

Question 1

Please provide information on your organisation and its work with migrant domestic workers who became victims of contemporary forms of slavery, including the countries in which you work on this issue.

The Anti-Discrimination Centre Memorial was originally a Russian NGO, but is now based in Brussels (due to repressions of civil society in Russia). For about 10 years the organization has been working on the rights of working migrants: first in the country accepting migrants (Russia), lately with countries - of migration arrival (Kyrgyzstan, Tajikistan, Uzbekistan). The regional approach led to widening of work in Central Asia, in particular, in Kazakhstan (a country - recipient of migrants from neighboring countries). ADC Memorial participated in field missions and prepared reports on the situation of migrants in Central Asia, with particular attention to vulnerable groups (women, minors) and aspects of forced labor. In this text, the organization would like to provide information on the situation of migrant domestic workers - women and girls from Kyrgyzstan, victims of contemporary forms of slavery in Russia and Kazakhstan.

Question 2

A. Please characterise the legal and/or policy frameworks relevant to the protection of migrant domestic workers subject to contemporary forms of slavery, as well as any global trends you would like to highlight. Please include information about provisions criminalising contemporary forms of slavery, those that might establish distinct rights and/or restrictions for domestic workers, including migrant domestic workers (in regards to, for instance, salary, working hours, freedom of movement, freedom of association, limited freedom to change employers, etc.), as well as measures to identify and support migrant domestic workers who are or were victims of contemporary forms of slavery.

International and regional legislation:

the UN Convention on the Rights of the of All Migrant Workers and their Families; the UN Convention on the Rights of the Child; joint general comments made in 2017, 227 the UN Committee on the Rights of the Child and the UN Committee on the Protection of the Rights of All Migrant Workers and their Families; the UN International Covenant on Civil and Political Rights; ILO conventions N°81 and 129 on labour inspection, N°95 on the protection of wages, 138, concerning the minimum age for admission to employment, 182 on the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour; The Eurasian Economic Union (EEU) legal framework.

National legislation:

Russian legislation: the Labour Code of Russia, The Civil Code of Russia, the federal law “On the Employment of the Population in Russia”; Amendments to the law “On the Legal Status of Foreign Citizens in the Russian Federation” introduced on 1 July 2010.

Kazakh legislation: the Labour Code of Kazakhstan; Amendments and additions to several legislative acts of the of the Republic of Kazakhstan on the issues of working migration of December 15, 2013 No 153-V, so-called “law on domestic workers”; Order No. 944 of the Ministry of Health and Social Development oth the Kazakhstan of 8 December 2015; Kazakhstan’s migration policy roadmap for 2017-2021 approved by Resolution No. 602 of the Government of Kazakhstan of 29 September 2017.

In spite of ratification of the ILO and UN Conventions both Kazakhstan and Russia do not ensure its’ implementation for the effective protection domestic migrant workers. Neither Russia, nor Kazakhstan ratified ILO Convention N°189 concerning decent work for domestic workers.

B. Please include specific references to the source of law when possible.

Question 3

Please describe the main challenges and barriers identified in the country or countries in which your organisation works to ensuring the human rights of migrant domestic workers victims of contemporary forms of slavery. Please also specify any global trends that you are aware of.

Russia and Kazakhstan, countries - recipients of domestic migrant workers:

There is a lack of legislative provisions, especially regarding the regulation of the situation of domestic migrant workers and effective protection of their rights. Both Russian and Kazakh existing legislation is not covering the crucial issues, leading to violations of the migrants' rights. Even the existing additions in labour legislation on domestic workers in Kazakhstan instead of improving the situation are creating the conditions for forced labour (e.g. allowance to individuals to have not more than 5 domestic workers is used by the migrants working for the small individual companies, but not individuals, as it was intended, while employment of the domestic workers in fact is not covered by this provisions and therefore not used by domestic migrant workers). Most of the time, domestic migrant workers do not have a working contract (obligatory according to the labour or civil legislation both in Russia and Kazakhstan), thus it leads to the impossibility to protect their rights or to claim on any guarantees, provided by the labour legislation. Even the administrative responsibility for the employer for not providing a working agreement is not efficiently guaranteeing that the contract will be signed. Sometimes both employers and employees prefer not to document their work relations, due to being afraid of mistakes in taxation, filling in the documentation forms and higher risk of checks with the possible further fines. Also it might be even cheaper and easier to pay one fine for the lack of contract, then deal with other bureaucracy issues. The absence of working contract plays important role for the obtaining residence permit in the country recruiting working migrant. As far as working conditions are not listed in the contract, domestic migrant workers usually work more than is allowed by the labour legislation. Almost never they receive any extra payments for the extended working day or working week without days off, which is mostly the case of domestic working migrants.

Moreover, in the majority of cases, domestic migrant workers receive the salary without any official document, which means that it's not declared, taxes and social contributions are not paid. As a result, domestic migrant workers don't receive any social benefits as pension, sick leave or paid vacation, quite often they also are not provided with medical care in the country - recipient of migrant workers.

The situation of minors domestic migrant workers is even more complicated in terms of receiving official documents for work. Mostly they are never mentioning work as an aim while entering Kazakhstan or Russia. Usually the private purposes are said to be the reason. In some situations minors use the documents of other older persons, for paying less attention to themselves while crossing the Kazakh or Russian border or even cross it unofficially. Therefore almost never minor domestic migrant workers have any necessary documents for work in Kazakhstan or Russia. Unfortunately, black lists to entry into Kazakhstan and Russia which are affecting the parents of underage members of families are forcing more and more minors to become working migrants in order to provide money for the support of their families.

The Order No. 944 of the Ministry of Health and Social Development of Kazakhstan of 8 December 2015 forbids the minors to work on jobs that are connected with responsibility for the life, health, and safety of children, but despite this fact parents of Kyrgyz girls aged 12-17 are sending them to work as nannies for the other Kyrgyz citizens, living in Kazakhstan or Russia.

Authorities of both Russia and Kazakhstan being aware of rights violations of domestic migrant workers are not paying enough attention to the issue. Their actions are not aiming to protect domestic migrant workers. Moreover the high level of corruption in both countries is leading to the bribes, as a most easy and efficient way of solving any issues related to inappropriate documentation of labour relations.

The Kazakh and Russian Labour Inspection Agencies are not able to provide necessary assistance for the protection of rights of working migrants due to several reasons: insufficient enforcement powers and

lack of information on actual employment of domestic migrant workers. Both Russian and Kazakh Ombudsmen are almost never involved in solving any problems of domestic migrant workers, due to the lack of information (both from governmental officials about real situation with domestic migrant workers and appropriate information about Ombudsmen functions and possibilities to assist to domestic migrant workers) and intention to cover such issues. While the minors domestic migrant workers need specific protection, based on their status, there is no Ombudsman for Child's Rights in Kazakhstan. Meanwhile Russian Ombudsman for Child's Rights is mostly not aware of violations of rights of minors domestic migrant workers.

Kyrgyzstan, the country donor of domestic migrant workers:

There are no effective mechanisms for the protection against rights violation of domestic migrant workers. As a result, even after returning to the country of origin, victims are not address by the law enforcement authorities.

In particular situation of minors domestic migrant workers, Kyrgyz authotities are putting not enough efforts to ensure that due to the principle of the best interests of the children underage girls are not forced to work, including the jobs, which are legislatively forbidden for them. Also the governmental representatives pay not enough attention to violation of rights on education of minors. Thhe control of attendance of the schools and quality of the education of underage girls, involved in working migration is not efficient. As a result, lack of education is leading to the only possibility of further work on low-skilled jobs. Almost never minors, involved in working migration are able to continue their education or obtain a specialization.

Question 4

A. Please elaborate on any specific violence, threats of violence, abuse or harassment faced by migrant women and girls who are in situation of domestic servitude.

Domestic migrant workers women and girls are facing threats or violence both physical, psychological and sexual from their employers, both male and female. For example, underage girls working as nannies, are facing the risks of all listed types of violence from the hiring family: while men could use sexual violence, women might use psychological pressure or physical force towards girls. These girls almost never receive any payments for their work, the money being usually sent directly to their families. Such situation creates economic dependence to the hiring family. Domestic migrant workers also could be threatened with non-paying or reducing the salary, not receiving salary in time etc.

B. Please elaborate on any other human rights violation faced by migrant women and girls who are in situation of domestic servitude (including, for example, their right to health, water, housing, freedom of movement, freedom of association, etc.).

Usually women and girls - domestic migrant workers are not allowed to leave the house of the hiring family, quite often they also can't return to the country of origin when they would like to do it. Domestic migrant workers are provided with food and sometimes clothes in the hiring family, but obviously, they are rarely free to choose by themselves. Most of the time, the family of origin of an underaged girl decides about working conditions together with the hiring family, while the opinion of the worker is almost never taken into account. The girls also are not asked about working conditions or problems in the hiring family during the working period, because their parents are not going to terminate the oral working agreement. Underaged girls are forced to stop school education during the working period (usually not less than 9-12 months) and most of the time they never study afterwards. Moreover, very often they continue to be formally listed among the pupils, while working in another country for the whole school year. This happens according to the agreement between parents of minors and school administration.

Question 5

Please elaborate on the challenges faced by migrant women and girls who are at the risk of or who are already under conditions of domestic servitude to obtain protection against their human rights violations.

First, girls domestic migrant workers mostly do not go out from a residence of a hiring family, they have no opportunity to ask for any assistance even in humiliating situations. Second, quite often they don't speak well the language of the country where they work. At the same time, usually they don't know the institutions providing help to vulnerable people. Finally, a lack of necessary documents and a lack of trust to governmental authorities (also due to recurrent cases of bribes and violence) stops them from asking for the protection from their rights violations. In fact, domestic migrant workers are able to address effectively law enforcement officials or other representatives of governmental institutions with the assistance of attorneys or representatives of NGOs.

Lack of appropriate information and fear of deportation also lead to actual absence even of attempts to ask for the protection of the rights of domestic migrant workers.

Question 6

Please elaborate on the specific situation of migrant women and girls in domestic servitude, taking into consideration factors that might contribute to their increased vulnerability to contemporary forms of slavery, including poverty, identification to minority groups, indigenous people, age, and caste.

Coming from poor families, underaged girls are sent abroad for domestic work by their parents. As a result, such girls feel responsible for the wealth of the family and for their younger siblings. Therefore, girls are almost never able to refuse such work neither before going to migration, nor during the work. Being both minors and female, girls usually are not allowed to express opinion on their own life and future, and it's almost never taken into account.

Question 7

A. Please detail any examples of good practice in relation to protecting, identifying and rescuing migrant women and girls in situation of domestic servitude. This might include actions and initiatives taken by governments, civil society organizations, international organizations, media outlets, employers, individuals, survivors, etc.

Question 8

Please describe any challenges identified in ensuring that migrant women and girls who are survivors of domestic servitude have access to justice?

Lack of trust of governmental officials is leading to the absence of complaints on any violations of rights of domestic migrant workers. Violations and even facts of work are mostly never documented. Domestic migrant workers without appropriate documents do not apply neither to law enforcement officials, nor to court.

Underaged girls usually do not consider their domestic work as a form of slavery, despite the fact that they don't have any appropriate documents, do not receive salary and social benefits, and even are not involved in the process of agreeing of working conditions. The opinion of their parents is so important for girls, that they do not complain on any violations of their rights neither in the recipient country, nor in the country of origin.

Question 9

Please describe any projects delivered by your organisation or other civil society organisations to ensure protection of the human rights of migrant domestic workers victims of contemporary forms of slavery.

ADC Memorial participates in documenting cases of rights violations of migrant workers and in advocacy actions aimed to change the attitude of governmental officials of the countries - recipients and donors of

migration. Recently ADC Memorial participated in the preparation of a report on forced labour and working conditions of Kyrgyz migrants in Kazakhstan, that includes analysis of the situation of domestic migrant workers, underaged girls, victims of multiple discrimination.

Question 10

Please provide any research, data or other information that your organisation has produced or is aware of relating to the protection of domestic workers victims of contemporary forms of slavery.

ADC “Memorial” participated in several joint human rights reports with FIDH and local NGOs: “Women and children from Kyrgyzstan affected by migration” (2016) “Migrant Workers in Kazakhstan: No status, no rights” (2017), “Invisible and exploited in Kazakhstan: the plight of Kyrgyz migrant workers and members of their families” (2018).