

AMERICAN UNIVERSITY OF ARMENIA

LABOR EMIGRATION FROM ARMENIA:
ANALYSIS OF EXISTING POLICIES AND REGULATIONS

AN INTERNSHIP POLICY PAPER SUBMITTED TO THE FACULTY OF THE
GRADUATE SCHOOL OF POLITICAL SCIENCE AND INTERNATIONAL AFFAIRS
FOR PARTIAL FULLFILMENT OF THE DEGREE OF MASTER OF ARTS

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NOVEMBER 2005

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November 2005

Acknowledgements

I wish to express my deep gratitude to Dr. Lucig H. Danielian, my Dean and Faculty Advisor, for her irreplaceable help, suggestions, corrections and continuing support during the Policy Internship Program.

I want to convey my best appreciations to my Workplace Supervisor Mrs. Irina Davtyan, the Head of Migration Policy Department at DMR for her supervision, directions and advices given so kindly to me.

Special thanks are also due to Mr. Gagik Yeganyan, Head of Department of Migration and Refugees of Armenia for providing me opportunity to participate in this Internship Program.

I would also like to thank Dr. Ruben Yeganyan, Dr. Nelson Shahnazaryan, Dr. Gevork Poghosyan, Mr. Gaga Gabrichidze and Mr. Gagik Yeganyan, who responded so kindly to my interviews.

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Abstract

By the end of twentieth century, Armenia has got a huge negative experience of mass emigration processes. The Karabakh conflict, earthquake of 1988 and the cold winters of 1991-92 have had their terrible consequences in the form of mass emigrations from Armenia. Large numbers of the population have left country, with a small hope to find satisfactory jobs and sustain themselves. Major share of these people later faced unemployment or has experienced difficulties in the employment process because of deceptive ways of labor provision. Although the previous stream of mass emigration has remained in the past, however there is still a significant continuation of the process in the form of overseas employment.

The purpose of this study is to bring together all the existing policies of Armenia on labor emigration processes, find shortcomings and propose recommendations of how to improve them. This paper will analyze the current legislation of RoA on labor emigration, bring solutions to the existing problems in the legislation and in addition make comparison with that of Georgia and introduce the model of Philippines.

List of Abbreviations

IOM- International Organization of Migration

CIS- Commonwealth of Independent States

ILO- International Labor Organization

DMR- Department of Migration and Refugees

POEA- Philippine Overseas Employment Administration

OEDB- Overseas Employment Development Board

OWWA- Overseas Workers' Welfare Administration

Introduction

In the current times of low socio-economic conditions and high unemployment rates, Armenian citizens continue leaving the country for economic reasons to sustain their families. Along with this process of labor emigration, problems like human trafficking and other deceptive ways of job provision continue to emerge. According to a survey conducted by “Advanced Social Technologies” in 2005, the main reason for labor emigration from Armenia is the lack of job opportunity. Ninety-seven percent of respondents mentioned unemployment as a primary reason to leave Armenia. The migration processes in the country have reached to significantly high rates thus creating a space for studying them. Of course, there are several advantages of the emigration processes, such as the reduction of unemployment rates and increases in the average lifestyle of citizens. However, there is still a high level of risk carried by a labor emigrant and there is always a possibility of failure in the job provision by the employment agency. While the existing private employment agencies are not trusted by applicants and often fail in many cases of overseas job provision, people continue to seek jobs and leave in the hopes of higher salaries. These people often face trafficking and other terrible phenomena as the result of deceptive ways of labor provision by the employment agencies. As far as the situation is not yet out of the control and can still be corrected, there is space for studying it.

Emigration

The end of 20th century combined several geopolitical changes, which resulted in the new wave of migration processes all over the world. In particular, the territory of the former Soviet Union has come under the “attack” of huge migration processes because of the strong political, economic and ethnic shocks that it faced (Papoyan 1999).

Nevertheless, before going further it is important to discuss what migration is and what the importance of labor emigration is.

There is no official clear definition of the migration, in the online databases of UN and among international treaties. However, according to an online dictionary, “migration” is the movement of persons from one country or locality to another (Website: <http://www.thefreedictionary.com/migration>). Another definition of “migration” is that “migration is geographical movements of individuals or groups for the purpose of permanently resettling” (Website: <http://www.answers.com/topic/migration>).

Migrations have occurred throughout history and have played an important part in the peopling of all the areas of the earth. Simple migrations were usually in search of food, but could also result from physical changes, such as the advance of the continental ice sheets, and invasion by other states. The most important migrations in European history were the Gothic invasions (3d–6th cent.), the Arab invasions (7th–8th cent.), the westward migration of the Golden Horde of Jenghiz Khan (13th cent.), and the invasions of the Ottoman Turks (14th–16th cent.) (Website: <http://www.answers.com/topic/migration>). According to an online Britannica encyclopedia, the process of migration takes its deep roots from the earliest human migrations from Africa to all the continents except Antarctica within about 50,000 years. Other historical examples of mass migrations include the forced migration of 20 million people as slaves from Africa to North America in the 16th–19th centuries and the Great Atlantic Migration of 37 million people from Europe to North America between 1820 and 1980. Today war-related forced migrations and refugee flows continue to be very large, as are voluntary migrations from developing nations to industrialized ones. Internal migrations have tended to be from rural areas to urban centers (www.britannica.com).

Several factors have characterized the end of twentieth century: de-colonization of previous big empires, establishment of new independent countries and unification of those newly established countries into different types of unions. The main historical reasons of migration processes are wars and natural disasters. Dr. Poghosyan (2003) mentions three

historical phases of Armenians' mass emigration. The terrible earthquake of 1988 has led to emigration of about 200,000 Armenian citizens. The next factor that contributed to mass emigration from Armenia was the Karabakh conflict, second by the number of emigrants caused by the genocide of 1915. The third phase of mass emigration was the consequences of cold winters in 1991-92. The year of 1993 was the peak of emigration from Armenia. About 250,000 people left the country in 1993 (Poghosyan 2003). Currently, according to Khojabekyan (2004), Armenia faces another stage of emigration which has started in 1992. "An unprecedented increase of the emigrating population has been displayed constantly to the far and near foreign countries." These waves of emigration have resulted in severe negative population growth.

Thus, in Armenia, migration processes have taken mostly the form of emigration rather than immigration. Historically Armenia always was an emigration-oriented country. Labor emigration as a very particular form of migration has always had a very significant share in the migration processes of Armenia (Papoyan 1999). Despite the variety of migration flows, this form of migration has been increasingly growing during the years. In the short run the labor emigration has an advantage of unemployment decreases, whereas in the long-run it has a danger of losing professional and experienced staff forever, which otherwise could help to solve a variety of economic problems in the state. There is an increasing need for the creation of mechanisms to regulate the process (Papoyan 1999).

Although in one country the process of labor emigration may be a cause of severe wars or natural disasters, it is a strong economic force and significant part of external politics in another. According to some scientists, labor movement is a mechanism for workers to integrate into capitalist systems (Larson and Nissen 1987). The process of labor emigration may have the following goals: 1) economic goals, which are the reduction of unemployment rate in the country, generating of external currency inflows and, consequently, increase in the

state budget; 2) social goals, such as improvement of work conditions in general and provision of security to migrants, and; 3) strategic goals, such as prevention of illegal migration, establishment of legal basis in the migration processes, re-qualification and re-specialization overseas (Abella 1997).

However, the process of labor emigration may have dangerous and risky consequences for emigrants themselves. For this reason, several practices have been established in developed states. According Abella (1997), these practices are mostly interstate agreements and licensing of employment agencies. In addition to above-mentioned, according to Abella (1997), states should provide the public with full information regarding employment overseas. Unfortunately “very little is being done in this direction and usually is being done too late” (Abella 1997, 75).

“In the period since 1991, it is conservatively estimated that of a total population of less than four million, 800,000 to one million people have migrated, either legally or illegally. Push factors have been the sharp rise in impoverishment (particularly in urban areas), drastic cuts in social spending and the removal of exit controls since 1991 with the collapse of the Soviet Union.”
(Website: <http://www.iom.int/documents/publication/en/armenia%5Ftrafficking.pdf>).

According to online data retrieved from International Organization of Migration (IOM) website, in terms of irregular migration, Armenia is an origin country and to a much smaller extent a transit country.

“Smuggling in migrants from Armenia to Western Europe has been directed to a host of countries including Germany, Belgium, the Netherlands, Greece, Spain, France, Austria and Switzerland. Apart from the push factors above, and the pull factors in destination countries, smuggling results from the actions of locally based travel agencies (intermediaries) and their counterparts in transit countries. The main transit countries have been Poland and the CIS states of Ukraine and Belarus.” (Website: <http://www.iom.int/documents/publication/en/armenia%5Ftrafficking.pdf>)

The current situation with prolonged Armenian labor emigration along with the positive experience of other states has led to development of research questions for this study.

The research questions raised in this study in Armenia are the following:

1. What are the current policies and regulations applied to labor emigration?
2. What problems exist in the current policies and regulations applied to labor emigration?
3. What are the differences between Armenia and Georgia in emigration policies?
4. What can be learned from the working emigration policies of other countries?

Methodology

The objective of the paper is to study the legal frameworks of labor emigration processes in Armenia. This is a descriptive-explorative study. In particular the following methods were used:

1. Content analysis of all existing policies and recommendations applied to labor emigration from Armenia. The search was made among all the official printed government bulletins of the Republic of Armenia (RoA), including laws and all Presidential, Governmental and Parliament decrees. Another search was run in the “Irtek” Legal Database, consisting of laws, and Decrees of the President, Government, Parliament and Ministries. The key words used in the online search were the following: “labor emigration,” “labor migration,” “emigration,” “migration,” and “labor.”
2. In-depth interviews were conducted with four experts in the field of labor emigration:
 - 1) Dr. Ruben Yeganyan, leading specialist in the Institute of Economic Research in Ministry of Economics and Finance, demographer, candidate of economical science,
 - 2) Dr. Nelson Shahnazaryan, leading specialist in the Institute of Economic Research in Ministry of Economics and Finance, Lecturer in the Slavonic University,
 - 3) Dr. Gevork Poghosyan, head of Armenian sociological association,
 - 4) Mr. Gagik Yeganyan, Head of the State Department of Migration and Refugees of the Government of Armenia.

3. Comparative analysis of Armenia and Georgia in the field of labor emigration. The comparison was between both laws on Employment of Armenia and Georgia and among policies applied to labor emigration in both countries. The data regarding Georgia was found in the IOM database of Georgia and also during both telephone and email communications with Mr. Gaga Gabrichidze, Legal Assistant in the IOM office in Tbilisi.
4. Content analysis of Philippines's model of labor emigration. The analysis was made throughout the legal documents regulating the field of labor emigration in Philippines. These are the Labor Code (Presidential Decree No. 442), the Migrant Workers and Overseas Filipino Act of 1995 (Republic Act 8042) and the Rules and Regulations Governing the Recruitment and Employment of Workers.

Findings

Existing policies on Labor Emigration in Armenia

Currently in Armenia the following documents exist that include reference to labor emigration: Law on Employment in the Labor Code of Armenia; Concept of the Law of the RoA on Overseas Employment; Decree of Government of RoA to support the creation of information provision program on external migration, signed on January 17, 2005. There is also a draft law on the Regulation of Labor Emigration. In addition to these policies, there are also four interstate agreements on labor migration of the RoA with Turkmenistan, Ukraine, Georgia and Russia.

The Law on Employment of RoA does not specify the policies applied to labor emigration from Armenia. Although the 12th article of the Law on Employment states that “the rights of citizens of RoA to work overseas or to pass re-qualification or re-specialization

process overseas is determined by the RoA legislation, interstate agreements and this Law”; the Law does not specify those rights. The only point in the Law on Employment related to labor emigration is that “the private employment agencies of the RoA may operate only with appropriate licenses and according to norms defined in legislation”. However, there is no specific mechanism of license provision for the employment agencies in the RoA and the agencies continue operating without licenses, which in turn increases the level of risk carried by labor migrants.

The Concept of the Law of the RoA on Overseas Employment clearly mentions the positive impact of labor emigration, such as “ensuring currency inflow into a payment balance in form of transfer”, “Reduction of unemployment rate in the country”, but strongly insists on the creation of legal basis of regulation of overseas employment. The Concept supports the draft law on Labor Emigration and includes the idea of license provision of employment agencies as an important and irreplaceable tool “for restriction of constant immigration flows and the promotion and stimulation of reintegration (return) flows increase”. Again, no licensing exists in Armenia at this time.

The Decree of Government to support the creation of information provision program on external migration was signed in January 2005 but is still not working because of lack of finance.

The Draft Law on Labor Emigration was created by the Department of Migration and Refugees of RoA in order to bring a legal basis for labor emigration issues. It should have power on all the agencies dealing with labor emigration as well as on all the labor migrants. The exception are those employees abroad with diplomatic missions, employees of international organizations, travelers and those workers abroad who leave the RoA for work without dealing with an employment agency. The draft law clearly defines specific terms such as “overseas job,” “overseas employer,” “mediator service,” and “overseas employee.”

The law specifies the legislation, which shall regulate the labor migration relations and mentions the dominant force of interstate agreements above itself in case of inappropriateness of its norms with those of interstate agreements. Thus, the norms specified in an interstate agreement may always prevail over those specified in the Armenian legislation.

All the experts think positively about the adoption of the Draft law on labor emigration. Two of them think that it is very much necessary; others think that it must be adopted; however, the adoption of draft law is not the primary issue. According to Mr. Ruben Yeganyan, a very “soft” law is needed in order not to damage, thus it must be measured several times and adopted with minimizing the risks, because labor emigration is a very important field. The mechanisms to be implemented must be more economic focused than administrative. Also, according to Mr. Yeganyan, there is a need for the specification of different terms and concepts; the terminology used is not adequate.

From the other side, it is late for the adoption of the draft law because the emigration peak was in 1990s and now the possible savings are about some 30-40 thousand Drams, which in its turn is not a serious contribution to the state budget. However it is needed because of such treating phenomena as human trafficking or illegal migration in general, according to Mr. Gevork Pogosyan. There is also a lack of appropriate governmental decrees regulating the field, according to Mr. Gevork Pogosyan.

In general, experts agreed that the question should be treated from the legal perspective. According to experts the system lacks protection and guarantees for labor emigrants. Even the Draft Law does not fully provide those protection and guarantees according to Mr. Ruben Yeganyan. According to experts, the Government annually rejects the adoption of the Draft Law, because of *a.* certain political reasons (acc. to Mr. Nelson Shahnazaryan), *b.* possibility of corruption raise (acc. to Mr. Ruben Yeganyan) and *c.* not proper understanding of the field. The field is relatively new and because of that not everyone

clearly understands what should be implemented (acc. to Mr. Gagik Yeganyan). “They are afraid to cut the branch they are sitting on”, mentioned Mr. R. Yeganyan. Another approach was proposed by Mr. G. Pogosyan during the interview: The government was guided by a felonious principle of “the more they leave, the better the conditions become here”.

The Draft Law insists on the provision of special licenses to employment agencies for permission to operate. It also states that the employment agencies must perform overseas labor market research and that contracts must be signed between the employment agency and the future overseas employee. It is worth mentioning that Council of Europe (CoE), International Labor Organization (ILO) and International Organization of Migration (IOM) have their positive opinions regarding the draft law. Of course, the Draft Law is not an overall solution of the problem and even may have such a negative consequence, as increase in corruption rate. However, it is a huge and necessary step forward for the current situation. Currently it is still on the parliament agenda, and according to Mr Gagik Yeganyan, Chief of DMR, it tends to be adopted next time, because all the necessary improvements and additions have already been made to the Draft and all the comments and suggestions of CoE, ILO and IOM have been fulfilled.

Creation of specialized agencies is needed, according to Mr. Gevork Pogosyan. The specialized agencies, not necessarily public ones, must sign contracts with overseas specialized agencies thus creating a legal basis for each overseas labor worker.

Intergovernmental agreements with four CIS countries are about the protection of Armenian labor workers in Ukraine, Turkmenistan, Georgia and Russia. Based on these agreements the above-mentioned states recognize as valid the educational level of the worker, his/her qualification and different licenses. In addition, these agreements consider the cases of injuries incurred by the migrants during their employment in those states. These agreements,

according do data of Department of Migration and Refugees (DMR), are not working. The legislations of party-states have changed and thus the agreements need to be up-dated.

Georgia and Armenia

In Georgia the Ministry of Labor, the Ministry of Healthcare and the Ministry of Social Security establish control on employment. In Armenia, according to legislation, the control over employment is under the supervision of the Ministry of Social Security and the Department of Migration and Refugees. In Georgia, one of the main principles of state regulation of employment is the principle of coordination of work of private and public employment agencies (Article 10 in Law on Employment of Georgia). In Armenia that principle exists in the Draft Law. In Georgia, according to the Law on Employment of Georgia, Article 10, there must take place an active cooperation among government and international organizations based on protection of employee rights and creation of opportunities to participate in the overseas labor market. In Armenia, this principle is missing, because there is no law on labor emigration. In Georgia, according to the Article 32 of the Law on Employment, private employment agencies are required to pass through a licensing process. The Law clearly specifies the required documentation needed for registration and further licensing process. There is a lack of such detailed requirements in Armenian Law on Employment. There is only a sentence in the Article 16, stating that “In Armenia may operate private employment agencies with appropriate licenses”. But nothing about their registration and further licensing could be found.

In addition to the Law on Employment there is another law regulating emigration processes in Georgia: The Law on Emigration adopted in 1997. This document focuses on the main procedures regarding emigration of Georgian citizens from Georgia and clearly defines the requirements of the emigrants, such as a right to take out any personal movable property or the procedures of emigration of Children under age of 18.

Despite above-mentioned differences in the laws, there are several similarities in the practice between Georgian and Armenian policies applied to labor emigration. First, both countries experience comparable problems regarding labor emigration. Second, in practice there is no mechanism of license-provision in Georgia or in Armenia. Third, both states have draft laws on labor emigration rejected by their governments annually. Fourth, both Georgia and Armenia do not have information-provision mechanisms for the public.

Philippines Model

One of the most experienced and successful countries in terms of labor emigration is the country of Philippines with its large and complicated system of overseas job provision. Some European countries, for example Norway, have such a strong system of labor emigration as Philippines, but not such a big outcome. The country of Philippines may serve as the best example in terms of labor emigration system, for such developing countries as both Armenia and Georgia.

In contrast with both Armenia and Georgia, in the country of Philippines the system of labor emigration has passed through a huge experience and can serve a model for both states. Currently, in the Philippines, the primary structure for regulating labor migration and the activities of private recruitment agencies is the Philippine Overseas Employment Administration (POEA). The POEA is the sole and exclusive authority for the formulation and implementation of policies and programs for the systematic deployment of Filipino workers overseas. The operational functions of the POEA include market development and pre-employment services, welfare assistance, licensing and regulation of private recruitment agencies; and adjudication of disputes involving violations of regulations on recruitment and of workers' conditions of employment. Although the Philippine government has turned over most of the responsibility for recruiting workers to the private sector, it retains a regulatory role, with the stated purpose of protecting workers from abuse and discouraging illegal

recruitment. The provision of licenses to the employment agencies is a large practice in Philippines. They have very clear mechanisms of license provision and appropriate requests from the agencies applying for licenses. Thus,

“An applicant for a license to recruit workers should have a clean criminal and derogatory record. Any person who has been subject to a complaint, charged with or convicted of illegal recruitment is automatically disqualified from applying, as are persons or corporations operating travel or airline sales agencies. Persons having previously received a license which has been cancelled for violation of the law and regulations on recruitment and placement are also disqualified.” (Website: http://www.iom.int/DOCUMENTS/PUBLICATION/EN/Labour_Mig_Asia_ebk.pdf).

In addition, a recruitment agency in order to be licensed must be Filipino-owned, meet capitalization and bonding requirements, and not charge workers more than one month's salary as a placement fee. A Philippine consulate verifies the terms of each worker's contract with the foreign employer. Should the employer violate the terms of the contract, the Philippines-based recruiter is held responsible through an adjudication process after the migrant returns.

The primary legal systems regulating the activities of private employment agencies in the Philippines are the Labor Code (Presidential Decree No. 442), promulgated on May 1, 1974, the Migrant Workers and Overseas Filipino Act of 1995 (Republic Act 8042) and the Rules and Regulations Governing the Recruitment and Employment of Workers.

The Overseas Employment Development Board (OEDB) has been created to undertake programs for overseas employment of Filipino workers and to protect their rights “to fair and equitable employment practices.” The OEDB promotes overseas employment of Filipino workers through a comprehensive market promotion and development program and secures the best possible conditions of employment of Filipino workers overseas (Article 17). Also there is a prohibition on direct-hiring of Filipino workers by employers. According to article 18 of the Labor Code, “No employer may hire a Filipino worker for overseas employment except through the Boards and entities authorized by the Secretary of Labor”.

Only direct-hiring by members of diplomatic corps and international organizations is exempted from this provision. There also exists an Office of Emigrant Affairs, which was created to serve as a liaison with Filipino migrant communities overseas (Article 19) and National Seamen Board and which must provide free placement services for Filipino seamen and regulate the activities of shipping companies in the hiring of Filipino seamen for overseas employment (Article 20).

Another interesting point in the Labor Code of Philippines is that according to Article 27, “Only Filipino citizens or corporations, partnerships or entities at least seventy-five percent of the authorized and voting capital stock of which is owned and controlled by Filipino citizens shall be permitted to participate in the recruitment and placement of workers, locally or overseas”.

In addition, the Labor Code of the Philippines provides the following way of payment of fees by the workers: according to the Article 32 of the Labor Code, Filipino workers can be charged only after beginning employment obtained through the efforts of employment agency. The fee must be covered with the appropriate receipt clearly indicating the amount paid which in its turn is being stated by the Secretary of Labor.

The last interesting point in the Labor Code is that the agencies must submit reports on the status of employment, details of job requisitions, separation from jobs and other employment data whenever the Secretary of Labor requires (Article 33).

In particular the following powers were established by the Migrant Workers and Overseas Filipino Act of 1995 (Republic Act 8042):

- A mandate for the immediate repatriation of under-age workers by Philippine embassies.

- Establishment of an Emergency Repatriation Fund under the administration of the Overseas Workers' Welfare Administration (OWWA), even though it was recognized that the repatriation of workers was the primary responsibility of recruitment agencies.

- Establishment of a monitoring center for returning migrant workers, under the supervision of the Department of Labor and Employment, as a mechanism for their reintegration into Philippine society.

- Establishment of resource centers for migrant workers and other overseas Filipinos in Philippine embassies in countries with large concentrations of Filipino migrants.

- Creation of a financing scheme to be administered by OWWA for the grant of pre-departure and family assistance loans to workers seeking overseas employment.

- Creation of the position of legal assistant for migrant workers affairs in the Department of Foreign Affairs.

- Establishment of a legal assistance fund for migrant workers.

Thus, migration is a powerful economic force in the Philippines that cannot be easily dismissed. According to Kevin O'Neil (Website: <http://www.migrationinformation.org/Feature/display.cfm?id=191>), migration has definitely raised the income of millions of Filipino workers and their families. It has encouraged investment in education and training. For example only in 2001, Filipinos overseas sent home over six billion dollars, or about 8.4 percent of national GDP, and this is only the amount of money sent via formal channels.

Analysis

1. What are the current policies and regulations applied to labor emigration?

According to the Law on Employment of Armenia, the right of those seeking job overseas is regulated by the Law on Employment, RoA Legislation and interstate agreements. Thus, the only policies and regulations of labor emigration must be represented in the above-mentioned documents. After the careful analysis of those documents it can be stated that

currently in Armenia the following policies and regulations are applied to labor emigration: Citizens have the right to leave Armenia for a job overseas, after satisfaction the request of government about the necessary documents, such as passport with visa, if needed with a seal of permission of temporary leaving for the particular country and other appropriate forms if needed. There is no other specific policy or regulation on the labor emigration process, except through special interstate agreements with particular countries, which are Russia, Georgia, Ukraine and Turkmenistan.

The particular document supposed to provide overall regulation for the process of labor emigration is the draft law on Overseas Employment. It defines principles for organizing overseas employment, defines orders and conditions of leaving for overseas employment, and describes the responsibilities of governmental bodies and employment agencies in the field of overseas employment. It specifically indicates the necessity of license-provision to the private employment agencies.

2. What problems exist in the current policies and regulations applied to labor emigration?

After the analyses of current existent policies and regulation applied to labor emigration, the lack of the following important instruments is found: 1. Lack of a law or part of it, specifying the legislation which shall regulate the labor migration relations; 2. Lack of a law or a part of it which brings together all the issues regarding labor emigrants and the process of labor emigration in general; 3. Lack of an appropriate law or point in the Law, which clearly specifies the rights of labor migrants; 4. Lack of a law or a part of it, which regulates the operation of overseas employment agencies; 5. Lack of a mechanism to reduce the risk carried by a labor emigrant; 6. Lack of a mechanism to protect the rights of labor emigrants; 7. Lack of appropriate governmental decrees in the field; 8. Lack of information and information-provision programs regarding labor emigrants. Despite the Decree of

Government to support the creation of information provision program on external migration, signed in January 2005, which is still not working because of lack of finance. The program needs to be sponsored in order to operate properly. There is also a strong need for conducting an overseas labor market research. This would rather be regularly conducted by either the State or special agencies. At last, there is a lack of special agencies, which would deal particularly with the field of labor emigration and its regulation.

After the analysis of in-depth interviews conducted with experts in the field it becomes clear that in some issues the opinions of experts correspond each other, in others the opinions of experts differ in sense of priority: Thus they look at the problem from different perspectives, which will be analyzed underlines. The following are the corresponding part of ideas and opinions of experts: First, all experts agree on that the system today lacks mechanisms of protection and guarantees for labor emigrants. Second, they all agree in the necessity of a creation of legal basis for the processes of labor emigration, which is the adoption of the draft law on overseas employment. Third, they all agree on the implementation of interstate agreements, clearly defining the rights and duties of labor migrants in a particular country as well as the rights and responsibilities of the mediator employment agency.

In contrast to the above-mentioned there are some other opinions of experts that differ from each other. According to Dr. Ruben Yeganyan, there is a need to properly define all the terms and concepts, regarding labor emigration. The reason that government annually rejects the adoption of the draft law is that it may raise the level of corruption and also there is a special interest of special people in the current indefinite situation with the labor emigration. Again the most important tool should be the interstate agreements, other mechanisms, such as the license-provision to employment agencies, may only have an indirect impact on the solution of the problem.

According to Dr. Nelson Shahnazaryan, both the adoption of draft law and implementation of interstate agreements are necessary, but not sufficient preconditions for a good working legal field of labor emigration. What is primary and necessary is the promotion of proper work of special agencies, specialized in making contracts with other agencies abroad and responsible for proper information provision to the interested public. Also Dr. Shahnazaryan's opinion regarding the license-provision is that "no real positive changes may it bring to the system".

According to Mr. Gagik Yeganyan, first, everybody must know well his duties and responsibilities and after that keep them. Second, the state should intervene, because the process has reached to larger volumes and keeps developing. Third, the state should have two major goals regarding this field: 1. Creation of a special strategy to protect the rights and benefits of labor migrants, and 2. Creation of favorable conditions of work overseas through the careful investigation of the overseas labor market.

According to Dr. Gevork Pogosyan, it is already very late to adopt a law, because in his words "today we are talking about some 30-40 thousands, which cannot be considered as a serious contribution to the budget". Dr. Pogosyan strongly insists on the creation of specialized agencies, not necessarily public, dealing with the issues related to the labor emigration. These agencies are supposed to be regulated by the appropriate decrees of the government and pass the process of licensing. However, according to Dr. Pogosyan, there are very little things to do in the field, because the major share of emigrants has already left in 1990s and the main thing that should be done is the creation of legal framework, which is not so difficult.

3. What are the differences between Armenia and Georgia in emigration policies?

Throughout the comparison of Georgian and Armenian policies applied to labor emigration the some important differences and similarities appeared. In Georgia the control

on Employment is established by Ministry of Labor, Ministry of Healthcare, and Ministry of Social Security. One of the main principles of state regulation of employment in Georgia is the principle of coordination of work of private and public employment agencies (Article 10 in Law on Employment of Georgia). According to the Law on Employment of Georgia, Article 10, there must take place an active cooperation among government and international organizations on the basis of protection of employee rights and creation of opportunities to participate in the overseas labor market.

In Armenia, according to legislation, the control over employment is under the supervision of Ministry of Social Security and Department of Migration and Refugees. The principle of coordination of work of private and public employment agencies in Armenia exists only in the Draft Law. And there is almost no cooperation among Armenian government and international organizations on the basis of protection of employee rights and creation of opportunities to participate in the overseas labor market.

In Georgia, according to the Article 32 of the Law on Employment, private employment agencies are required to pass the licensing process. The Law clearly specifies the required documentation needed for registration and further licensing process. There is a lack of such detailed requirements in the Armenian Law, except a sentence in the Article 16, stating that “In Armenia may operate private employment agencies with appropriate licenses”. But nothing about their registration and further licensing could be found.

The findings regarding Georgian and Armenian policies on labor emigration have shown several similarities in the practice of both states. First, both states experience seriously comparable problems regarding labor emigration. Second, there is no actual mechanism of license-provision in practice neither in Georgia nor in Armenia. Third, both Georgia and Armenia have the lack of information-provision mechanisms to public. And forth, both

countries have their draft laws on labor emigration being still rejected by their governments annually.

4. What can be learned from the working emigration policies of other countries?

The findings regarding the country of Philippines have shown many useful examples of necessary mechanisms that can be very useful for Armenia. First and the most necessary tools to improve the current situation are the implementation of license-provision programs to employment agencies and information provision programs to citizens. These are the most important preconditions of proper work of the system. However, some other positive examples also can be taken from the country of Philippines: First, the creation of special bodies, such as the POEA and OEDB in the Philippines, which deal with labor emigration; Second, creation of appropriate laws and control on their proper implementation. In Philippines, these legal systems are the Presidential Decree No. 442 and the Migrant Workers and Overseas Filipino Act of 1995 (Republic Act 8042).

Conclusions

In conclusion, it is worth mentioning again, that the current existing policies and regulations, which are supposed to regulate the labor emigration processes, are not enough. They lack such important mechanisms as the protection of rights of labor migrants and the regulation of private employment agencies. Current Law on Employment and existing governmental decrees have a common shortcoming, which is the lack of a particular order, according to which both employment agencies and their applicants, in other words the same future labor emigrants, should act. Another important shortcoming of the system is the lack of necessary information, which could be very helpful for public, interested in temporary leaving for overseas job and could at least create an understanding of what is going on in the overseas labor market.

It is very important, that the overall goal be remaining of labor emigration a temporary phenomenon, not a permanent one. It would be better if the phenomenon of labor emigration be more some kind of acquaintance with overseas culture and developments and serve as a bridge of exchange in different developments.

In any case, it should not be forgotten that the overall goal is not only to create a legal basis for the field of labor emigration, but moreover to bring the field into a working process with appropriate circulation. In other words to create a system, where the processes of labor emigration may serve a significant role in the state budget, but at the same time the actual role players , the same overseas workers would rather remain a temporary players, who leave the country for a beneficial, but temporary job, and return before their deadlines. This kind of circulation of labor force is the best solution to the current indefinite situation for the following reasons:

1. It will create opportunity for more public to work, re-specialize, or re-qualify overseas.
2. It will more or less create a balance among the number of those who left and those who came back.
3. It will serve a significant contribution to the state budget, because those who leave for work temporarily would for sure prefer not to violate the laws and come back before the deadlines. This will make them pay all the appropriate fees to the state.

Throughout the study process several ideas and recommendations appeared. They might be very helpful to the agencies and organizations which deal with labor emigration or seek overseas jobs for their applicants, to the future labor emigrants and at last to all state departments and the special decision-maker personnel.

Recommendations

Thus, in order to create a legal framework for the field, to minimize the risks and to make the system work properly, it is proposed:

1. To organize a special meeting of Government, which will discuss the question of the adoption of draft Law on Overseas Employment. This will explain the reasons of annual refusal of Government in the adoption of draft Law on Overseas Employment.
2. To introduce the draft Law on Overseas Employment to all the experts in the field and all the appropriate organizations and agencies, except IOM and the Council of Europe, which have already given their approval to the current draft law,
3. After collecting all the incoming comments and recommendations regarding the possible changes or additions to the draft, to make those appropriate changes and propose the draft to the government,
4. To create special agencies, not necessarily public ones, and assign special tasks to them ,such as the regulation of information-provision to public, establishment of overseas labor market research control on the overseas employees' status, the number of those returned before deadline and those remained after passing the deadline, etc,
5. To keep under the governmental control the operation of the above-mentioned specialized agencies,
6. To make important interstate agreements with all those particular states, which represent the current major destination points for Armenian overseas job seekers. According to a survey conducted by “Advanced Social Technologies” in 2005, the 90% of Armenian labor emigrants leave for CIS countries, the next are European countries (6.2%), USA (3.6%) and United Arab Emirates (0.2%). According to the survey, during the years 2002-2005 from 87.600 to 143600 people have left for job in CIS countries. Thus, it is urgent to make interstate agreements with the majority of CIS countries. However after creating interstate

agreements, it must be important to reconsider their proper operating. This may also be put under the regulation of special public agencies.

7. To establish a special fund, as a means of protection of overseas workers against possible failures. The labor migrants will make regular contributions to the fund, as certain predefined percentage of salaries. Those contributions will later serve as an important financial source to regulate the overseas employment process. The appropriate percentage and the regularity of payment must be clearly mentioned in the contract signed between the employment agency and future overseas employee.

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Appendix A:

Table 1: Number of persons arrived in Armenia and left it in 2005, according to months

Months	According to transportation means								
	Airway			Railway			Highway		
	Arrived	Left	Balance	Arrived	Left	Balance	Arrived	Left	Balance
Jan	27700	38000	-10300	928	1008	-80	13272	10570	2702
Feb	26700	32000	-5300	971	1014	-43	10543	10449	94
Mar	31400	36900	-5500	675	615	60	13581	11751	1830
Apr	33400	47400	-14000	829	1180	-351	14192	14302	-110
May	39400	51800	-12400	1116	978	138	13014	12135	879
Jun	62300	50900	11400	975	1050	-75	13104	12859	245
Jul	71100	61300	9800	1020	1650	-630	23827	22470	1357
Aug	69300	87700	-18400	1618	1875	-257	36157	30193	5964
Sep	57100	62200	-5100	2222	1848	374	26939	22663	4276
Oct									
Nov									
Dec									
Total	418100	468100	-50000	10354	11218	-864	180133	163192	16941

Source: Retrieved from database of Migration Agency under RoA Government.

Table 2: Total number of persons arrived in Armenia and left it in 2005, according to months

Months	Total		
	Arrived	Left	Balance
January	41900	49578	-7678
February	38214	43463	-5249
March	45656	49266	-3610
April	48421	62882	-14461
May	53530	64913	-11383
June	76379	64809	11570
July	95947	85420	10527
August	107075	119768	-12693
September	86261	86711	-450
October			
November			
December			
Total	608587	642510	-33923

Source: Retrieved from database of Migration Agency under RoA Government.

Appendix B:

Questionnaire for the interviews with experts

1. Do you think that there is a need for legal regulation in the field of labor emigration?
Please explain why. (If “No” then go to question 3)
2. What mechanisms should be implemented in order to reach a legal regulation?
3. What is your opinion about the draft law?
4. In your opinion why the draft law on labor emigration is being rejected by the government and even does not pass to the parliament from 2001 until now?
5. In your opinion what problems in the field of labor emigration should be solved by the government?
6. Is it possible to solve the problems without adoption of the law of license-provision to the overseas employment agencies?
7. In your opinion what steps should the state implement to provide its citizens with a legal overseas employment opportunity?
8. Is it possible to solve the major problems with labor emigration in the nearest future?
When approximately?