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| **Описание: logo** | **PUBLIC ASSOCIATION “HUMAN RIGHTS CENTER”, THE REPUBLIC OF TAJIKISTAN** **Submission to the UN Committee on the Rights of a Child and the UN Committee on the Protection of Rights of Migrant Workers and Their Families for Joint General Comment on the Human Rights of Children in the Context of International Migration**  |

**I. Introduction**

1. This submission is drafted by the Public Organisation (PO) “Human Rights Center” located in Tajikistan based on the findings of the monitoring of rights of children of migrant workers in the Republic of Tajikistan as a country of origin of labour migration and Russian Federation as a country of destination of Tajik migrant workers.[[1]](#footnote-1) PO “Human Rights Center” is a non-governmental organisation (NGO) working for more than 10 years in the field of protection of rights of migrant workers and their families in the Republic of Tajikistan and in countries of destination of labour migration.
2. This submission is based on studies of NGOs and international organisations on labour migration and situation of families of migrant workers, information published in mass media as well as policies and laws governing labour migration. It opens with a summary of situation of labour migration from the Republic of Tajikistan to provide context of international migration from Tajikistan. Summary is followed by an overview of documented violations of rights of children of migrant workers left in Tajikistan and violation of rights of children of migrant workers in Russian Federation as a main country of destination of Tajik migrant workers.

**II. Labour migration: summary**

1. **The Republic of Tajikistan (РТ)**: Tajikistan is one of the countries of Central Asia. It borders Uzbekistan, Kyrgyzstan, China and Afghanistan. With latter it has the longest border. The RT gained its independence in 1991 after the collapse of the Soviet Union. As of January 2015 population of Tajikistan was 8,3 million.[[2]](#footnote-2) The RT is a country with excess working population due to high birth rates and lack of sufficient number of jobs. Tajikistan went through substantial economic, social and political changes that took place after collapse of the Soviet Union and civil and political unrest that lasted from 1992 to 1997. President of the RT is a Head of the State and Head of the Government of the RT. Bicameral Parliament functions in Tajikistan. Power is formally divided in executive, legislative and judicial branches. However, it is heavily concentrated in hands of executive branch.
2. **Features of labour migration from Tajikistan:** Tajikistan is a country with unstable economy and high levels of unemployment. Labour market in Tajikistan consists of three equal parts, namely, official employment, informal employment and labour migration of Tajik nationals abroad.[[3]](#footnote-3) Rates of official unemployment are low in the RT (2.3% of total number of economically active population),[[4]](#footnote-4) but unofficially, rates of unemployment in the country vary from 30 to 45% of working age population. According to the Agency on Statistics under the President of the RT there was a considerable growth of labour migration during 2005-2013. In 2013 flow of migrant workers leaving the country in search of jobs was 799,7 thousand and that was two times more compared to flow of migrant workers in 2005. There were 698,8 thousand (87,4%) men and 100,9 thousand (12,6%) were women. In 2014 flow of labour migration reduced compared to 2013 for 19,5% or for 128,9 thousand and reached 670,8 thousand.[[5]](#footnote-5) About 90% of Tajik migrant workers travel to Russian Federation (RF) that shares with Tajikistan common past, knowledge of Russian language and social networks. According to Federal Migration Service (FMS) of the RF in 2015 862,321 Tajik nationals entered RF. 19% of them or 161,698 were women.[[6]](#footnote-6) Remittances of migrant workers to Tajikistan play a vital role in economy of the country, because they are equal to 35% of GDP of Tajikistan that is a highest indicator in the world.
3. **Trends of labour migration from Tajikistan:** During last 5-7 years there are following general trends of labour migration from Tajikistan: constant growth of stock of emigration of Tajik population; growth of permanent migration; growth of irregular labour migration from Tajikistan due to tightening of migration regime in RF; prevalence of low-skilled labour migration and decline of professional level of migrant workers; growth in number of younger generation of migrant workers, mainly low-skilled who migrate immediately after graduation of secondary school; growth of family migration; growth of number of women in general flows of migrant workers from Tajikistan. [[7]](#footnote-7)
4. **Effects of labour migration:** Labour migration has both positive and negative effects on Tajik households. Among positive effects most of households noted increase of standards of living due to remittances. Separation of families, deterioration of health of migrant workers, violation of rights of migrant workers in country of destination were among negative effects of labour migration on households.
5. **Response of the Government of the RT:** The Government of the RT adopted a number of measures on improvement of migration policy to ensure protection of rights of migrant workers and their families. After adoption of the Concept of State Migration Policy on 9 June 1998 a Concept of Labour Migration of Tajik Nationals was adopted on 9 June 2001 by the Resolution of the Government of the RT, № 242. This Concept establishes that the purpose of the state labour migration policy is social and legal protection of Tajik nationals working abroad on a temporary basis and prevention of illegal migration. To implement provision of state labour migration policy the RT adopted a number of state programmes/strategies on external labour migration. Recent National Strategy of Labour Migration of Tajik Nationals Abroad was adopted by the Government of the RT in 2011. Drafting of the law on labour migration started 4 years ago and still ongoing. The RT is a State Party to the UN Convention on Protection of Rights of Migrant Workers and Their Families (CMW), the Convention on Elimination of All Forms of Discrimination Against Women (CEDAW) and the Convention on the Rights of a Child (CRC). Legislation and policies of Tajikistan does not take into account situation of families of migrant workers left in Tajikistan and growing family labour migration from Tajikistan. Main body responsible for implementation of labour migration policy is a Migration Service under the Ministry of Labour, Migration and Employment of Tajikistan (MS). This body was reformed four times. Initially, it was a composite part of the Ministry of Labour and Social Protection of Population. It was then transferred under authority of the Ministry o Interior in 2007. In 2011 MS became an independent body of executive power. In 2013 it was again reformed and transferred under authority of the reformed Ministry of Labour, Migration and Employment. These changes resulted in loss of institutional memory and high turnover of staff. On the positive side, currently, a department on labour, migration and employment was opened in every district and city of Tajikistan that helps to reach more Tajik migrant workers as most of them come from rural areas of Tajikistan.

**III. Violation of rights of children left by migrant workers in the country of origin: the Republic of Tajikistan**

**Violation of right to family life**

1. Article 122 of the Family Code of the RT establishes a list of children left without parental custody and in need of special care. “Lasting absence” of parents is among grounds that can be applied to define that child was left without parental custody. This Article does not establish an exact duration of absence of parents. This ground allows to parents planning to travel for labour migration to leave their children under state custody. Institutionalisation of children remains one of the main forms of support of a family. Thus, in 2013, 6 270 children stayed in boarding schools and 2811 children stayed in boarding schools for disabled children. However, only 3-4% of these children were full orphans. Despite ongoing reforms in the area, number of children staying in boarding schools during 2012-2013 in Tajikistan increased by 5%. Children without parental custody and amongst them children of migrant workers are placed “temporarily” to boarding schools and orphanages. But in fact, children live in these boarding schools and orphanages for years, in fact, not being orphans, but also at the same time without actual family (parents, for instance, can be in labour migration). These children are so-called social orphans with unclear status.[[8]](#footnote-8)
2. Family Code of the RT prohibits adoption of children, Tajik nationals, by foreign nationals. As it was mentioned above, there is a growth of permanent migration and family migration from Tajikistan. Many nationals of the RT who traveled to RF for the purpose of labour migration acquired nationality of RF to ease their stay in RF and increase their chances to get employment. Thus, extended families of ethnic Tajiks can include both nationals of the RT and nationals of the RF. In case of death of parents, relatives can’t adopt children of deceased parents, because children are nationals of the RT, but relatives are nationals of the RF. Situation is particularly worrisome, when parents deceased in RF during labour migration, but their children – nationals of the RT can’t be put under custody of their relatives residing in Russia and nationals of RF due to prohibition of adoption of nationals of the RT by foreign nationals. This situation is very common. In RF several cases were documented when children – Tajik nationals were expelled to the RT due to death of their parents. Due to absence of relatives in Tajikistan they were placed in orphanages despite the fact that they had relatives – Russian nationals who wanted to adopt them to stay in Russia. This provision of the Family Code of the RT does not take into account current trends of international migration as well as violates the principle “best interests of a child”.

**Risk of involvement to labour exploitation and child labour**

1. Wives and children from abandoned families of migrant workers are the most vulnerable when it comes to the adverse effects of migration. Abandoned women left behind live in extreme poverty and inadequate housing facilities, eating the food which they cultivated themselves and occasionally getting help from their relatives.[[9]](#footnote-9) To survive, these women send their young children to work. There is no statistics on number of abandoned women of migrant workers and their situation. However, according to occasional studies these women most often suffer from depression, suicide, cruel treatment and can be engaged to criminal activities and polygamy in the situation where they see no choice or do not know legal and social rights.[[10]](#footnote-10) According to UNICEF study,[[11]](#footnote-11) children from abandoned migrant families become more aggressive and undisciplined; they suffer from depression. [[12]](#footnote-12)
2. ILO states that one of the factors contributing to increased number of exploitation of children is labour migration. About 50% of street children are children from families of migrant workers. They are subject to various forms of violence (negligence, exploitation, harassment and sexual violence). They are at risk of commission of crimes, drug trade, HIV/AIDS infections.[[13]](#footnote-13)

**Lack of registration of children traveling to labour migration with their parents[[14]](#footnote-14)**

1. Review of available statistics demonstrates that children below 18 years of age constitute 14% of total number of nationals of the RT staying in RF. In accordance with data of Migration Service of the RT (MS) in 2013 74’000 children from Tajikistan were employed in low-skilled labour in RF. MS informed that special working group that consists from members of competent bodies was established to prevent migration of children abroad.[[15]](#footnote-15) Results of the activities of this working group are not available for public discussion.
2. There are several kinds of data collection to register external labour migration from Tajikistan: а) registration on the basis of migration cards of a national of the RT travelling abroad; b) labour force survey; c) household census in rural areas.
3. Migration cards of nationals of the RT[[16]](#footnote-16) are filled out in airports and railway stations of Tajikistan. Fields “date of birth”, “sex” and “purpose of departure” in the cards help to register travelers disaggregated by age groups, gender and identify migrant workers (based on field “purpose of travel”). According to instruction on the back side of the card, they should be filled only “by those who reached 16 years of age”.[[17]](#footnote-17) Thus, according to methodology of the national statistics age group of 16-17 years travelling abroad for the purpose of work is registered as migrant workers. However, in accordance with the legislation of RF foreign nationals have a right to work in RF only if they reached 18 years of age. Collection of data using migration cards of national of the RT traveling abroad does not require registration of children of all age categories. Registration of children of 16-17 years of age as migrant workers is in contradiction with legislation of RF on rules of stay of foreign nationals in Russia. Thus, it can be assessed as forced labour and organisation of illegal migration, because foreign nationals below 18 years of age do not have a right to work in RF.
4. Agency on Statistics conducts periodic Labour Force Surveys (LFS)[[18]](#footnote-18) using a method of sample survey of households (4,000 households). This survey helps to trace situation (at the moment of survey) on number of migrant workers staying abroad. Statistics record age groups disaggregated by 5 years, for instance, age group of 15-19 years of age, 20-24 years of age and so on. In accordance with Labour Code of the RT working age starts at 15 years of age. However, disaggregation on age groups in registration of external labour migration should take into account that foreign nationals in RF have a right to work only upon reaching 18 years of age. Thus, in LFS age group of 15-19 years unites two different categories of migrant workers, namely, those who have a right to work in RF (18-19 years of age) and children of school age (below 18 years of age) who don’t have a right to have legal employment in RF. Comparison of LFS data for 2004 and 2009 revealed that during this five year period number of migrant workers of 15-19 years of age increased by 3,5 times or by 8,1 % and reached 13,4% of migrant workers in 2009 and 8,7% in 2004.
5. Household census in *djamoats* (local self-governments in villages) does not register age groups of migrant workers and does not take into account children below 18 years of age who travel abroad. It only registers number of migrant workers in the household, but not always disaggregates this data by sex.
6. So, current methods of registration of labour migration do not track trends of migration of children traveling abroad with parents for the purpose of labour migration. Besides, current system of registration records migration of children of 15 to 18 years of age who travelled to RF for the purpose of employment. Legislation of RF establishes that only foreign nationals upon reaching 18 years of age have a right to work in RF. Thus, it can be concluded that these children who traveled to RF and mentioned that purpose of travel was search jobs are subjects of labour exploitation, they have irregular status in RF and can be subject to the worst forms of child labour.

**Gaps in policies and legislation on rights of children and labour migration**

1. Child protection system in the RT is not clearly defined. Authorities on protection of rights of children are vested in several public bodies depending on field of their work. For instance, authorities related to prevention of crimes among underage are vested in the Ministry of Internal Affairs of the RT, issues of education are under competence of the Ministry of education and so on. In general, issues of child’s rights fall under competence of child’s rights departments in each local body of executive power at city and district levels. However, they are understaffed and under resourced. In 2015 the Law of the RT “On Protection of Rights of a Child” was adopted. This Law establishes that child is a person below 18 years of age. Besides, it establishes rights of a child in line with the CRC. It also extends special protection to several categories of children, specifically, children-refugees; children suffered from disasters and emergency situations; orphans; children left without parental custody; disabled children.[[19]](#footnote-19) Despite of situation of children of migrant workers and prevalence of labour migration from Tajikistan, children from families of migrant workers, especially, abandoned children are not treated by this Law as a group requiring special protection measures.
2. As mentioned above, in Tajikistan a Concept on State Migration Policy was adopted in 1998 and Concept on State Labour Migration Policy was adopted in 2001. Recent National Strategy on Labour Migration of Tajik nationals abroad adopted in 2011 was aimed at implementation of the Concept on State Labour Migration Policy. The National Strategy for the period beyond 2016 is still being drafted. During last 4 years the process of drafting of the Law on Labour Migration is ongoing. These policies and draft law do not establish any specific policy measures on protection of children traveling with their parents to labour migration and children left behind in Tajikistan. The draft law on labour migration that is still under discussion does not envisage any special protection measures to ensure respect of rights of children of migrant workers.

**IV. Violation of rights of children of migrant workers in the country of destination: Russian Federation**

**Expulsion of children separately from parents**

1. In RF practice of expulsion of children of migration workers separately from parents is very common. Parents are detained in RF due to violation of migration rules or other kinds of offences or they are expelled. Children are either expelled separately from parents or they are placed in shelters for such children. These expulsions are practiced not only against Tajik nationals, but also nationals of other republics staying in RF for work purpose or accompanying members of families of migrant workers.
2. Human rights organisations of RF documented several cases of such practice. On 7 September 2015 staff of FMS detained a national of Uzbekistan Dilafruz Nabotova who was 40-weeks pregnant. She was detained along with her two underage children, 8-years old Sarvarbek and 7-years old Makhbuba. They were separated from their mother and were placed to Shelter “Transit” where they presently stay. After two weeks of detention on 20 September 2015 Dilafruz Nabotova delivered a baby in maternity house №16. Afterwards, she and her infant child were placed to Special Institution on Temporary Detention of Foreign nationals of Saint-Petersburg city. On 15 October 2015 Dilafruz Nabotova and her infant child were deported from RF. Her two underage children are separated from their mother and still based in shelter “Transit”, because they are waiting for issuance of relevant documents and deportation.[[20]](#footnote-20) This practice is a violation of right of children on prohibition of separation with parents except by court order, established by Articles 9 and 10 of the CRC.

**Unlawful removal of infant children from parents resulting to death of child**

1. This practice can also result in death of children. In 2015 a case of death of 5-months old Umarali Nazarov, national of the RT in the premises of the Center of Medical and Social Rehabilitation of Children Left without Parental Custody gained wide attention in mass media of the RT and RF. In addition, this case was a subject of discussion between Emomali Rakhmon, President of the RT and Dmitry Medvedev, Prime-Minister of the of RF.[[21]](#footnote-21) On 13 October 2015 Zarina Yunusova, a national of the RT and her infant child were arrested in their apartment for violation of migration rules. She stayed in RF together with the family of her husband who had residence and work permit in RF. Police brought her and her infant child to the police unit of the Department of the Ministry of Internal Affairs of Admiralteysky district of Saint-Petersburg, RF. In the police unit her infant five-months old child was taken from Zarina Yunusova for the purpose of placing child to the Center of Medical and Social Rehabilitation of Children left without Parental Custody. This 5-months old child Umarali Nazarov was registered as abandoned or lost child while this child in addition to mother had a father, Rustam Nazarov who legally resided and worked in RF. While the police was waiting for an ambulance to transport Umarali Nazarov to the above-mentioned Center grandmother of Umarali came to police and brought special food for child and documents confirming birth of Umarali and that Zarina Yunusova was his mother. However, police refused to take food and transported Umarali as abandoned or lost child to the above-mentioned Center ignoring his birth certificate. Father of Umarali who came to police to take his child and receive information about his location was denied of these rights. Police also refused to give back Umarali to his father and grandmother. On the same day (13 October 2015) in the night Umarali Nazarov died in the above-mentioned Center. Two additional months were required for parents to take away his dead body to bring to Tajikistan, because investigation of his death and inspection of lawfulness of actions of police and personnel of the Center were conducted. Besides, only Zarina Yunusova, mother of Umarali was acknowledged as victim of this crime. She, in accordance with court order was deported from RF despite investigation was still ongoing.[[22]](#footnote-22) Later, father of Umarali was also acknowledged as victims of crime.
2. Although this case gained lots of public and political attention, neither Russian nor Tajik authorities conducted thorough investigation of death of Umarali Nazarov and lawfulness of his removal from his mother. Results of investigation and criminal file opened due to death of 5-month old Umarali Nazarov are not known. Instead, it was published in mass media that Russian authorities consider opening a case against parents of Umarali Nazarov for negligence of their child.

**Lack of adequate response of Tajik representations in Russian Federation**

1. Above-mentioned case of death of Umarali Nazarov and other cases of separation of children from parents and removal of children from parents demonstrated that Tajik representations located in RF do not adequately respond to these cases and fail to follow up on investigations of violation of rights of children of migrant workers, Tajik nationals by Russian authorities. They don’t have a mechanism of response to violations, immediate interference in cases of violations, provision of assistance for children in difficult situations. Most of response and support services are provided by Russian NGOs and international organisations.

**Information and questions:**

To request additional information and in case of questions PO “Human Rights Center” can be contacted at: 8/1 Valamatzade Street, apt. 30, Dushanbe, 734024, Tajikistan, e-mail: hrc.tajikistan@gmail.com or phone: (+992 37) 227 51 87. Contact person: Mr. Nurmakhmad Khalilov, Director.

10 February, 2016

Dushanbe, Tajikistan.

1. PO “Human Rights Center” is thankful to the International Migration Initiative of the Open Society Institute, Soros Foundation that provided financial support in holding studies and drafting of this submission. [↑](#footnote-ref-1)
2. [www.stat.tj](http://www.stat.tj) [↑](#footnote-ref-2)
3. State Strategy of Development of Labour Market of the Republic of Tajikistan until 2020, adopted by the Resolution of the Government on 2 June 2011,, № 277. [↑](#footnote-ref-3)
4. Labour Market in the Republic of Tajikistan, Agency on Statistics under the President of the RT, 2014. [↑](#footnote-ref-4)
5. <http://www.cisstat.com/CIS_Labourstat/CIS_Labourstat_2_27-2%202015%20Bishkek%20Statistics%20of%20labor%20migration%20in%20Tajikistan.pdf> [↑](#footnote-ref-5)
6. <http://www.fms.gov.ru/fms/activity/stats/Statistics/Statisticheskie_svedenija_po_migracionno> [↑](#footnote-ref-6)
7. Bozrikova T (2011), Findings of the Gender Expertise of National Strategy of labour migration of Tajik citizens abroad for 2011-2015. UN Women; Public Fund “Panorama” (2010), Impact of global economic crisis on households of Tajikistan, DFID; Centre for Strategic Research under the President of Tajikistan (2012), Impact of labour migration on way of life and behavior of population, unpublished report. [↑](#footnote-ref-7)
8. Report N2 on Social, Economic and Cultural Rights submitted by the Coalition of Tajik NGOs in the framework of the Second Cycle of the UPR on Tajikistan, 2015. [↑](#footnote-ref-8)
9. IOM (2009), Abandoned wives of Tajik labour migrants, IOM. [↑](#footnote-ref-9)
10. IOM (2009), *op.cit.* [↑](#footnote-ref-10)
11. UNICEF (2011), Labour migration impact on migrant’s children remained in Tajikistan”, UNICEF [↑](#footnote-ref-11)
12. UNICEF *op.cit.* [↑](#footnote-ref-12)
13. ILO data [http://www.no-childlabour.tj](http://www.no-childlabour.tj/) [↑](#footnote-ref-13)
14. This section is based on the findings of the situational analysis “Access of children of migrant workers from Tajikistan travelling abroad to services: opportunities, barriers, effects”, conducted by the PO “Human Rights Center” in 2015. [↑](#footnote-ref-14)
15. <http://rus.ozodi.org/content/article/24888910.html> [↑](#footnote-ref-15)
16. Migration card of a national of the Republic of Tajikistan, adopted by the Resolution of the Government of Tajikistan № 622 on 31 October 2009 and amended by the Resolution of the Government of Tajikistan № 477 on 2 July 2015. [↑](#footnote-ref-16)
17. Instruction on filling out of Migration card of a national of the Republic of Tajikistan, adopted by the Resolution of the Government of Tajikistan № 622 on 31 2009 and amended by the Resolution of the Government of Tajikistan № 477 on 2 July 2015. [↑](#footnote-ref-17)
18. Analytical reports on Labour Force Surveys conducted in 2004 and 2009, Agency on Statistics under the President of the RT, 2005, 2010. [↑](#footnote-ref-18)
19. The Law of the RT “On Protection of Rights of a Child” adopted on 18 March 2015, №1196, Articles24, 25, Chapters 4, 5. [↑](#footnote-ref-19)
20. Extract from the letter to Agipatova S.Yu., Human Rights Ombudsman in Saint-Petersburg, RF from Karim Lahidji, FIDH President, Stephaniya Kulaeva, Anti-Discrimination Center “Memorial” and Tolekan Ismailova, Chairperson of Boards of “Bir Duino Kyrgyzstan”, 27 October 2015, <https://www.fidh.org/ru/regiony/evropa-i-central-naya-aziya/rossiya/sovmestnoe-otkrytoe-pis-mo-upolnomochennomu-po-pravam-rebenka-v-sankt> [↑](#footnote-ref-20)
21. <http://www.currenttime.tv/content/article/27358560.html> [↑](#footnote-ref-21)
22. <http://www.bbc.com/russian/international/2015/10/151020_tajikistan_umarali_death_reax> [↑](#footnote-ref-22)