



Roundtable “International Experience on Protection of Labor Migrants’ Rights and Its Application to Kyrgyzstan”, 26 March, 2013

Roundtable Report

Prepared by TSPC

Introduction

In August 2012, the TSPC¹ has launched the project with the overarching goal of raising awareness and heightening the level of debate on labor migrants’ rights and support the government’s consideration and adoption of evidence-based reforms needed in migration policy in Kyrgyzstan. The project’s activities include conducting research and analysis, disseminating findings, and conducting several roundtables and conference on best practices and standards for migration policy that can better protect Kyrgyz migrants abroad, as well as creating a web-based platform for a new migrant rights knowledge-management center. All these activities are designed to strengthen the work of government policy-makers, international agencies, and NGOs in the Kyrgyz Republic.

The Project does the following activities to meet its objectives in three areas defined in it for implementation: (1) research and analyses of policy issues, standards, and practice that can help groups to advance migrant rights campaigns and government reform; (2) bringing together migrant rights groups with nontraditional sectors (such as trade unions and business, and Kyrgyz diaspora) for dialogue and training around key issues of mutual concern in order to broaden the network of groups supporting action for change and to build a more vibrant reform movement; and (3) facilitating stakeholder dialogue and training with policy-makers in Kyrgyzstan, with a view to facilitating more robust reforms in both Kyrgyzstan and Russia.

The round table “International Experience on Protection of Labor Migrants’ Rights and Its Application to Kyrgyzstan” was organized in support of the project objectives to demonstrate and to publically discuss the preliminary findings of the research area activities of the TSPC. It was also a step forward in finalizing research work in preparation for the final conference.

This report summarizes key highlights and outlines options from the roundtable discussion.

Roundtable Format

TSPC hold the day-long roundtable meeting on 26 March, 2013, at the Residence of the President of the Kyrgyz Republic. Prior to the roundtable TSPC has developed the background materials for this event: Grid containing the key tasks from the draft labor migration national action plan with the corresponding available and applicable to the KR world’s best labor migration practices as per each task in grid; and five presentations:

¹ For a general overview of TSPC activities, see: <http://auca.kg/en/tspc/> and <http://auca.kg/ru/tspc/>

- 1) Organizational management and strengthening the activities of the state bodies in migration issues;
- 2) World's best practices in recruitment and pre-departure preparation, their application in Kyrgyzstan;
- 3) World's best practices in social protection of labor migrants;
- 4) Best practices of human rights protection with regard to Kyrgyz labor migrants in Russian Federation;
- 5) Remittances and microfinancing in Kyrgyz labor migration.

Highlights from the Sessions and Discussion

Sessions

The initial overview was provided of TSPC commitment to promote protection of labor migrants' rights with involvement of nontraditional sectors, such as trade unions and business, and Kyrgyz diaspora. TSPC has once again underlined the importance of research to address the Government to responsible recruitment, employment and return labor migration world practices.

To start the discussions as per sessions, TSPC has made two presentations in the first session: "Organizational management and strengthening the activities of the state bodies in migration issues" and "World's best practices in recruitment and pre-departure preparation, their application in Kyrgyzstan"; one presentation in the second session: "World's best practices in social protection of labor migrants"; the presentation "Best practices of human rights protection with regard to Kyrgyz labor migrants in Russian Federation" made by Dmitri Poletaev (Migration Research center, Moscow, RF) for the third session; and "Remittances and microfinancing in Kyrgyz labor migration" in the fourth finalizing session of the roundtable.

As a feedback, many speakers from both governmental and non-governmental sectors shared their expert views:

IOM said that it is advisable to develop research/studies on private recruitment agencies in Kyrgyzstan. There was no the like report ever made in the KR. Moreover, the potential of the government agencies to regulate recruitment abroad is not sufficient, which is definitely negatively influences the recruitment process. It is highly recommended to adhere to existing ILO recommendations while developing legislation on private recruitment agencies. Coordination of migration related state agencies is vitally important here. Now only 4 private recruitment agencies have legitimate licenses, it is obligatory to renew them annually.

GTZ stated that the most important and difficult issue is to create environment: mechanism and instrument for realizing good policies. Using such mechanisms as SCO, the governments should advocate the issues of social protection, issues of necessity to educate potential migrants in the pre-departure stage of labor migration.

HelpAge International recommended making studies on demography situation in Kyrgyzstan and plan activities long before the period of implementation. Internal migrants also are not protected either. There is a need to make policy recommendations on social security of internal migrants. It is necessary to better regulate the legislative base covering license and patent issues, to pay attention for the development of the Compulsory Medical Insurance Fund in Kyrgyzstan, to consider policies regarding informal economy in the KR. The existing negative practices should also be reviled and it would be good to make it publically.

Jogorku Kenesh's Committee of the Social Protection informed that there are several agreements between Kyrgyzstan and Russian Federation, Kazakhstan. However, we face numerous problems. For

instance, Kazakhstan starting from this year introduces the new system for labor migrants: an entrepreneur can do his business provided he has a residence permit. Committee recommends to work with insurance companies and to make analysis of multilateral/bilateral agreements of the KR with the other countries on migration to find out which of them are functional and which of them are subject to abolition.

Federation of Trade Unions has admitted that trade unions in this country are not very active and do not develop their capacity in migration area. Though a few years ago, Kyrgyz authorities have learnt a lot from Philippine experience in dealing with migration issues through study tours and inviting Philippine experts to return visits to Kyrgyzstan. However, these Kyrgyz officials have not made a single presentation to share the gained knowledge with the public and other organizations interested in this issue. There is no information available of what was adopted here or wasn't anything adopted at all, moreover taking into account the high level of rotation among migration officials.

The invited state bodies through their participating representatives informed the public that though the new Ministry on migration is being restructured, some migration related functions still remain with the Ministry of Foreign Affairs. The legal protection of migrants abroad is under the responsibility of the MFA. The world best practice learnt by officials in the previous years, like Philippine's experience, is introduced in Kyrgyzstan in the form of the Center of employing Kyrgyz citizens abroad (CEA) under the Ministry of labor, migration and youth, which in its turn already succeeded in applying some instruments of the international best practices having organized labor migration from Kyrgyzstan to South Korea and three other countries. At present, about 1450 labor migrants were employed in South Korea on the base of the signed inter-governmental agreements, all of them were trained in the pre-departure preparation period.

One of the problems, as the CEA sees it, is that most of potential labor migrants leave the country having no information about CEA and about many issues where CEA has a very good competence and is able to assist them. Leaving the country without addressing CEA, labor migrants are deprived of any pre-departure training. Addressing CEA would also enforce them with information about the rates of taxes to be paid while working in Russia (30% of taxes within the period of the 1st year, then in the coming years 17% of the overall taxes are returned to the non-resident worker according to the Russian legislation).

To turn recruitment into the organized one will be a good practice for Kyrgyzstan, a way to avoid discrimination while individual employment can lead to discrimination practices and abuses with regard to labor migrant. Private Recruitment Agencies (PRA) since their establishment had bad reputation and are known for their bad practices in Kyrgyzstan.

CEA creates a page on available vacancies under the signed treaties. Meanwhile there emerging a flow of the KR illegal migrants to Europe. There is a need to study this phenomenon.

Russia and Kazakhstan are the largest migrant recipients. According to different expert estimations between 600,000 and one million Kyrgyz labor migrants are in Russian and Kazakhstan for work purpose. The main causes of migrants were to earn more money and improve life condition. Almost 90% of Kyrgyz migrants work in Russia. Usually labor migrants from Kyrgyzstan travel seasonally, returning home for winter period. Moscow, Yekaterinburg, Novosibirsk, Voronej, Lipetsk, and Tatarstan are the main destinations for the Kyrgyz migrants. Russian is a big country with developed economy; therefore it needs more and more labor migrants and will continue exporting migrants from Central Asian countries. According to the Kyrgyz State statistics agency, sectors where labor migrants are

employed are as follows: construction, consumer services, culinary, sewing, municipal technical services, etc.

Kyrgyzstan occupies 6th place among the migrant sending countries. In the annual perspective, Kyrgyzstan's economy is highly dependent on remittances. In 2001 remittances contained only 1.9% GDP; however, by 2005 the proportion had increased to 13.6%. In 2012 remittances contained around 30 % of the Kyrgyzstan's GDP. Usually labor migrants spent on basic necessities such as food, clothing, shelter, health care and education. 30 to 40 % of money send by migrants are sent to rural areas.

Migration processes will anyway happen whether we want it or not. Migration should be accepted as it is. We should learn from others having progressive experience how to manage migration. Government bodies should be a part of migration regulation. Having said this, it is necessary to admit that our educational institutions do not have specialized programmes/courses to educate migration specialists.

The non-governmental sector including Diasporas participants to the event, Zamandash among them, in its comments suggested for the Government's to correctly plan the work with Diasporas, first to make a research on Diasporas, their role, activities, the challenges and achievements in the life of our compatriots abroad. Diaspora organizations are mostly divided into two types: commercial ones and those protecting rights of labor migrants. Mostly Diasporas are involved in cultural activities there. They don't have strong structure in order to help to migrants who are in trouble. Each Kyrgyz Diasporas struggles for power and they don't have a good relationship with the Russian trade unions. However, comparing to other Diasporas from CIS, Kyrgyz Diasporas were established recently.

As for the returned migrants, it would be advisable to help the returned migrants to invest in Kyrgyzstan, to consult them how to build their business.

Mostly, migrants invest small money to small projects. There is a need to encourage big projects for bigger investments from migrants. How to use remittances in effective way? There should be policy recommendations to the government to encourage, promote establishing cooperatives in rural areas. One of the good examples on self-employment in rural areas is bee-keeping.

Migrants mostly go to fulfill the seasonal works annually, and their employment history is not registered anywhere. Best practices here were achieved between Germany and Kazakhstan. The work should be conducted by the Social Fund on establishing cooperation with various countries to promoting social security for Kyrgyz migrants in the destination countries. It is easier to conduct advocacy campaign in villages among potential labor migrants at the places.

The Platform "Asia on Move" was open to say that in Kyrgyzstan the policies and strategies are implemented partially, but not in full. Kyrgyzstan still does not have any migration policy. Moreover, MDGs for Kyrgyzstan does not contain migration. It is also important to involve all the concerned ministries in regulating labor migration.

In this aspect, the creation of the Big Public Council on Migration has already revealed the positive results, in the nearest future this council will institutionalized and get its legal status. In this perspective, it would be useful to study the experience of the like public councils in Kyrgyzstan and abroad.

Most important is a humane approach in migration management. Social Fund of KR is undertaking effective efforts to solve the issue of migrants' pensions' provision. It would be in conformity with best labor migration practices to provide social protection including portability of pensions for migrants from the destination country towards their native countries or considering any positive applicable option for

it. There are good practices in the world on pension portability, for instance, Turkey and Austria have healthcare portability.

However, our labor migrants are not yet protected; they have neither medical, nor social insurance, etc. The recent calculation outraged the level of day-to-day expenses for elderly people. While officially the minimum pension is 4000 KGS, in fact the elderly person needs not less than 8000 KGS per month to cover only the basic needs. Ideally, a person needs at least 20,000 – 25,000 KGS per month.

In fact, Kyrgyz migrants start heading to European countries for migration. Governments of receiving and sending countries should make positive steps towards each other.

The independent experts suggested that it is high time to reform the Kyrgyz legislation on migration in conformity with the international standards in this sphere. The serious attention should be paid to collaboration with Russian Federation. Almost 90% of Kyrgyz migrants go to Russian Federation. It is necessary to include the issue of migrants’ families’ protection in the state policies. It is advisable to consider the possible mechanisms of the returned migrants’ adaptation. The perspective field of research could be the role of community in pre-departure training and preparation.

Contract is called to provide protection to the labor migrant. Contract should be translated into migrant’s mother tongue.

Institute of strategic studies has implemented the research project on migrants in Russian Federation, it was revealed that there are medical centers which provide free medical care for labor migrants.

Additional Roundtable Participants Recommendations in Support of Priorities and Next Steps

The use of labor migrant work offers many benefits to business but also presents a unique set of challenges. Due diligence and robust labor migration management systems are essential to maximize positive developments in this sphere and ensure compliance with local labor law and international labor standards.

Failure to work towards a safe and transparent labor migration management exposes labor migrants vulnerable to abuse.

If key players with real leverage from different sectors could be brought together to address common concerns there is real potential to minimize the risk of abusive labor practices and increase the protection of labor migrants’ rights.

The coming in June 2013 TSPC international conference “International Experience in Labor Migrants Protection and its Application in Kyrgyzstan” is called to bring together the different countries delegates-decision makers, governmental officials, independent experts and labor migration NGOs and trade unions will constitute the next important step in this noble direction.

Appendices:

1. TSPC Roundtable list of participants.
2. TSPC Roundtable agenda.