



Roundtable on the Issues in Question in the Sphere of Labor Migration within the Framework of the Big Public Council (BPC) Creation in the Kyrgyz Republic, 11 April, 2013

Roundtable Report

Prepared by TSPC

Introduction

Currently, TSPC¹ in the context of its work on human rights, migration, and social protection, under the support of the Open Society Foundations Central Eurasia, runs the Project “Protecting the Rights of Kyrgyz Migrants” (2012-2014). The Project aims at raising awareness and promoting the level of debate on labor migrants’ rights and supports the government’s consideration and adoption of evidence-based reforms needed in migration policy in Kyrgyzstan. One of the Project’s tasks is the conduction of the series of roundtables and the final conference to expertly discuss the earlier identified best practices and standards for migration policy development. The findings resulting from these events will empower the state authorities, government policy-makers and NGOs of the Kyrgyz Republic with applicable international experience to develop labor migration strategy for better protection of the Kyrgyz labor migrants abroad.

Overall, current governmental regulation of labor migration largely fails to adequately protect external labor migrants. As a result, they have been left to their own fate, with a premium on only money earning over rights and protection. To date no clear policies on labor migration and migrant protection have been formulated at the national level and even on the regional level, and no system has been put in place to regulate the increased flows of labor migrants nationwide and for the region as a whole. The lack of mechanisms to inform migrants of their rights and to protect their rights is an additional barrier.

At the bilateral level, agreements signed by Kyrgyzstan with the receiving countries have yet to be put into full implementing effect and therefore their value is mostly for future migrants rather than for the current ones.

To bring together various migrants rights groups and network of groups for the stakeholders’ dialogue around key issues of mutual concern and thus to contribute to promotion of more robust labor migration reforms in both Kyrgyzstan and Russia, TSPC has conducted the “Roundtable on the issues in question in the sphere of labor migration within the framework of the Migration Big Public Council (MBPC) creation in the Kyrgyz Republic”. The reviving of the hot and happening labor migration issues at this roundtable is the important step forward in formulation of the clean cut agenda for the final conference.

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

Roundtable Format

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

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On 11 April, 2013, TSPC has held the day-long roundtable meeting in the premises of the American University in the Central Asia. In course of the preparatory work for the roundtable, TSPC has developed the background material for this event: presentation “The overview of the current state of Kyrgyz labor migrants’ social protection”.

Presentations/speeches on the topics of the social protection and labor migrants’ pension’s problems and legislative news on pensions were made by the Ministry of the Social Development.

To boost the stakeholders’ comprehensive dialogue and to inform the debate, TSPC has facilitated the participants’ coming from the remote areas (members of the Migration Local Public Councils) of the country, known for the largest influx of labor migrants abroad.

Highlights from the Sessions and Discussion

Sessions

The initial overview was provided of TSPC commitment to promote protection of labor migrants’ rights raising the level of debate with involvement of nontraditional/nonformal sectors, such as trade unions and business, and Kyrgyz diaspora. The increasing concern by academic and civil society groups with the many problems related to irregular labor migration, especially in its most extreme forms, is leading to a call for sending and hosting governments to revisit their attitudes and approaches to labor migration policies in general.

To start the work of the sessions, the brief was provided on agenda; on persons making presentations, on the developments with the Migration Big Public Council’s (MBPC) establishment, etc. The participants were focused on the specifics of the major topic which was the social insurance (pensions, guardianship). These issues are of high importance on the agenda bearing in mind that currently around 600-700 thousand people are outside the country for labor purposes. The scale of remittances sent in the year 2012 to the KR rose up to 1200000 USD.

The participants were informed that in course of creation of the Migration Big Public Council, the initiative group managed to obtain the understanding from the KR President, and the council may optionally be established as the National Expert Council on the Issues of Migration, or the Council on Sustainable Development. President is about to make his decision which will be legalized in the issuing the appropriate Decree.

Haven taken the floor, the Migration Small Public Council (MSPC) from Kaindy Village of Kemin Region and several MSPCs from Issyk-Kul Province (Balykchi, Eshperov, and other settlements) updated the attendees the participants that every second family out of all households in their settlements have their members in migration and potentially will face problems with their pensions’ provision if this issue will not find its solution. Labor migrants are mainly headed to Moscow, Khabarovsk, and even to Italy. Even the local medical doctors are in labor migration. Migrants from some settlements working in Yakutia, average wage in Yakutia (higher than Polar Circle) constitutes 40000 RUB (around 60000 KGS). Though the average level of monthly remittance send by an average income labor migrant from RF to KR is somewhat 2000 KGS.

39 young people are back from Yakutia having not got their wages. Their situation is being aggravating by the fact that previously to find sufficient finances to get there, the young people has sold out all the livestock of their households. The economic situation in these families without livestock and obligation to pay out the debts became very grave. MSPCs will gather all the information on these people, if they were employed at state enterprises, it is possible to help them to get their earned money, provided they worked for the private persons, then MSPCs will not be in position to help them.

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The majority of labor migrants have left their grandchildren with grandparents, thus the problem of obtaining guardianship has emerged. The guardianship should have the temporal nature until parents are back.

The big part of this problem is the very calculation of the children's allowances; unreasonably, but the government when calculating it, considers the elderly's pensions as a part of the total family's income. There was voiced the concern that child's allowance is rather low and not covering, in order to raise it, first it is necessary to raise the minimum standard of living which is the ground for any calculation of the like allowances in the country. The problem is rather burning, as a lot of children throughout the whole country are left with their grandparents while their parents are in labor migration.

Recently it was HelpAid who has completed the research on migrants' children rights having illustrating there all the major concerns related their rights.

Another considerable concern is searching the labor migrants gone missing and was advised that the people who are trying to find possible ways of how to do it, are to launch appeals in the legally defined order starting with the MSPC to get consulted and gain support. TSPC suggested that MSPCs shall have their proved niche in these kinds of consultations and thus develop their capacity to react professionally and operatively when getting information or appeals of the kind. The role of the province representation offices of the Ministry of Labor, Migration and Youth shall be also activated. These representation offices should establish and support coordination with the civil society on this topic.

The MSPCs normally have their meetings on the places once a month considering their routine needs. MSPCs would like to have computers at their disposal for their everyday work and to give a chance to labor migrants to contact their families and children.

The Centre on employment of the Kyrgyz citizens abroad under the Ministry of Labor, Migration and Youth will distribute their information booklets for potential labor migrants via MSPCs.

Local deputies, teachers, and other activists have their membership in MSPCs. The next joint MSPCs session will be held as a visiting one in the Eshperov Village of the Issyk-Kul Province in late May.

Ministry of Social Development was also invited to discussion and made a point that there are two available options to obtain the social support: power of attorney and guardianship. Power of attorney entitles a person to address governmental bodies officially in the interests of a child.

When the sum of allowance is defined, the level of family's income is taken into consideration. If the income is lower than 580 KGS per a member of the family, then the family is legally entitled for getting child's allowance. If the parents of a child are labor migrants with regulated status, then their income is considered when calculating child's allowance. All the parents left for labor purposes abroad despite everything are obliged to discharge their liability towards their children.

The Ministry has explained the legal notion of the "household" in calculation of the child's allowance. There can be several generations who live together, in one and the same house or in one yard of several houses, but contributing and using their framework budget, in this case they are viewed as one family with one framework budget. This said a framework budget is taken into account when calculating a child's allowance. Local self-governing bodies are entitled and normally launch surveys to identify the households of the kind and have a list of them if need should be.

The main problem for the social protection is that there is no Provision on guardianship, as soon as it is adopted, the sums evidently be calculated without reference to the level of the foster parents' wages, pensions or allowances.

Currently, the guardianship is imposed by the courts, in time terms it makes around 3 months. The issue of guardianship The Code envisages the preliminary guardianship for the time term of 6 months, and then the court may enhance it for 2-3 years. There is also the system of "preliminary guardianship", which becomes popular in cases when parents are out of the country for the short period of time.

Especially, guardianship's role rises, when the child is entitled to get passport, but the parents have already obtained RF's citizenship.

The guardianship is established in case of death, absence of the parent, deprivation of parents' rights. There is no age limitation for gaining guardianship. The telephone of the Ministry to get information and consultation on guardianship is 298526. Methodical guidelines elaborated by the Ministry are already circulated republic wide to all the local representation offices of the Ministry and are used in their everyday work. It is important to overcome the legal illiteracy of the population on the burning problems.

MSPCs which are effectively functioning on the local level are called to assist in it and to play their according role in identifying the children in need in collaboration with the local offices of the Ministry. Currently, Ministry composes the list of children left without parents republic wide. Ministry calls on parents planning to leave the country, first to resolve the issue of the guardianship before departure. HelpAge has done the research on migrants' children situation in the KR.

IOM suggested referring to migration hotline 189, which is the nationwide free telephone line. Free migration consultations are available there. The information on the hotline has to be included in MSPCs consultations held republic wide. MSPCs shall also play its consultative role in distributing the important information to local population saying that Kara-Kol's lyceum #14 is inviting all interested people to be trained for the specialty of Thatcher, Kyzyl-Kiya lyceum #8 trains for the specialty of crane operator, lyceum in Talas trains future beans-pickers. All this training will be offered free of charge. All these opportunities are the valuable chance to get the good paid profession for labor migrants and to get a proved pre-departure training.

TSPC came forward with suggestion to draft handouts on all the questions raised at the round table and to circulate it republic wide to be used in MSPCs' consultations for labor migrants. The information in handouts shall be rendered in a clear and concise way.

TSPC's Program Manager, Ms. Ainura Asamidinova has made presentation on the world's best practices on labor migrants' social protection. She said that out of officially registered 400 000 labor migrants in RF, only 120 000 have official work permit, 10 000 practice patent work. She provided information on access to social protection for our labor migrants in RF and that access is dependable on the type of residence status in RF. The temporary staying migrants are excluded from the system of social protection. Temporal and permanently staying labor migrants in RF are entitled for:

- Free primarily medical aid prior to ambulance aid;
- Free ambulance aid;
- Medical aid on the base of obligatory medical insurance;
- Maternal certificate.

Overall, 10% of labor migrants-women and 30% of migrants' children in RF have access to medical services in the RF. 80 000 children do not receive secondary education in RF in view of ID documents absence; they do not know Russian language. Only 10% of children from Central Asia attend kindergartens. With regard to pension's security, it was mentioned that migrants pay out contributions to RF's Pension Fund, but do not have any pension allocations in the KR.

Presentation has also provided the overview of the ILO's standards on social protection of migrants and UN initiatives on the minimum measures of social protection.

In perspective, TSPC launches the migration website, including the legislative information, the background of current migration, information for migrants and their families.

The MLMY's Centre on employment stated that the main problem with our migrants in RF is that they are staying there in either legal or illegal way, the legal ones are ensured socially, and the illegal ones can have only emergency help. The Centre carries out the important work with national air companies

and reached the agreement on transportation of human remains (HR load) for free from abroad back to the country.

Ministry still has not the approved Provision on its work, neither on its regional representative offices, functions are not fixed formally.

The Ministry of health protection and independent researchers, who know the situation from inside out, said that the conditions of migrants' stay in RF are mainly very poor, as migrants try to make all possible savings. The very dangerous is the spread of infection in the highly crowded living premises. The young migrants returning home being HIV/AIDS positive passers, as a rule conceal this infection from the family members and thus spread the deadly infection wide. We also have made good progress in TB treatment in republic, but currently see that returning migrants being TB positive also influence the situation.

Ministry works to convince migrants buying the medical polis (1500 rubles), saying that the expenditures which it covers are much higher. We need to know if migrants agree to buy such a polis. Mostly we face the problem of the insurance system development. We plan to establish the obligatory issuing of the medical polis when a migrant leaves the country for the abroad work. We have the agreement as of 1995 on the social securing which is in legal power and one agreement as of 1992 on pensions for the CIS citizens. Still, currently we can offer only voluntary payments to pension system.

The Ministry of the social development was also advised to start working on the obligatory social security polis for the leaving labor migrants. Obligatory social insurance must be obligatory for everybody. Moreover, nobody has analyzed the risks of entering the Customs Union.

Independent experts have conducted the research whether the medical polis is needed, all responded positively, but Zamandash responded negatively. We support the usage of illustrative stories to show migrants how it is necessary to have this polis to prevent the aggravating of medical situation. We do not need this system for legal migrants, the current system already works for them, and our concern is about illegal migrants.

Resulting from the TSPC facilitated discussion, there was announced the opinion saying that if we cannot secure working places inside the country, we need to ensure the rights of migrants abroad. We need to provide all the possible legal documents for migrants to avoid problems in future, and we can start this work through MSPCs.

The attendees expressed the thought that the work on places may be boosted via the deputies of the governors on social issues.

TSPC has facilitated the elaboration of the RT's recommendations:

- To define the necessity and spheres in further researches;
- MSPCs have to develop cooperation on the places and organize sitting in the regions;
- MSPCs have to develop active position in work with governmental sector especially abroad;
- In its work MSPCs will be focused on people' needs and understand the mass character of their work, change their provisions accordingly;
- MSPCs will develop clear and concise recommendations;
- MSPCs will enhance the informational aspect of work;
- To facilitate piloting in social securing both to external and internal migrants;
- Pensions' mechanism will have to be transparent, population uses not to trust authorities;
- All the projects in this sphere will have to be coordinated to avoid overlapping of efforts and finances;
- To study international migration experience applicable in the KR, to study policies for entering the Customs Union.

Additional Roundtable Participants Recommendations in Support of Priorities and Next Steps

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Our final June 2013 TSPC international conference “International Experience in Labor Migrants Protection and its Application in Kyrgyzstan” will bring together a wide range of people from government and civil society sectors at the local, national, bi-lateral, and sub-regional levels, thus raising awareness of migration and effects deriving from it. This forum will offer venue for learning from different perspectives, for creating networking opportunities, for expanding understanding of migration systems, and for articulating different strategies and practices to exchange them and to offer them to the government.

Appendices:

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