labour migrants in home country.

The attention should be paid to creation of structures and mechanisms providing support for reintegration of returning labour migrants, in particular their specific categories, in the local labour market, namely:

- employment counselling and job placement services;
- provision of grants and loans with low risk to support business initiatives;
- access to additional vocational training and continuing education;
- assistance in solving the social and other problems.

It is necessary to develop the public-private partnership in solving employment and adaption problems of returning labour migrants. It is important to consider creation of Adaptation Center for returning labour migrants, including vocational school capacities.

The vocational education bodies should implement special programmes and organize training conditions for returning labour migrants, including for disabled persons and for other persons with restrictions in health and psychological trauma. These programmes should include training for business building; micro crediting; investing and creating of small and medium-sized enterprises; the programmes will promote the increased participation of labour migrants and their families' members in the country's socio-economic development.

The use of the United States ("returning veterans") and India's ("victims of THB") best practices to create mentoring programs.

The Government, non-governmental organizations and donor organizations should consider the possibility of establishing crisis centers for returning migrants of special categories, including women labour migrants, in need of psychological support.

The Ministry of Health Protection should introduce the practice of free comprehensive medical examinations for all our citizens - returning labour migrants.

The Ministry of Health Protection, in cooperation with the MLMY, should undertake the development of rules for compensation of the acquired harm to health or acquired harm to health as the result of the professional diseases obtained in labour migration period.

The Government of the Kyrgyz Republic, various funds, providing grants and donor organizations should consider the establishment of a small grants system for NGOs, providing support and advice in the sphere of labour migrants' rights protection, in particular, of women - victims of THB and other special categories of labour migrants, both in origin and destination countries.

It is necessary to conduct rehabilitation not only of the THB victims and for victims of other crimes committed against migrants, but as well as of the persons disabled during migration, and of their relatives. Psychological help should be available to all family members, because they are not always ready to tackle some of the problems of this kind.

To develop and agree with destination countries the mechanisms of recognized transfer and /or pension recalculation, first of all, under the terms of the Customs Union.

4. Improvement and institutionalization of labour migration management mechanisms

There is an increased awareness of the need to adopt and implement the national strategy for human resources management for the period of 20 years. In this period, it is necessary to establish a system of human resources management, to ensure the rational employment planning, to ensure that at least 50% of Kyrgyz labour resources will be engaged in skilled labour with decent conditions. The main objective of the strategy should be the protection of the rights and interests of labour migrants, respect for the state interests in course of development and implementation of migration programmes, establishment of migration control system, regulation of migration flows based on the country's social and economic development, combating illegal migration.

The task of the Jogorku Kenesh is to deepen the international cooperation on common labour market issues and on the problems of labour migrants within the framework of the CIS Inter-Parliamentary Assembly, to develop model laws to address the legal and social challenges that our fellow citizens face.

In the recently established the National Council on Sustainable Development under the President of the Kyrgyz Republic, there could be created the separate section on human resources management as the essential tool to ensure the sustainable development of society and state.

It is necessary to consider the concept, training programs and work forms with mass media to ensure their unbiased coverage of the labour migrants' role in the development of the countries of the region and of the trends in the modern labour market, in particular, of the needs, requirements and activities of women labour migrants, and other special categories of migrants.

The Government should work out and realize the developed infrastructure for migration policy implementation, including:

- establishment of a network of pre-departure training Centers providing legitimacy, awareness, safety and preparedness of migrants. Such services may include the work of informational and advisory centres, employment services, and legal support.
- creation of a unified database on migration (availability of vacancies, roster of organizations dealing with migration, border database, data on de-registration), development of standards and methodology for collection of statistical information on labour migration for qualitative improvement of statistic data covering gender and other migration characteristics.
- implementation of the projects developing trust services, hotlines and centres on assistance for labour migrants in destination countries.
- introducing amendments and addenda to the Provision on Migration Fund, increasing protection of migrants' rights, and rendering assistance to them, regardless of their status of stay in the destination country.

- support of existing and assistance in establishing new associations / organizations of labour migrants with a view to mobilize their efforts for comprehensive assistance to labour migrants, aimed to protect their social and economic rights, to create conditions for quick adaptation and solution of basic needs in the employment period.

To ensure the inclusion of migration issues, in particular the issues of female labour migration, to the relevant training programmes for professional training and re-training of migration managers, as well as businesspersons and NGOs working with migrants.

It is necessary to support and promote the efforts of Civil Partner Platform “Central Asia on Move”, other non-governmental organizations, foreign diasporas, trade unions in promotion of civil and social rights of labour migrants and their families.

Conclusion

The world has accumulated the rich experience in the sphere of protection of labour migrants’ rights, this experience should be used effectively in view of specificity of Kyrgyzstan.

The labour migration raises a number of serious problems for the country facing the labour redundancy, especially in the rural areas, as well as the large-scale both official and hidden unemployment.

The task of the state and the civil society, taking into account the national interests, is to find mechanisms of reducing the negative impacts and multiplying the positive effects of labour migration, protecting the rights of labour migrants.

Nowadays, the structure of state management in the sphere of migration and migration policy are both insufficient. The completely new set of new tasks being left without attention and regulation, endorsed the formation of new challenges out of them.

In this regard, with a view to regulate migration processes, and more widely - to manage human resources, we need the national policy and practice based on world best practices, which would protect the rights of labour migrants.

All stakeholders should work together on resolving this task.

Recommendations emanating from the International Conference “Best practices in protecting labour migrants’ rights and perspectives of its application in Kyrgyzstan” are set out here as the contribution to the formation of migration policy and illustrate the Conference organizers’ will to proceed with this important work.