Organizational and legal regulation of labor migration in the Kyrgyz Republic

Temirlan Tulegenov*, Taalaybek Kadyrovich Ismanov, Gulzat Tulegenovna Kulalieva

International University of Kyrgyzstan, Bishkek, Kyrgyzstan

Abstract. This article discusses the problems of internal migration, territorial population movements, the need for legal regulation and management of migration flows. To reduce the outflow of population from rural areas to cities and the most industrially developed regions. The problems of unregulated labor migration and prospects for coordinating the activities of the state are also considered.

1. Introduction

The entire history of the Kyrgyz state and law, the evolution of structures, institutions and mechanisms, the development of the system of their social purpose, general patterns of development and features of the Kyrgyz people in time and spatial boundaries were reduced to nomadic politics. The presence of Kyrgyzstan on the path of the Great Silk Road is proof of this, and they are connected not so much with the territory occupied by the Kyrgyz state at present, as with territories beyond its borders.

We associate the first movements of people in our region with the Great Silk Road, in order to integrate Kyrgyzstan into the world economic market, primarily in trade (merchants and traders mastered the Silk Road), and within the framework of our article, the world labor market. In this regard, Kyrgyzstan is a transit country for the saturation of Europe with labor resources from the east (legally and illegally).

In this connection, the modern world labor migration is an objective reality caused by the processes of integration of the world economy and the strengthening of the economic impact of various states as subjects of the world economy. It has acquired a huge scale, involving millions of people in its flows.

2. Methodology

The methodological basis of the research in this article is the fundamental works of domestic and foreign authors, lying at the junction of the theory of state and law, the history of state and law, constitutional law, political science, economics, philosophy, sociology, etc. In this regard, the methodological basis of the scientific research was the works on various problems of legal regulation of labor relations.

*Corresponding author: tulegenoov@gmail.com
With the beginning of rapid political changes that began in the late 80s of the last century, the overall picture of population migration has changed dramatically, both in scale and in organizational and legal terms. All countries have officially recognized the principle of freedom of movement and eliminated (or relaxed) restrictions on entry and exit from the country, external migration is gradually acquiring the usual features of international migration in the world.

Along with external migration, [1] the economic development of Kyrgyzstan and its regions, still insufficiently integrated into the world labor market, is influenced by the export of labor from rural areas to cities and the most industrially developed regions, which is regulated by the Kyrgyz Republic "on Internal Migration" [2] and the Law of the Kyrgyz Republic "on external labor migration". [3]

3. Results

The volume of internal migration territorial movements of the population (for the period from 1991 to 2002 amounted to over 250 thousand people) and tends to gradually decrease, as a rule, the urban population borrows new settlers, and rural areas lose their population in the migration exchange with cities. A significant part of them is sent to Bishkek and the surrounding Chui Valley.

Positive migration growth to cities is due to rural residents - 94.1 thousand people, also in inter-regional migration - 30.6 thousand people (32.5%), with the exception of Naryn and Jalal-Abad regions, where outflow is noted due to rural areas. The outflow from cities for internal migration is small - 38.6 thousand, including inter-regional migration - 21.2 thousand people (54.9%). The only city in the republic is Bishkek, which does not borrow its population, but is a place of attraction and concentration of the migrating population. In the dynamics of inter-regional migration in the settlements of the Chui region, there is an outflow (0.1 thousand people), namely at the expense of urban residents - 0.3 thousand people, [4, p.105.] but this is due to the fact that part of the population leaves Kyrgyzstan (According to the President of the Russian Federation V.V. Putin, officially covered in Mass media at a personal meeting of the Presidents of the Kyrgyz Republic and the Russian Federation in 2019, about 600 thousand Kyrgyzstanis work and live officially in the Russian Federation alone. According to some other data, about 1 million citizens of the Kyrgyz Republic work and live in the Russian Federation. In our opinion, the second figure is closer to the truth, because a large number of migrants are not officially registered and are not included in the statistics.).

The export of labor from rural areas to cities and the most industrially developed regions, as well as outside the State, is carried out on the basis of domestic legislation, interstate and interdepartmental agreements and international law. [5] Regulation is carried out through the adoption of budget-funded programs aimed at limiting the influx of domestic foreign labor (immigration) or encouraging immigrants to return to their homeland (re-emigration). In this case, a selective approach is used in regulating immigration and internal migration. The screening of undesirable immigrants is carried out on the basis of the requirements for qualifications, education, age, health status, on the basis of quantitative and geographical quotas, direct and indirect prohibitions, time and other restrictions. Re-emigration is stimulated through the payment of material compensation, the creation of jobs, the vocational training of migrants, and the provision of economic assistance to migrants.

Quantitative indicators related to labor migration are part of the balance of current operations and are classified by income items (payments to non-residents) and private unpaid transfers, which represent the estimated monetary equivalent of property, displaced migrants at the time of their movement and subsequent shipments of goods and money to their families. The distribution of the positive economic effect occurs in the form of an increase in the incomes of migrants, money transfers to their homeland.
In this connection, the state regulation of the labor market is carried out on the basis of national legislation, primarily the Constitution of the Kyrgyz Republic, which states:

1. Everyone has the right to freedom of movement, choice of place of stay and residence within the territory of the Kyrgyz Republic.

2. A citizen of the Kyrgyz Republic has the right to travel freely outside the Kyrgyz Republic and return unhindered. Restriction of the right to leave is allowed only on the basis of the law.

The right of citizens of the Kyrgyz Republic to unhindered return is not subject to any restrictions." [6, Article 31.]

Kyrgyz national legislation is structured in such a way that "free labor" can be implemented only if there is an initiative of the employer, and not on the initiative of the employee himself. Labor migrants are practically not considered as subjects of legal regulation or are considered very limited. This approach initially puts the migrant worker in a dependent position on the employer, and the degree of this dependence is extremely high, since the migrant is actually unable to freely dispose of his work, change his place of work, choosing other, more acceptable working conditions.

At the same time, the Concept of the state migration policy of Kyrgyzstan will not be able to radically change the current problem. Now, as expected, migration processes will become orderly, and the observance of the rights of migrant workers will be monitored by the relevant departments.

As you know, labor migration is a normal phenomenon in the life of the international community. In civilized forms, it is carried out on the basis of compliance with national legislation and international labor standards.

To date, a broad regulatory framework has been formed in the Kyrgyz Republic regulating labor migration issues. There are basic laws, programs, and regulations that directly reflect the issues of official state policy in terms of labor migration processes.

Kyrgyzstan has fairly liberal legislation in terms of regulating the labor market and labor migration processes. The legislative basis for creating conditions for free labor migration is laid down in the Constitution of Kyrgyzstan, which stipulates that a citizen has the right to free movement and choice of place of residence, entry and exit outside the republic.

The State Program Integrated Development Framework (COR) of the Kyrgyz Republic until 2010 in terms of labor market regulation states that the main approach of the COR in this matter will be to raise the level of employment through the development of a system of social partnership and increase the effectiveness of employment programs. [7, p.61.] The employment strategy of the population will be aimed at solving the following tasks:

- implementation of regional and sectoral programs to create additional jobs;
- vocational training and retraining of the unemployed in promising specialties, taking into account the demand in the labor market;
- vocational training and subsequent employment of orphans, disabled children, refugees, as well as the creation of training centers;
- creation of temporary jobs through the organization of paid public works;
- development and strengthening of the microcredit system for the unemployed;
- creation of organizational and legal conditions for the export of free labor resources of the country;
- increasing the flexibility of the labor market in order to adequately provide labor resources to all regions of the country and others.

Thus, a migrant worker is a person who has a regulated status and is engaged in labor activity in a State of which he is not a citizen.

Within the framework of our research, it should be said about pendulum labor migration, Pendulum (border) labor migration is the regular departure of citizens of the Kyrgyz Republic to the territory of a neighboring state and the entry of citizens of a neighboring state to the territory of the Kyrgyz Republic for the purpose of carrying out labor activity, provided
permanent residence in the territory of the state of departure. [3, Article 1.] It is associated with seasonal relocation, for example in the construction sector, when builders from rural areas are sent to work in the summer in the city. Bishkek, Osh, Issyk-Kul region for the construction of boarding houses and to other regions of the Kyrgyz Republic.

Seasonal migration also applies to external migration, in particular, when our citizens travel to the Republic of Kazakhstan to work on tobacco plantations in the summer. [8]

The following documents have been adopted and are being implemented in the interstate direction in the CIS: the Agreement on Visa-free Movement of Citizens of the CIS states on the territory of its participants; the Agreement on Mutual Recognition of Visas of the CIS states, the Agreement on Labor Migration and Social Protection of Migrant Workers, put into effect in all Central Asian states, etc. The listed documents have created a favorable visa regime between the CIS states and third countries.

On March 14, 1997, an agreement was signed between the Governments of the Kyrgyz Republic, the Republic of Kazakhstan and the Republic of Uzbekistan to create legal, economic and organizational conditions for the free movement of labor. To implement the Agreement, the three Central Asian states have qualified personnel - more than 3 million specialists with higher and secondary education, for every 1,000 employed in the national economy, there are 853 people. The actual execution of this Agreement was suspended as a result of the introduction of the visa system by the Republic of Uzbekistan and the adoption of adequate measures by the Republic of Kazakhstan. At the same time, there were no economic justifications for the introduction of visas by Uzbekistan, this measure was taken for political reasons. [9, p.77.]

Many countries of the world send their labor resources to developed countries to work in accordance with interstate agreements. For the Central Asian countries, this is a very important problem, since most of those Central Asian citizens who work abroad work without interstate agreements and no law can protect them. Therefore, every country that is interested in sending labor resources to work abroad should take on the solution of this problem.

For example, the Resolution of the Government of the Kyrgyz Republic No. 166 of March 31, 1998 "On licensing activities related to employment of citizens of the Kyrgyz Republic abroad" states - "to implement measures to implement the state policy in the field of external labor migration in terms of social protection of migrant workers, solving procedural issues of their entry and exit, currency- financial transactions and international legal support".

4. Discussion

The detailed discussion on this problem served to some extent to systematize this issue and direct it in the right direction, which was the result of the adoption of a number of normative legal acts, programs and was reflected in interstate agreements. That is why the project "Legal Support for Labor Migrants of Kyrgyzstan", carried out within the framework of cooperation between three separate parties – the Department of the Migration Service of the Kyrgyz Republic, the Bishkek Center for Social Initiatives Public Association and the Mission of the International Organization for Migration in Kyrgyzstan, provides an ideal combination for operational and legitimate support, as well as improving the legal literacy of the departing population. The data obtained as a result of the discussions will be transmitted both to the State migration services and to the International Organization for Migration, in close cooperation with which the Government of Kyrgyzstan determines and forms the legislative and procedural bases of migration policy.

5. Conclusion

Thus, labor migration is the relocation of the able-bodied population from one state to another from one region to another, for a certain period of time, caused by economic and other reasons,
and can take the form of emigration (departure) and immigration (entry). Labor migration leads to the equalization of wage levels both within the state and outside the countries. As a result of migration, the total volume of world production increases due to more efficient use of labor resources due to their cross-country and intra-state redistribution.

References