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## Written statement\* submitted by Beijing Zhicheng Migrant Workers' Legal Aid and Research Center, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[1 February 2019]

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\* Issued as received, in the language(s) of submission only.



## **Strengthening the Human Rights Protection of Migrant Workers through Professional NGOs**

According to the statistics of the China Bureau of Statistics, in 2017, China's migrant workers reached 286 million, accounting for one-fifth of China's total population, and one-third of the total number of employees. Migrant workers came to work in cities from rural areas, increased their income and contributed to urban development. They sent these incomes back to the countryside, which led to the development and prosperity of the countryside. However, migrant workers may also encounter rights violations due to the lack of education and experience, many migrant workers do not know how to effectively protect their rights, and some even return to poverty. Therefore, the realization and guarantee of rights play an extremely important role for migrant workers to eliminate poverty and realize the right to development. The United Nations Commission on Legal Empowerment of the Poor has pointed out in the report "Making the Law Work for Everyone" *".....that four billion people around the world are robbed of the chance to better their lives and climb out of poverty, because they are excluded from the rule of law. ....Thus it is not the absence of assets or lack of work that holds them back, but the fact that the assets and work are insecure, unprotected, and far less productive than they might be."*

In order to solve the problem of migrant workers' rights protection, the Chinese government has issued a series of related policies and regulations in recent years, and has intensified investigation and punishment of labor violations. At the same time, Chinese NGOs also take various measures to help migrant workers. On September 8, 2005, Beijing Zhicheng Migrant Workers Legal Aid and Research Center (hereinafter referred to as the Center) was established. The center is the first public interest law organization in China that specializes in legal aid for migrant workers. In July 2009, the center was approved as an NGO by Beijing Civil Affairs Bureau, and in July 2011, it received special consultative status with the UN Economic and Social Council. In more than ten years since its establishment, the Center has provided free, convenient, professional and high-quality legal services to migrant workers through legal counseling, case representation, conducting legal training, and conducting evidence-based research.

### **1. Free legal services benefit a large number of migrant workers directly**

The most important and basic work of the center is to provide free legal consultation and case representation to migrant workers. The lawyers provide free legal consultations through four hot-lines, face-to-face consultations, mail-in consultations and internet consultations. From Sep. 2005 to Dec., 2018, the Center has provided more than 80,000 legal consultations to 220,000 migrant workers, involving nearly 600 million RMB. Through consultation, lawyers told migrant workers some basic legal knowledge and techniques for collecting evidence, so as to prevent migrant workers from falling into a disadvantageous situation because they did not understand the law.

The lawyers have also taken cases from legal consultations and represented migrant workers through mediation, arbitration, litigation, and other available channels for protecting their rights and interests. From the establishment to 2018, the center has handled 13,000 cases with more than RMB 190 million of compensation involved. For example, in one case when 68 migrant workers could not get their wages, they decided to kill the contractor and then surrender. With the help of the lawyers, after three years of hard work, they finally got their wages back. In another case, a migrant worker, Xu Yange, did not receive any compensation for working 11 years after being dismissed by KFC. KFC claimed that he was a labor dispatcher and had nothing to do with it. With the help of lawyers, Xu Yange got the compensation he deserved, and KFC publicly announced that it would abandon the use of labor dispatch workers, which benefitted at least thousands of people.

## **2. Professional full-time lawyers provide high-quality and efficient legal services for migrant workers**

The reason why the center is unique is that it relies on professional public interest law NGOs such as the center to cultivate the first group of migrant workers lawyers in China. To put it simply, a migrant worker lawyer is a lawyer who provides free legal services to migrant workers on a full-time basis. They have good professional knowledge and handling skills, and only provide free legal services to vulnerable groups such as migrant workers, and do not handle other charging cases. In the process of marketization of the lawyer industry, some lawyers may choose to serve large companies from the perspective of income. Migrant workers' cases are often low in fees and complicated in procedures. Therefore, it is often difficult to attract professional lawyers to take them. In the Chinese context, there are more than 280 million migrant workers, their rights protection will affect the lives of more than 600 million Chinese farmers and rural development, it is very necessary for professional migrant workers lawyers to provide legal aid to migrant workers.

For example, the worker Zhang accidentally fell from the scaffolding just working 4 days, causing spinal cord injury and quadriplegia. After paying a small part of the medical expenses, the boss no longer took responsibility, and Zhang's family had to solve it through judicial channels. However, Zhang did not have a labor contract, and there was no other evidence. He didn't even know the name of the employer. It would take several years to get compensation. In order to have Zhang to get compensation as soon as possible, the lawyer tried to negotiate with the boss in the arbitration stage of confirming labor relations. After two months of unremitting efforts, he finally won 2 million RMB for Zhang.

## **3. Key issues on contradictions between social reality and rules of law are found and policy recommendations be provided based on empirical research**

A case can only help one or a few migrant workers, but a good law benefit more. In addition to providing legal services for migrant workers, the Center also conduct empirical research, contribute to the improvement of relevant laws and policies, and tries to build a communication platform between the legislators and legal practitioners.

For example, the enactment of laws such as the Labor Contract Law and the Social Insurance Law provides protection for the rights of migrant workers. But the paper law can only play its role if it is actually implemented in practice. Through the study of cases and related legal policies, the center has summarized and analyzed the problems that why these laws are difficult to implement, or are out of the way in implementation, and put forward feasible recommendations to the legislators.

## **4. Carry out education trainings and promote the legal awareness of migrant workers**

In more than ten years of providing legal services for migrant workers, the lawyers understand the strait of migrant workers because they do not understand the law, and they also know what legal knowledge is needed to improve their rights.

From the establishment to 2018, around 100,000 migrant workers have been trained at the center's office, construction sites, communities or other areas where migrant workers are likely to concentrate in Beijing. During the training sessions the lawyers explained not only the regulations but also the techniques on how to use them. Female workers are actually guaranteed significant legal protections. For instance, the Labor Law restricts the type of work pregnant women can be assigned, prohibits prolonging their hours or assigning night shifts, and etc., However, many female migrant workers don't know about them. The content of female workers' rights protection has been included in the training sessions.

## **5. Scaling up migrant workers' rights protection in China**

The model of legal aid NGOs based on professional lawyers has been recognized by the society. At present, over 40 legal aid NGOs have been established throughout the country, and more than 160 lawyers provide legal aid services to migrant workers and other disadvantaged groups such as child, the disabled, and the elderly. From 2006 to 2018, these NGOs including Beijing have provided about 300,000 legal consultations, benefiting more than 600,000 people, involving an amount of about 4.2 billion; and handling more than

40,000 cases for migrant workers, about 700 million RMB in wages and compensation have been recovered.

A considerable number of studies have shown that the large-scale migration of rural labor has had a major impact on farmers' income growth, the elimination of rural poverty and the promotion of China's economic development. However, to realize the right to life and development of migrant workers, effective legal protection is urgently needed. Effective legal protection includes not only legal rules, but also achievable ways. Professional legal NGOs have played an important role in the protection of migrant workers' rights. Therefore, cultivating professional legal NGOs, making full use of social resources to provide professional and high-quality legal services to poor groups, can provide good experience for realizing the right to life and right to development of migrant workers.

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