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ЗАЩИТА ТРУДОВЫХ ПРАВ МИГРАНТОВ КЫРГЫЗСТАНА

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Рассматривается проблема защиты прав трудовых мигрантов, анализируется ситуация в сфере трудовой миграции. Экономическая ситуация в стране сегодня складывается таким образом, что вопросы трудовой миграции приобрели особую актуальность. Экономические и социальные кризисы привели к тому, что граждане нашей страны были вынуждены искать работу за рубежом. Вопросы и проблемы, связанные с трудовой миграцией, охватывают различные сферы деятельности правительства по регулированию миграционных потоков, а также деятельности самих мигрантов. Неоднократно отмечались положительные для нашей страны стороны трудовой миграции, прежде всего экономические – приток денежных средств, в том числе и валюты, возрастающие объемы товарооборота. Однако нельзя забывать, что данное явление имеет и негативные стороны: социальный раскол общества, уход мужчин из семей и т. д. Особое значение приобретают проблемы, возникающие перед мигрантами в процессе работы в иностранном государстве. В этом отношении наиболее существенной проблемой является нарушение прав трудовых мигрантов как на работе, так и вне её. Предлагаются меры по улучшению защиты прав мигрантов со стороны Кыргызстана и страны их пребывания, а также повышение уровня правовой грамотности трудовых мигрантов.

Ключевые слова: трудовая миграция; население; Россия; нелегальные трудовые мигранты; права; защита; Кыргызстан.

КЫРГЫЗСТАНДЫК МИГРАНТТАРДЫН ЭМГЕК УКУКТАРЫН КОРГОО

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Бул макалада эмгек мигранттарынын укуктарын коргоо маселеси каралат, эмгек миграциясы чөйрөсүндөгү кырдаал талдоого алынат. Бүгүнкү күндөгү өлкөдөгү экономикалык абалга байланыштуу эмгек миграциясы маселеси өзгөчө актуалдуулукка ээ. Экономикалык жана социалдык кризистер биздин өлкөнүн жарандарын чет өлкөгө жумуш издеп кетүүгө аргасыз кылды. Эмгек миграциясы менен байланышкан маселелер жана көйгөйлөр миграциялык агымды жөнгө салуу боюнча Өкмөттүн ишмердиги катары, ошондой эле мигранттардын өзүлөрүнүн ишмердиги катары ар кандай тармактарды өзүнө камтыйт. Эмгек миграциясынын биздин өлкө үчүн пайдалуу жактары бар экендиги бир нече жолу белгиленип келет, биринчи кезекте экономикалык жактан, акча каражаттарынын, анын ичинде валютанын келип түшүүсү, товар жүгүртүүнүн көлөмүнүн өсүшү. Бирок, мындай көрүнүштөрдүн терс жактары да бар экендигин унутпашыбыз керек: коомдун социалдык жактан бөлүнүшү, эркектердин үй-бүлөдөн кетиши ж.б., Чет өлкөдө иш процессинде мигранттар дуушар болгон проблемалар өзгөчө мааниге ээ. Бул багытта өтө олуттуу маселе жумушта да, жумуштан тышкаркы мезгилде да эмгек мигранттарынын укуктарын бузулушу болуп саналат. Кыргызстан тараптан, ошондой эле мигрант барган өлкө тарабынан да мигранттардын укуктарын коргоону жакшыртуу боюнча чаралар, ошондой эле эмгек мигранттарынын укуктук сабаттуулугунун деңгээлин жогорулатуу сунушталат.

Түйүндүү сөздөр: эмгек миграциясы; калк; Россия; мыйзамсыз эмгек мигранттары; укук; коргоо; Кыргызстан.

PROTECTION OF THE LABOR RIGHTS OF MIGRATES FROM KYRGYZSTAN

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This article deals with the problem of protecting the rights of migrant workers. The author analyzes the situation in the field of labor migration. The economic situation in the country today is taking shape in such a way that the issues of labor migration have become particularly relevant. Economic and social crises led to the fact that the citizens of our country were forced to seek work abroad. Issues and problems related to labor migration encompass the most diverse areas of government activity to regulate migration flows and the activities of migrants themselves. The sides of labor migration, positive for our country, were repeatedly noted, first of all economic - cash flow, including currencies, and increasing turnover. However, we must not forget that this phenomenon also has negative aspects: the social split of

society, the departure of men from families, etc. Of particular importance are the problems faced by migrants in the process of working in a foreign country. In this respect, the most significant problem is the violation of the rights of labor migrants, both at work and outside.

Keywords: labor migration; population; Russia; illegal labor migrants; the rights; protection; Kyrgyzstan.

Lack of work creates prerequisites for the growth of labor migration outside their countries. In a transitional economy, it can mitigate unemployment, dampen inflation, compensate for a decline in income, and avoid a sharp drop in the standard of living of a significant part of the population.

Like most of the CIS countries, the Kyrgyz Republic (KR) is the sending and receiving country, where the export of labor prevails over imports. It should be noted that in its external labor migration, especially within the Commonwealth, the titular population prevails. In general, we can conclude that labor migration from Kyrgyzstan is mainly of a large scale, occurs spontaneously, its main flows can be classified as temporary, returnable. There is no reliable record of these processes in the republic, and official statistics are significantly different from the real situation [1].

The Constitution of the country (Article 16th) enshrines the right of citizens of the republic to work. This provision is specified in the Labor Code, which defines the rules and conditions of employment, as well as guarantees for the protection of labor rights [2]. The main legal acts regulating external labor migration include the Law on Licensing of Certain Types of Activities and the relevant government regulations. In addition, the labor relations of citizens of our country working abroad are regulated by a number of intergovernmental documents signed in recent years. The relevant regional treaties between the Central Asian republics, as well as agreements with other CIS countries.

Kyrgyzstan has signed the largest number of agreements with Russia. Among them – “On the protection of the rights of migrant workers”, “On the mutual recognition of education and academic degrees”, etc. Relevant documents are signed with Kazakhstan, Uzbekistan, Tajikistan, Azerbaijan. Cooperation programs have also been signed with the International Labor Organization and the International Organization for Migration [3].

Despite the immigration phenomenon in both developed and developing countries. Illegal immigrants are generally considered to have no judicial remedy rights, on the grounds that “illegal” has stated that immigrants have violated foreign legal provisions in foreign countries. However, the above comments are wrong. The issue of illegal immigration has become a global problem involving political, economic, social and cultural aspects. Due to the complexity of illegal

immigrants, how to effectively protect the basic human rights of illegal immigrants has raised new issues for international human rights law. Because illegal immigrants are characterized by the dual roles of offenders and victims of smuggling, the human rights of illegal immigrants are often ignored, and they are often treated unequally both legally and de facto, such as worldwide [4]. It is generally discriminated against, economic income is illegally deprived, and its human rights are violated. The protection of the basic rights of illegal immigrants has become an urgent task in international human rights law. The international community has recognized that true social equality cannot be achieved if the basic human rights of millions of illegal immigrants continue to be deprived and violated [5].

The development of many parts of the world relies heavily on illegal immigrants who often do dangerous and dirty, low-paying jobs that locals are unwilling to do, and basic human rights are often violated. The “illegal” of illegal immigrants is illegal in their way of entering other countries, not their illegality as human beings. Illegal migrants usually only want to survive through labor [6]. Their illegal immigration status should not be an excuse to deprive them of their basic human rights. Therefore, the enjoyment of human rights by illegal immigrants is an unquestionable fact. With the emergence of the problem of illegal immigration, the issue of international protection of the basic human rights of illegal immigration should attract people’s attention.

According to the United Nations International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, it is by far the most comprehensive international instrument on the protection of the human rights and labor rights of international migrants, including illegal immigrants. Article 9 of the International Covenant on Civil and Political Rights stipulates that it shall not be arbitrarily detained or arrested; any person deprived of his liberty for arrest or detention shall be entitled to bring a lawsuit to the court. Article 13 stipulates that the decision to expel a citizen from the right to leave the country shall be subject to opposition and review. One of the instruments at the international level that not only protects the rights of immigrants but also has a particularly high status of illegal immigrants is the Universal Declaration of Human Rights. Article 8 of the Declaration Anyone who is infringed upon the fundamental rights conferred on him by the

Constitution or the law has the right to an effective remedy by the competent national courts for such violations. Article 9 No one may arbitrarily arrest, detain or exile. Article 10 Everyone has full and equal right to an impartial and open trial by an independent and impartial tribunal to determine his rights and obligations and to determine any criminal charges against him [7].

In Russia, foreigners who are in the country are often referred to as “immigrants” regardless of their length of stay. Most of the illegal immigrants in Russia come from the CIS countries and other developing countries. According to statistics from the Immigration Bureau of the Ministry of Internal Affairs of the Russian Federation, as of the beginning of 2018, there were 10.2 million migrant workers in Russia, of which about 3.3 million were illegal immigrants. The largest number of illegal immigrants from Uzbekistan is about 900,000, followed by Ukraine (500,000) and Tajikistan (400,000). There are 1.1 million immigrants in Moscow State, of which about 300,000 are illegal immigrants, mainly from Uzbekistan, Tajikistan, Moldova, Ukraine, Armenia, Kyrgyzstan, Belarus, Vietnam, China and other countries [8].

It is difficult for an illegal immigrant in Russia to meet and become a condition for legal immigration in Russia. Most labor immigrants do not understand Russian, and have no education or professional background. The low-skilled workers from Central Asia are mainly middle-level skilled workers from China and Ukraine. Due to the low immigration conditions and the imperfect Russian immigration management system, most immigrants can only “black work”. In other words, most have to become illegal immigrants. The problem of illegal immigration reflects the lack of Russian immigration management system. How to treat illegal immigrants has become a major problem in testing the Russian government.

According to the “Constitution” of the Russian Federation and international treaties, anyone, including foreigners and stateless persons, has the right to legal proceedings to protect their rights and freedoms, which are individuals who protect their rights from violations, restore their rights or A mechanism for obtaining compensation for damage caused by illegal acts.

The universality of human rights implies the full protection of human rights. In accordance with the decision of the Plenary Meeting of the Supreme Court of the Russian Federation of October 31, 1995, No. 834, if an international treaty of the Russian Federation provides for rules other than those provided for by law, the court shall apply the rules of international treaties. In this regard, the court mentioned another situation. In the Federal Government Gazette of July 15, 1995 on

the “International Treaty of the Russian Federation”, the preamble of the Act states that the Russian Federation advocates strict observance of treaties and customary rules and reaffirms its commitment to the fundamental principles of international law, that is, faithful fulfillment of its international obligations [9].

With the ratification of the Convention for the Protection of the Rights of Individuals and Fundamental Freedoms, all persons within the Russian Federation, whether citizens or non-citizens, are entitled to treatment in accordance with the guidelines of the Convention. If the rights recognized by the Convention or its Protocol are violated, the individual or non-governmental organization may file a complaint with the European Court of Human Rights. For Russia, the ratification of the Convention marks a new phase in the development of case law [10]. The Constitutional Court of the Russian Federation is now not only obliged to consider and monitor the decisions of the European Court of Human Rights, but also to be obliged to guide the work of the Court in accordance with the principles, interpretation standards and precedents established by the Court in the protection of human rights and freedoms. However, the application of the international immigration law process needs further development.

At present, relevant international organizations and countries are making unremitting efforts for the international protection of the basic human rights of illegal immigrants. However, due to the illegal status of illegal immigrants, many illegal immigrants are afraid or unwilling to inform the relevant purposes when their human rights are violated. State authority or functional agency. In addition, illegal immigration is not the scope of consular protection in a country. Although relevant international legal documents provide for the protection of the human rights of illegal immigrants, in view of the above, it is often difficult to effectively protect the human rights of illegal immigrants in practice.

Although illegal immigrants are not ordinary immigrants and have no legitimate status in the country of destination, their basic human rights should be basically respected and protected, not to mention the fact that many illegal immigrants are victims of criminal acts such as human trafficking. Therefore, while vigorously cracking down on illegal immigration activities, governments should strengthen cooperation, build a sound international human rights protection mechanism, and work together to reduce illegal immigrants while protecting the basic human rights of illegal immigration.

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