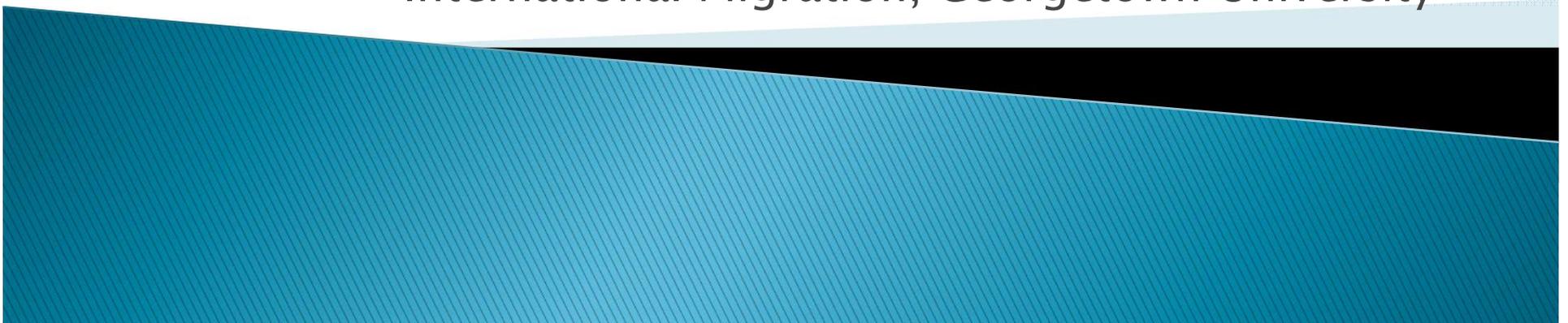# International Experience on Protection of Labor Migrants' Rights and Its Application to Kyrgyzstan

Kathryn Anderson: Vanderbilt University; Senior Research Fellow, University of Central Asia and CASE

Luca Barbone: President, CASE; Senior Fellow, Institute of International Migration, Georgetown University

Analysis of:

1. Organization policies and management

2. Institutional approaches and employment programs to support labor migration and regulate employment

3. Preparation for the move: pre-departure, training

4. Protection of migrants abroad: human rights

5. Social protection of migrants: pensions, health

6. Diaspora: resource for development

1. Organization: Former Soviet states, 3 models

- Example 1: Moldova, holistic approach
  - National Commission for Population and Development: population policy coordination; data exchange among agencies

- Example 2: Armenia, focus on diaspora
  - Ministry for Diaspora Affairs
  - Lacks overall emigration strategy or institutions

- Example 3: Azerbaijan, focus on immigration
  - State Migration Service (Ministry of Internal Affairs): immigration management system, coordination

1. Other Organization Models: 3 models

- The Philippines: Three main organizations monitor, regulate emigration today; 40+ **years to develop**

  - Philippines Overseas Employment Administration (POEA):
    - In The Philippines
    - Regulates, monitors private employment agencies
    - Facilitates/assists circular, not permanent, emigration
    - Advisory Board: all stakeholders represented, including emigrants

  - Philippines Overseas Labor Offices (POLO):
    - In consulates
    - Monitors employers, agencies; gives assistance in destination

  - Overseas Workers Welfare Administration (OWWA): independent
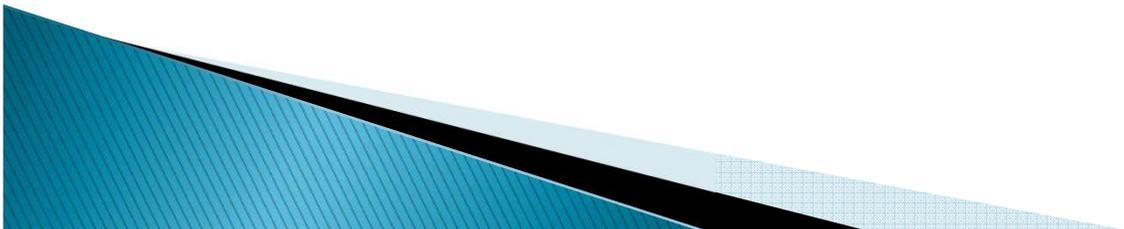   - Migrant welfare; insurance, loans

1. Other Organization Models: 3 models

▶ Example 2: Mexico, Multi-agency system
  ◦ National Institute for Migration, Migration Law of 2011: border enforcement

  ◦ Institute for Mexicans Abroad (IME)
    • Advisory Council: migrant representatives
    • Consular offices: services to migrants; cooperation with receiving countries (US)

▶ Example 3: Sri Lanka, Ministerial model
  • Governance of documented labor migration
  • Protection of migrants: advocacy
  • Promotion of migration for economic development
  • Bureaucratic problems

1. Lessons for Kyrgyzstan: Best Practice Organizational Structure

- Autonomous agencies with strong regulatory powers (The Philippines)

- Ministerial model with stakeholder influence (Sri Lanka, but less bureaucratic inefficiency)

- Important to include diaspora (individuals and communities) in policy development and migrant support (Mexico)

2. Employment Regulation and Support for Labor Migrants: 3 models

▸ Example 1: The Philippines--highly regulated
  ◦ POEA: selective of employers and migrants (legal)
    · Recommends firms; employment standards for employment contracts
    · Conditions on workers (skill, health)
    · Regulates recruitment agencies

  ◦ Bilateral agreements: ex. South Korea
    · Employment regulation; skill, language requirements
    · Social services available to immigrants

2. Employment Regulation and Support – 3 models

- Example 2: Sri Lanka, Ministry decisions
  - Bureau of Foreign Employment
    - Employment standards, labor contracts
    - Licenses recruitment agencies
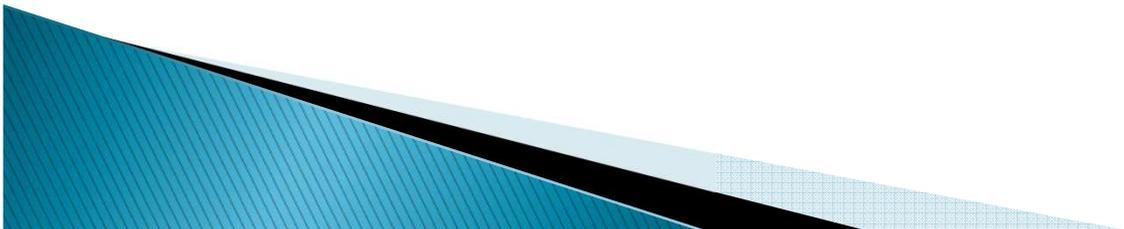   - Database: information for firms and workers
    - Bureaucratic inefficiencies

- Example 3: Kerala state in India
  - Department of Non-Resident Keralites' Affairs (NORKA): services to migrants; handles problems of migrants

  - NORKA-Roots, 2002
    - Helps with recruitment as of 2011
    - Website: information for employers and migrants
    - Skill certification, preparation
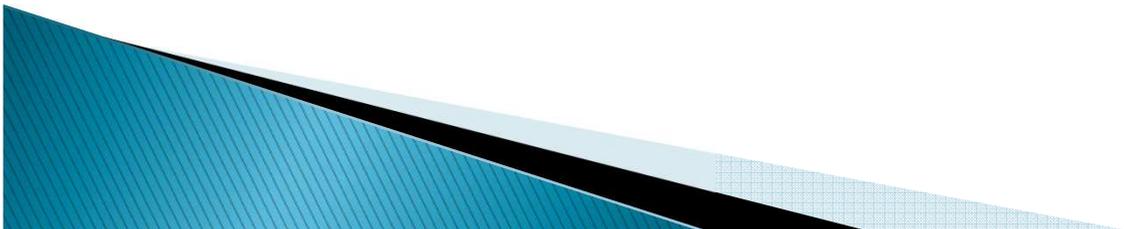   - But, poor monitoring of recruiters and employers

2. Lessons for Kyrgyzstan: Employment Regulation & Support

- **More successful programs:**
  - Develop over a long period of time (The Philippines)

  - Strong and accountable domestic institutions (Sri Lanka)

  - Good information available to all parties (Kerala)

  - With quality institutions, formal control over labor practices is possible. Otherwise, corruption, exploitation of labor, and ineffective policies develop.

3a. Preparation for the Move: Pre-Departure Programs, 3 models

- Example 1: The Philippines – 3 stages
  - Pre-Departure (PDOS): 6 hour seminar on employment issues, finance (remitting), health and safety; potential problems in destination; fee

  - Pre-Employment Orientation Seminar: no fee
    - Potential migrants [discourages many from migrating]
    - How to get a job; risks and benefits of labor migration
    - How to avoid illegal recruiters, traffickers

  - Post-Arrival Orientation: required, no fee
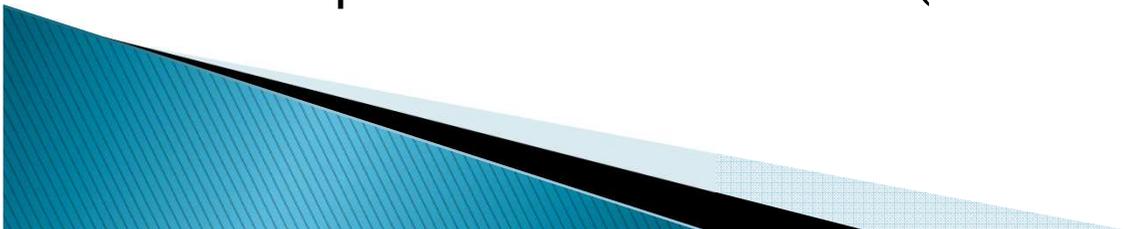   - How to get help if needed
    - Adjustment issues

3a. Preparation for the Move: Pre-Departure Programs, 3 models

- Example 2: Sri Lanka
  - Required for women
  - Language, culture, law, safety, how to leave: lengthy
  - One day seminar with migrants' families

- Example 3: Indonesia
  - One day seminar, standard curriculum

- Lessons for Kyrgyzstan
  - Coordination with receiving countries and within the sending country (The Philippines).
  - Adequate (maybe standardized) curriculum (Indonesia).
  - Understand needs/issues in destinations (The Philippines). Language and culture (Sri Lanka).
  - Help the most vulnerable (Sri Lanka).

3b. Preparation for the move: Training (vocational, skill, language)

- **Vocational training**
  - The Philippines: POEA regulates
  - Sri Lanka: for men
  - Not available to most migrants

- **Job skill certification**
  - The Philippines, Sri Lanka: required for South Korea; certification for some skills
  - Kerala: NORKA-Roots verifies school certification and skill upgrades [fee + grant]
  - Indonesia: government and privately provided

3b. Preparation for the move: Training (vocational, skill, language)

- Language/culture of receiving country
  - Sri Lanka: certifies skill for emigrants to S. Korea
  - Indonesia: available to all documented emigrants

- Lessons for Kyrgyzstan – training, language:
  - Improves match; lowers costs to workers and firms
  - Facilitates assimilation of workers into new cultural environment (Sri Lanka); reduces exploitation

  - Best examples: bilateral agreements with South Korea; Kerala; Sri Lanka for men (vocational) & women (language and culture)

4. Protecting Migrants Abroad: Employment – 4 models

- Example 1: The Philippines
  - POEA: conditions on employers (registered; employment contracts; labor standards); prosecutes traffickers
  - POLO: verifies proof of business abroad
  - Special requirements for domestics: adequate income of employer; interviews with potential employers
  - OWWA: handles cases of abuse overseas; assistance to victims; financial literacy training to reduce financial exploitation

- Example 2: Indonesia
  - Not legal to work in certain countries (Saudi Arabia)

4. Protecting Migrants Abroad: Employment – 4 models

- Example 3: Mexico
  - Institute for Mexicans Abroad (IME)
    - Organizes diaspora; advisory board with migrants
    - Consular offices: support and protect migrants
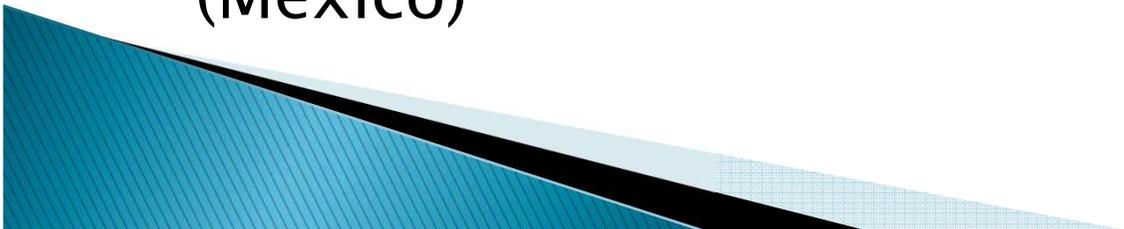   - Strengthens community organizations abroad

- Example 4: Kerala
  - Protection Office for Victims of Abuse: custody, financial help, health services, legal aid
  - NORKA-Roots: insurance, shelter, information about laws in destinations, database and webpage
  - Ministry of Indian Affairs: recent policy, monitoring, regulations proposed

4. Lessons for Kyrgyzstan: Protecting Migrants Abroad

- Legislation is not enough.

- Need collaboration with receiving countries (MOU); ban migration to some countries (Indonesia).

- Information!! Database (Kerala), legal rights (The Philippines)

- Assistance for victims: institutionalized (The Philippines, Kerala); consular offices and diaspora (Mexico)

5a. Social Protection: Pensions

▸ Characteristics of good arrangement
- ◦ **Full portability**: guaranteed actuarial value of accrued pension rights when change jobs

- ◦ **Fair totalization**: based on total contributions

- ◦ **Fair apportionment**: each country pays a % of pension benefits, based on time/income there

- ◦ **Fair vesting rules**: no penalty for long employment

- ◦ **Defined benefit plan**: pension based on last few years of employment; needs to be adjusted for cost of living

- ◦ Plan for undocumented workers!!

5a. Social Protection: Pensions – 3 models

- Example 1, Best plan: European Union
  - EU migrants: fully portable, based on total earnings, apportioned by time in country; nominal earnings

  - Third country migrants to EU: choose plan of one state; not fully portable or apportioned fairly

  - Bilateral agreements: Germany and Morocco/Turkey

- Example 2: The Philippines
  - Can contribute to Philippine state pension and receive benefits
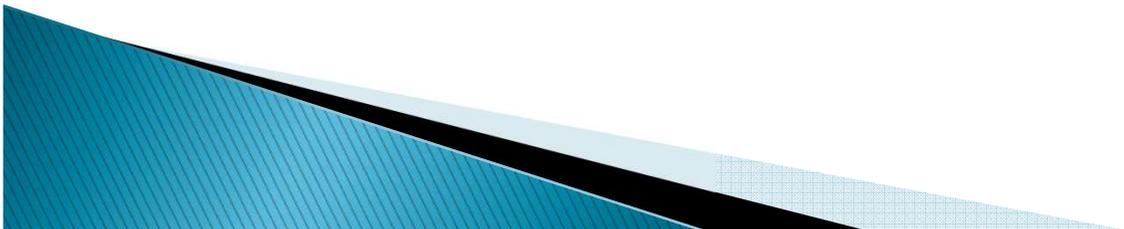
5a. Social Protection: Pensions – 3 models

- Example 3: New Zealand and Pacific Islands
  - New Zealand Superannuation Fund

- Lessons for Kyrgyzstan
  - Many criteria for good plan (EU multilateral model).

  - Need to be able to contribute to state pension plan (undocumented workers especially). (The Philippines)

  - Bilateral agreements help. (Germany and Morocco)

5b. Social Protection: Health Care – 2 models

- Less available to migrants than pension plan

- Bilateral agreements are important.
  - Ex. Turkey and Austria, documented immigrants

- Example 1: EU migrants, best practice
  - Portability within the EU

  - Retire in EU country in which the immigrant did not work: country is reimbursed by EU countries in which the immigrant did work.
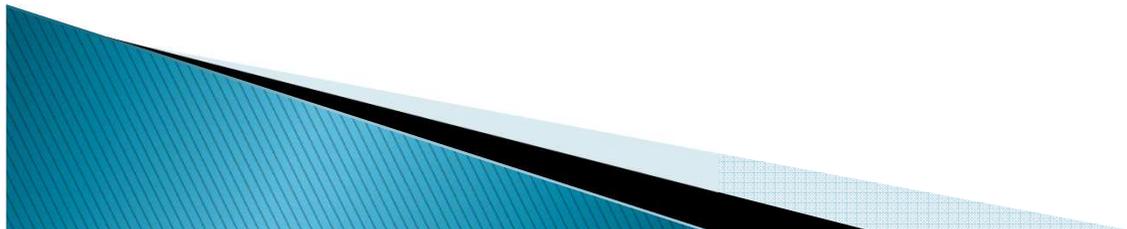
5b. Social Protection: Health Care – 2 models

- Example 2: insurance
  - Gulf states: purchased by employers; medical treatment while in Gulf states only
  - Indonesia: private insurance for a fee
  - Kerala: insurance to migrants with identification card (accidental death or disability insurance)

- Lessons for Kyrgyzstan
  - Portability only if legal immigrant (EU)
  - Need affordable private insurance option; contribute to state insurance plan (Indonesia)
  - Negotiate minimum access to health care (bilateral agreements) (Turkey and Austria)

6. Diaspora for Development: 2 models

- Example 1: Georgia and Armenia
  - Ministerial agencies to develop and encourage productive diaspora relations.

- Example 2: Mexico
  - Diaspora represented on IME governing board
  - 3 X 1 program: $1 from Hometown Association → $3 from government for infrastructure project for a specific community
  - 1 X 1 program: $1 from a migrant → $1 from government for local business project (capped)
  - Mexican Talent Network: diaspora help local entrepreneurs
  - Housing purchase program using remittances: lower cost

6. Lessons for Kyrgyzstan: Diaspora for Development

▸ Trust between diaspora and national authority!

▸ National authority must seek support from diaspora: incentives; transparency (Armenia)

▸ Consular services help (Mexico)

▸ Need an appropriate legal and regulatory framework
  ◦ Ensure assistance is correctly targeted.
  ◦ Eliminate corruption in transmission of assistance.

Final Thoughts: One Model Does Not Fit All Countries

- Migration issue is not just a border security concern (US-Mexico).

- Agencies that regulate migration need clout, enforcement power.

- Best if a single-mandate agency (not necessarily a Ministry) coordinates policy and develops ways to assist migrants abroad.

Final Thoughts: Our Plan

▸ Create Labor Migration Protection Agency
- ◦ **Oversight** over all agencies involved with migration
- ◦ **Pre-departure preparation**, diaspora support
- ◦ **Consular offices** with honest staff
- ◦ **Advisory Board**: government representatives and non-government stakeholders (including diaspora)

▸ Create Office of Migrant Advocate
- ◦ **Review policies** on training, finance, protection
- ◦ Review is through the **lens of a migrant.**
- ◦ **Advocate for migrants**; puts their interests first.