



## Shadow report on implementation of the Global Compact for Safe, Orderly and Regular Migration in the Central Asian region

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### Introduction

Following the collapse of the Soviet Union, regular migration channels immediately emerged for citizens from Central Asian countries to Russia. Between 2010 and 2015, Kazakhstan's economy had also grown to the point that it was also attracting a significant number of labor migrants from its neighbors – primarily Kyrgyzstan, Uzbekistan and Tajikistan. The most recent state figures available estimate there are at least 5 million migrant workers from these three countries and Kazakhstan working in the Russian Federation<sup>1</sup> and 2 million migrants from neighboring Central Asian nations in Kazakhstan.<sup>2</sup> World Bank data suggest that at least 5.8 percent of the Uzbek, 10.8 percent of the Tajik, and 9.7 percent of the Kyrgyz population live in Russia.<sup>3</sup> Tajikistan and Kyrgyzstan are consistently ranked among the top ten remittance-dependent countries in the world, with remittance earnings accounting for nearly 30 percent of GDP in both countries.<sup>4</sup>

Statistics on migration patterns are difficult to estimate, however, because of the high degree of informality in this migration corridor. A survey in Kazakhstan found that only five to seven percent of migrant workers found work through formal recruitment channels, while 31 percent found work through friends of acquaintances, 22 percent through relatives and 20 percent on their own through job placements.<sup>5</sup> The same survey also demonstrated the risks of informal employment – nearly half reported that their employers would not sign a formal work agreement with them, 53 percent experienced delays in their wages, 18 percent did not receive a salary at all, 30 percent had had their passports taken away and more than 40 percent said they'd been prohibited from leaving their workplace.<sup>6</sup> Policy changes in Russia since 2015 have made it more difficult and expensive for migrants to work legally in Russia, driving many into the informal economy or to leave entirely.<sup>7</sup> In addition, migrant workers

<sup>1</sup> Panchenko, Tatyana; *Forbes Kazakhstan*; “Чем грозят Казахстану миллионы оставшихся без работы мигрантов,” July 8, 2020; [https://forbes.kz/finances/integration/chez\\_kazahstan\\_ejegovno\\_prohodit\\_3\\_milliona\\_migrantov/](https://forbes.kz/finances/integration/chez_kazahstan_ejegovno_prohodit_3_milliona_migrantov/)

<sup>2</sup> Calderone, Sarah; *EurasiaNet*; “Kazakhstan is Central Asia's migration outlier” May 3, 2018; <https://eurasianet.org/perspectives-kazakhstan-is-central-asias-migration-outlier>

<sup>3</sup> Gorina, Evgeniya; Agadjanian, Victor; and Zotova, Natalya; *Journal of Ethnic Migration Studies*; “Migrant Women's Economic Success in Russia: Objective Reality and Subjective Assessment;” May 31, 2017, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6147256/>

<sup>4</sup> Panchenko, Tatyana, “Чем грозят Казахстану миллионы оставшихся без работы мигрантов”

<sup>5</sup> Raissova, Zulfiya; Institute for War and Peace Reporting Central Asian Bureau of Analytical Reporting; “Trends in Modern Labor Migration in Central Asia,” February 13, 2020, <https://cabar.asia/en/trends-in-modern-labor-migration-in-central-asia>

<sup>6</sup> Ibid

<sup>7</sup> Aitkhozhina, Damelya; Human Rights Watch; “As Russia Faces an Economic Downturn, Migrant Workers are Paying the Price;” September 9, 2020; [www.hrw.org/news/2020/09/09/russia-faces-economic-downturn-migrant-workers-are-paying-price](http://www.hrw.org/news/2020/09/09/russia-faces-economic-downturn-migrant-workers-are-paying-price)

have long been vulnerable to xenophobic attacks, harassment from police and exploitation from employers.

The COVID-19 pandemic has exacerbated existing vulnerabilities, made conditions for many migrants from Central Asia dire, and exposed structural and institutional flaws in the way migration is managed in the region. Research indicates that 75 percent of migrants were laid off or forced to take unpaid leave, and half had lost all sources of income and were barely surviving.<sup>8</sup> Russia made some efforts to extend visas and residency permits and temporarily suspend deportations, but provided no social safety net protections for such migrant workers. As border closings made returning home impossible, migrants without work have begun tent cities along Russia's borders with neighboring states, trying to repatriate. Government intervention has helped some of these migrants return home, but each story of success draws more migrants, who are going to be in even worse situations as the weather cools. Those who have stayed are living in increasingly cramped conditions to cut costs and are often working in jobs that expose to them to the virus and exploitation. At the same time, many have little access to even basic healthcare services.<sup>9</sup> The situation is similar for migrant workers in Kazakhstan, who have also experienced mass layoffs and were not included in social protection schemes to help those impacted by the pandemic.<sup>10</sup>

### **The Global Compact and migrant labor rights in the region**

Russia as well as several Central Asian states, including Kazakhstan, participated in the negotiations of the *Global Compact for Safe, Orderly and Regular Migration* (GCM) and have agreed to provide a state report on implementation.

The GCM mentions the normative human rights framework as its guiding force, and specifically mentions the important role of the International Labor Organization and its core labor standards in guiding migration policy. The labour movement calls on states, including the Russian Federation and all countries of Central Asia, to comply with standards of decent work enshrined in the core ILO conventions. In particular, the rights enshrined in the *ILO Declaration on Fundamental Principles and Rights at Work* apply to all workers regardless of status and all countries regardless of whether they have ratified ILO conventions or adopted the GCM. We call on the participant states to ensure and protect freedom of association for migrant workers and their rights to form or join trade unions of their own choosing, regardless of immigration status.

Systems to protect migrants' rights in both origin and destination countries of the Central Asian labor corridor are woefully inadequate. Comprehensive research in Kazakhstan, for example found:

In fact, no conclusive efforts have been conducted in coordination to protect Kyrgyz migrants and give them an access to an effective remedy. Kazakh authorities argue that it is not their responsibility to protect migrant workers, and that protection of migrant workers is under the responsibility of Akims (heads of regional or local authorities), and to a lesser extent, under the responsibility of the International Organisation for Migration (IOM). This

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<sup>8</sup> Ibid

<sup>9</sup> Nechepurenko, Ivan; *New York Times*; "For Migrants in Russia, Virus Means No Money to Live and No Way to Leave;" June 24, 2020; [www.nytimes.com/2020/06/15/world/europe/russia-coronavirus-migrant-workers.html](http://www.nytimes.com/2020/06/15/world/europe/russia-coronavirus-migrant-workers.html)

<sup>10</sup> Kakenova, Aizhan; Institute for War and Peace Reporting Central Asian Bureau of Analytical Reporting; "Experiences of Labor Migrants in Kazakhstan During COVID-19: Leave or Stay?;" June 1, 2020; <https://cabar.asia/en/experiences-of-labor-migrants-in-kazakhstan-during-covid-19-leave-or-stay>

situation violates article 14 of the UN International Covenant on Civil and Political Rights, which states : “All persons shall be equal before the courts and tribunals [...]; everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law.”. While the trade unions still in existence admit they haven’t mobilised themselves to defend the migrant workers, the independent trade unions are de facto unable to do so, being themselves subjected to a massive crackdown by the Kazakh authorities...As a result, this situation of Kazakh trade unions further inhibits the possibility for migrant workers to have their rights defended.<sup>11</sup>

Kazakhstan is not alone in lack of a coordinated effort to protect migrant workers, however. Immigration policies across the region are designed for control rather than protection and lack of coordination between governments often leaves migrant workers to fend for themselves when problems arise. Enforcement can be equally punitive, with corrupt law enforcement bodies frequently extracting bribes from migrant workers and high costs to migrants for obtaining legal registration documents.<sup>12</sup>

These deficiencies lead to a host of institutional problems that prevent migrant workers in the Central Asian corridor from realizing the protections contained in the GCM, particularly related to Objective 6 (Facilitate fair and ethical recruitment and safeguard conditions that ensure decent work) and Objective 7 (Address and reduce vulnerabilities in migration). Those institutional problems include:

- Absence of or difficulty in accessing tools to defend migrants’ rights, such as:
  - Shelters for migrants waiting for legal proceedings;
  - Qualified interpreters at trial and in pretrial stages of judicial hearings;
  - Support from the embassies of the State of their citizenship (for example – physical access to embassies is often difficult and the processing of documents takes a long time).
  - Attacks or threats against human right defenders who work with irregular migrants by state authorities as persons who potentially hide or facilitate illegal activities;
  - Legal and practical restrictions on migrant workers forming or joining trade unions to exercise their workplace rights through collective action.
- The high cost of various documents and/or penalties, as well as entry and exit duties.
- Accessible, affordable medical care (particularly for persons with disabilities and those suffering from illnesses that deprive them the ability to travel for medical care, as well as for children born on the territory of different state than the one of their parent’s citizenship).
- Interdiction for migrants legal work except for at certain entities or in certain sectors (such as for big companies or as domestic workers).
- Burdensome registration processes, or processes to maintain legal status, that push people into undocumented status.
- Fear of many undocumented migrants to defend their rights by contacting public authorities because of the emerging question of their deportation.

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<sup>11</sup> FIDH-ADC “Memorial”-ILI / “Invisible and exploited in Kazakhstan: the plight of Kyrgyz migrant workers and members of their families;” June 2018; [www.fidh.org/IMG/pdf/kyrgyz\\_migrant\\_workers\\_in\\_kazakhstan.pdf](http://www.fidh.org/IMG/pdf/kyrgyz_migrant_workers_in_kazakhstan.pdf); pg. 8

<sup>12</sup> Sharifzoda, Khazma; *The Diplomat*; “Central Asia’s Russian Migration Puzzle;” October 11, 2019; <https://thediplomat.com/2019/10/central-asias-russian-migration-puzzle/>

- Failure to identify migrant workers as victims of forced labor or human trafficking.
- Inefficient labor inspection lacks the financial, legal, or human resources to carry out its mission, and is also often ill-equipped to address the needs of vulnerable migrant workers. For instance, monitoring the working conditions and hiring rules for domestic workers, who work irregularly without clear regulation of their duties.
- Unregulated labor migrants work without labor contracts and therefore have no social guarantees, including those related to health and education, for themselves and their family members. The absence of a work contract gives rise to number of other problems, specifically: the withholding or non-payment of wages (wage theft), non-payment of overtime, difficulties receiving social and legal protection, restricted access to medical services, etc.

### **Recommendations:**

- Adherence to the ILO core labor standards as articulated in the Fundamental Principles and Rights at Work, that apply to all workers, regardless of status.
  - Freedom of association, and the right to organize and collectively bargain for all migrant workers (documented and undocumented; in the formal and informal economy)
  - Freedom from discrimination
    - For example, in Kazakhstan, we urge the government to amend the migration law to include the fundamental rights of all migrant workers in accordance with international human rights standards, such as the rights to fair and favorable working conditions (including equitable pay), safe conditions, reasonable working hours, days off, and rest.
    - Ensure that migrants can obtain work authorizations without discrimination.
- Regularization and visa flexibility for migrants:
  - Allow workers in irregular status who continue to provide essential services to destination economies to regularize their status.
  - Support migrants who have lost their jobs due to the pandemic to easily adjust their visa status to find other employment.
  - Grant extensions to and flexibility in renewal of work permits to all migrants to prevent deportation during a pandemic.
  - As an emergency response to the continuing coronavirus pandemic, develop and implement, together with the countries of origin of migrants, a program to return people who want to go back to the countries from which they came so they do not become hostages to the situation unable to meet their basic needs.
- Provide social safety protections for migrant workers regardless of status:
  - Ensure that migrant workers are provided with the necessary personal protection equipment and other occupational safety and health provisions in the workplace and in their homes.
  - Provide information on occupational safety and health protection in languages

- understandable to migrants.
- Allow workers employed without an employment contract in periods of quarantine or self-isolation restrictions to full-fledged unemployment benefits or provide adequate levels of food with a simultaneous exemption from the payment of housing utilities, that is, ensure that a minimum standard of living is possible for all workers impacted by COVID-19 restrictions regardless of employment status.
- Address corruption among government officials, especially in law enforcement, customs, the migration police and the Labour Inspection Agency.
  - Hold employers accountable for violating migrant workers' rights, including for wage theft, occupational safety and health violations, and other workplace and contract issues. Ensure that migrant workers have access to justice and remedies for such violations
  - Develop and implement regional mechanisms that inform migrant workers about unscrupulous employers in destination countries (black lists of employers).
  - Plan labour inspections in households that employ domestic workers, especially migrant domestic workers.
  - Migrant workers, regardless of status, should be given full access to health and medical care in destination countries.
    - This includes migrants in the informal economy (like domestic workers)
    - Guarantee all migrant women, irrespective of their legal status, free access to sexual and reproductive healthcare, including methods of contraception, prenatal, birth and postnatal care.
  - As long as companies continue to be impacted by COVID-related shutdowns, governments should ensure that employers, particularly large transnational companies protect migrant workers with the following steps:
    - Pay wages in full. In an environment where workers live from paycheck to paycheck, even a slight decrease or delay can completely ruin their lives.
    - Provide fair compensation for lost earnings for workers paid by piece rates or for tips, particularly in the service and hospitality sector that is both a primary employer of migrant workers in this region and a sector particularly hard hit by coronavirus restrictions.
    - Ensure that workers can return to their jobs when the situation returns to normal. At the same time, employers must prevent the impoverishment of workers by compensating for lost earnings, including if their companies use various state schemes for paying partial unemployment benefits and other anti-crisis support

measures.

- Ensure full payment of annual leave of all employees, regardless of whether they went on vacation before the crisis or at the time of work stoppages related to the pandemic.
- Implement a program — together with non-governmental organizations, associations of labor migrants and trade unions — that works with communities of compatriots abroad, using the potential of diasporas, to involve them in developing policy responses and programs to solve infrastructure issues, family concerns and other problems common among labor migrants.
- Organization of job fairs in local labor markets, as an alternative to external labor migration. This will foster the goal noted in the GCM of the creation of decent work at home (in origin communities) so that workers can migrate out of choice and not economic coercion.
- Creation of a unified database on migration (availability of labor vacancies, register of organizations dealing with migration issues, border database, data on deregistration), development of standards and methodology for collecting statistical information on labor migration to qualitatively improve standards in terms of coverage of gender and other characteristics of migration.
- Systematize data collection on violations of labor rights of migrants, including issues related to wage theft (and other nonpayment or underpayment of wages issues), lack of occupational safety and health provisions, discrimination, forced overtime, gender based violence and harassment, lack of grievance mechanisms, etc..
- Implementation of projects to create trust services, hot lines and centers for assistance to migrants in destination countries. Such efforts should be in service to creating worker agency, where migrant workers themselves can act collectively to protect their rights.
- Include regular discussion of labor migration issues in the framework of inter-parliamentary meetings and summits, as well as regional intergovernmental forums.
- Work towards the ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families by all nations in the region.
- Promote region-wide ratification of ILO Convention No. 181 "On Private Employment Agencies" as well as ILO Migrant Workers Convention No. 143 (Supplementary Provisions), 1975 and its Recommendation No. 151, to protect the rights of all migrant workers, regardless of their status.