

Constraints in Translation of Legal Documents Faced

by Uzbek Labor Migrants in Russia

Umidahon Ashurova

Abstract:

The immigration process involves individuals who arrive with substantial human capital and those with little. The same can be said about immigrants' linguistic abilities: some have fairly good language skills, whereas others can barely converse in the language of a host country. As the immigration has implications for both host and guest nations' economies, public policies, social and health services, and cultures, it is crucially important to develop policies and programs and provide services that match the needs of migrants.

Since the year of 2000, two major destinations for Uzbek labor migrants have been Russia and Kazakhstan. According to the Russia's Federal Migration Service, as of January 2017, 3.2 million Uzbek citizens stayed in Russia. By 2010 the proportion of younger migrants (less than 29 years of age) had increased from 25% to 40%; however, these migrants have become less educated and less fluent in Russian. Consequently, the needs for Russian-Uzbek translation of legal documents and for community interpreting services have been growing.

This paper will start by describing the characteristics of migration. Then, an overview of the immigration policy in Russia towards labor migrants from Uzbekistan will be given. In addition, the paper will provide some insights of the constraints experienced by these migrants and it will focus on the constraints related to Uzbek-Russian translation of legal documents. The translation strategies employed in the process of translating birth certificates of Uzbek citizens will be explored in detail. The paper will conclude by sharing some positive news on recent changes in governmental support of Uzbeks as well as the assistance from compatriots with legal education residing in Russia and other countries.

1. Characteristics of Migration

Humankind has always been on the move and all modern societies and nations on Earth are the result of mobility. Nowadays, even more people work and live in other countries. Even though there are more migrants than ever, their numbers are still tiny compared to the world's population. Nevertheless, the migration issue sparks heated political debates around the globe, while opinion formation among citizens, politicians, political parties, and movements often occurs along the axes of the migration question and policies of dealing with it (Jakob et al, 2019). Undoubtedly, the ease of transportation, the opening of international immigration policies, the growing number of refugee movements, and the increasing size of immigration populations suggest that immigration worldwide is a phenomenon of utmost importance

to professionals who develop policies and programs for, or provide services to, immigrants. Immigration occurs in both wealthy nations of the global North and the poorer countries of the global South. As the process that involves individuals who arrive with substantial human capital and excellent language skills as well as those with little human capital and very low competency in host country's language, the immigration has far-reaching implications for a nation's economy, public policies, social and health services, and culture (ibid, 2019).

It is, however, alleviating to hear that migrants rarely go to a completely unknown foreign country – not today, and not in the past. Networks often play a considerable role in guiding mobility. Migration has never been an end in itself: the temporary or permanent stay in a new location is intended to give migrants the opportunity to have a bigger say in shaping their own lives. That is the case for people seeking employment and educational opportunities, as well as the pursuit of self-determination (Jakob et. al, 2019).

Immigration laws are national rules that try to control migration. In the debate over migration control, the phrase “immigration law” has become established as a collective term for ideas that entail more legal migration. These laws specify who may reside in a country, under what conditions, and for how long. Despite their many differences, Canada's “economic classes” approach, Germany's residence law and many other immigration laws around the world all have something in common: they are primarily concerned with labor migration. When countries realize that they have a shortage of skilled labor they loosen entry restrictions for “useful” workers (Jakob et al, 2019).

However, around the world, labor migration does not occur only with the right papers and stamps. Many migrant workers arrive in other ways, unofficially and uncontrolled, with a student visa or without an entry permit. They work nonetheless, often in poor conditions. The construction, catering and farming industries in many countries rely on migrant workers in uncertain and often dangerous circumstances. In a way, immigration laws focus mainly on attracting skilled workers and keeping everyone else out, but they lag far behind the real world: millions of workers live and work in destination countries without any official papers and that definitely puts them at risk of exploitation (ibid, 2019).

2. Uzbek Labor Migrants in Russia

With 11.6 million foreign-born people on its territory, Russia is the third-largest recipient of migrants worldwide, behind the US and Germany. The majority of migrants (approximately 5 million) originate from three Central Asian republics—Uzbekistan, Tajikistan, and Kyrgyzstan—and generally come to Russia under the visa-free regime. These flows can be explained by Russia's declining population and increasing demand for cheap foreign labor, on the one hand, and poverty and unemployment in Central Asia, on the other.

The 2014 World Bank study has estimated that more than 3 million Uzbek citizens lived outside the country and this amounts to an emigration rate of nearly 10 % of the population. The mobility rate is more than double the world average (3.2 percent) and that of other middle-income countries (2.7 percent), and much lower than that of Europe as a whole (10.7 percent) (Ajwad et al, 2014). Major destina-

tion countries for the Uzbek migrants are Russia and Kazakhstan, followed by Ukraine, European Union countries and South Korea. According to the Russia's Federal Migration Service, as of January 20, 2015, 2.2 million Uzbek citizens have stayed in Russia, of which 81% percent is of working-age population. The number of Uzbek citizens residing in Russia has recently decreased after peaking up at 2.7 million in August 2014. The World Bank survey data show that the Russian Federation hosts about 86 percent and Kazakhstan accounts for 12 percent of Uzbek migrants (ibid, 2014). In the beginning of 2000's male migrants constituted the majority. However, by the year of 2010 a new phenomenon- feminization of migration- has occurred and women constituted 15% of Uzbek migrants in Russia. Between the year of 2000 and 2010 the proportion of younger migrants, who were on average younger than 29, had increased from around 25% to 40%. Sadly, the typical Uzbek migrant in Russia has also become less educated and less fluent in Russian due to the changes in educational system back in their home country. On a more positive note, more and more labor migrants have been bringing their families to Russia: the data from Russia's Federal Migration Service show that about one third of Uzbek migrants bring their spouses and about 10-15% of them bring their children at the present. According to the article written by Khamraev (2017) only 22.5% of migrants worked in Russia for less than six months, another 17% from 6 to 9 months, and more than 60% -the majority- worked for 9 to 12 months and more. The cities such as Moscow, St. Petersburg, and Yekaterinburg have the highest concentrations of Uzbek migrants.

3. Legal Constraints Experienced by Uzbek Labor Immigrants in Russia

In 2002 Russia started the standardized registration and issuance of work permits. In 2007 the procedure was simplified and the migrants could apply without a sponsoring employer. The work permit- *patent*- system is for citizens of former Soviet countries with visa-free entry. In 2015, however, this system was expanded and regional authorities were allowed to establish their own fees. The new regulations made it more difficult and costly for migrants to access the Russian labor market. All potential employees are now required to pass Russian language and history tests, undergo a medical exam, and purchase health insurance. In some regions, a migrant worker on a patent now pays a yearly fee equal to two months' salary to remain.

Despite the existence of a visa-free regime between Russia and other post-Soviet republics under the Commonwealth of Independent States agreement, labor migrants are required to obtain residence registration within seven days of arrival and proper documentation for employment within thirty days. The work permit (*patent*) is expensive and difficult to obtain, especially since legislative changes in 2015. Migrants will spend at least 22,000 rubles (US\$385) on a work permit, as well as a 4,000-ruble (US\$70) monthly fee. In addition, they must purchase health insurance, provide proof of medical tests, and pass a test on Russian language, history, and law. However, many migrants can barely comply with these requirements due to their extremely low salaries and poor knowledge of Russian language and laws. Hence, most migrants remain undocumented: they lack residential registration, a work permit, or both. A large proportion of them work in the construction sector, where there is a high demand for cheap labor.

This situation is intensified by the Russian legal environment, which is notorious for corruption and the weak rule of law. What this means in practice is that even those migrants who possess all the required paperwork cannot be sure that they will not experience legal problems when stopped by Russian police officers and migration officials. Under these circumstances, “legal” or “illegal” status becomes contingent on contextual factors, e.g., how, when, and where the interaction between migrants and Russian state officials take place, as well as on individual factors, such as migrants’ knowledge of informal rules and their ability to adapt to the legal environment (their street smarts, ability to find common ground (*obshchii iazyk*) with state officials, bribery skills, and connections with street institutions, such as racketeers) (Urinboev, 2018). This all makes it rather complicated for a migrant to reside in full compliance with Russian immigration rules and Russia’s legislation in general. Due to overpriced work permit fees and the arbitrariness of the law, many migrants end up working in the shadow economy, where they can survive with limited language skills and documents.

4. Constraints in Translation of Legal Documents

Despite this rather discouraging situation, a group of legal professionals from Uzbekistan established a non-profit organization that assists labor migrants in preparation of their documents for screening by immigration officials. This author was approached by these legal professionals and asked to assist them in translation of legal documents that were required from the migrants to obtain work permits and health insurance. The requests with translation of documents such as birth certificates and marriage certificates were frequent. For some labor migrants willing to obtain skilled-labor employment contracts, it was required to provide the translation of their graduation diplomas from high schools, vocational schools and universities as well as their certificates of grades. The labor migrants were expected to prepare these documents together with their Russian translations within the first seven days of their arrival in Russia. In addition, the telephone assistance was requested for explanation of administrative processes such as applying for work permits and filling in deportation paperwork. Female labor migrants often wanted help with healthcare documentation and health treatment related processes. The existence of world-wide-web and recent phone apps such as Telegram and Viber made the distance-based yet very instant communication possible.

In this process, some of the labor migrants shared the following information which shows the necessity of assisting them with translation of legal documents:

- Sometimes the documents written in English were given to Central Asian migrants, although showing them the Russian original document would have been more meaningful. The average Uzbek migrant in Russia speaks better Russian than English: he or she must have taken six years of Russian language and only three or four years of English instruction. Although their ability of Russian language is still low, it is far better than their knowledge of English.
- There was a lack of explanation on the contents and the meaning of legal documents given to them at the airports, deportation centers, and police stations.
- There was a big difference in the format and presentation of immigration-related documents de-

pending on the region.

- In case of deportation, the statement listing the reasons behind it was not provided to the labor migrant. In the cases where the fine was due, the migrants were not given any copies of receipts or any other proof of payment (Source: Phone conversations and e-mail exchanges with labor migrants, October 2017).

5. Constraints Faced in Courtrooms

In addition to the aforementioned constraints with legal documents, labor migrants also face challenges related to understanding the spoken form of Russian language in legal settings as well as the documentation presented to them in courts. Moscow police randomly selects Central Asian migrants for document checks near the main subway and train stations in the city. As the result of these random checks, often done to fill in quota, the migrants are charged with offenses against Article 18.8 (Lack of Residence Registration) and Article 18.10 (Working Without Permit) of the Act on Immigration. The violation of these regulations leads to ‘day in court’ and it follows the administrative process. The expulsion order equates to de-facto deportation – migrants are given 5 days to leave the Russian territory, otherwise their stay becomes illegal. Due to the changes in the law in 2015, the de-facto deportation is non-discretionary part of administrative penalty in the places of greatest concentration of migrants, such as Moscow or St Petersburg.

The three-month-long ethnographic study conducted by Kubal (2017) at low-level courts in Moscow (District Courts, Moscow City Court, and Moscow Oblast Court) shares the following findings:

- Each judge was allocated five to seven of the 18.8 and 18.10 cases per session.
- The judge heard the cases alone with no clerks or assistants present in the courtroom.
- The proceedings had to run swiftly, with about 5–10 minutes being spent per case.
- The judge quickly read out the procedural rights of the defendant under an administrative process (including the right to an interpreter), which the defendant would be requested to acknowledge in writing.
- Only after seeing to these formal procedures would the judge move on to the facts of the case, hear the arguments of the defense and finally render a judgment.
- The cases resulted from Federal Migration Service raids on the premises occupied by migrants – either to allege that they were living there without the required residence permit (registration) or they were working there without the work permit.
- The Federal Migration Service would supply the lower court with (1) protocols from the immigration raids; each accompanied by (2) a collection of photographs taken on site, and (3) elaborate affidavits, signed by migrants, confirming that they actually lived at the raided addresses. This type of evidence was then debated and reviewed by the appeals court. This type of evidence served as the main reference for rendering a judgment.

The following extract was taken from the proceedings related to the case of an Uzbek national facing charges of lack of residence registration:

Judge: Any comments on the Federal Migration Service's protocol? M. has signed it and confirmed its validity with his signature.

Lawyer: Yes, your honor, I am familiar with the materials of the case. My client did not fully understand what document he was signing and the questions the Federal Migration Service asked of him, as he doesn't speak Russian very well. Now, during the appeal trial, he also requires an interpreter and his friend here is able to help.

Judge: The defendant confirmed with his signature that he understood the Federal Migration Service protocol from the raid, where he admitted that he indeed lived at the raided address. That leaves me with no choice but to sentence M. to a fine of 5,000 roubles and expulsion (deportation) from the Russian Federation. (Source: Kubal, 2017)

The extract clearly demonstrates how linguistically limited the M. was, and how the lawyer's request for an interpreter was ignored, and how the judge simply moved onto announcing his decision and, most probably, very quickly onto the next case.

Unfortunately, the limited space and scope of this article does not allow the author to go into an in-depth analysis of constraints experienced by Uzbek labor migrants at Russian courts; and therefore, the researcher intends to explore this topic in another academic article.

6. Characteristics of Legal Translation

In order to offer quality translation, the translator i.e. the author of this article decided to familiarize herself with essential rules of legal translation. The literature describes legal translation as the translation of texts used in law and legal settings. Legal translation is used as a general term to cover both the translation of law and other communications in the legal setting. For the legal translator, it is important to ascertain the status and communicative purposes of both the original text and the translation.

Legal translation needs the services of an expert that is highly knowledgeable in legal terms and practices. Translating legal documents needs accurate and correct translation and is one of the most difficult among all translation work. There are a lot of texts that need legal translation, including birth certificates, application letters, technical patent confirmation, deposition records, financial statement, evidence documents, litigation materials and business contracts. Translators should not only possess general knowledge of legal terminology, they should also be well informed of statutory requirements and the details of foreign cultural and legal systems.

As Munday (2012) observes translating legal documents in foreign languages is considered more difficult than other technical translations. For Kobyakova and Habenko (2017) a legal translator must have the competencies in three areas: competency in the target language's particular writing style, familiarity with the pertinent terminology, and general knowledge of the legal systems of the source and target languages. There is no room for word-for-word translation when translating legal documents. Kobyakova and Habenko (2017: 6) continue their analysis by stating that legal texts involve a number of different types of translation problems and require specific methods with which to make a translated text under-

standable for the reader in the target language, while simultaneously reflecting the original character and unique features of the legal system of the source language country. These requirements force a translator to take great care with the constant connection of the translated text to the source language's culture, by using strategies such as borrowing original terms, naturalizing some specific terms into the target language, using language calques, or introducing descriptive translation, in which some explanations are mandatorily included (ibid: 7).

Sometimes it is enough to apply equivalent terms that are used comparatively in the target and source languages, or, alternatively, the translator must localize some elements in order to make them understandable. For Kobyakova and Habenko (2017) the most useful strategy is the ability to maintain the source culture's features and not deprive the texts of their specific character, although localization is sometimes necessary. Some terms also necessitate simple equivalent translation, as they function simultaneously in both language cultures.

To perform such a translation, Kobyakova and Habenko (2017) suggest taking a two-fold approach on the part of a translator. Firstly, she is obliged to decipher all of the meanings included in a source text through the detailed analysis of its contents. "Such analysis will not only be of a linguistic nature, but it also necessitates some specialist legal knowledge of the text's contents if it is to be understood properly. This means that the translator must engage in the analysis of some of the legal bases of the text's meaning. The best way to do this is to either study the actual legal regulations which govern the shape of a document, or find some other accessible information or credible consultants through which any possible doubts can be dispelled" (Kobyakova and Habenko, 2017: 5).

7. Discussions on Translation of Legal Documents for Uzbek Labor Migrants

As it was mentioned in the previous section of this paper, birth certificates and marriage certificates are some of the legal documents that require translation. Prior to the year of 1991, before Uzbekistan gained its independence, these documents were issued in Russian as it was the official language of former Union of Soviet Socialist Republics. For several years after 1991 the documents had two pages: one in Russian and another in Uzbek. In accordance with legislation on strengthening the status of Uzbek language as an official language in the country, starting from 1995 different documents started being issued in Uzbek only. Russian version of some documents was replaced by an English version. In the second half of 1990's the writing system in Uzbekistan has also changed: Latin-based alphabet was implemented instead of the previous alphabet based on Cyrillic letters.

In addition, with the wide spread of policies on the revival of national identity, previously followed linguistic rules and cultural norms of naming were no more observed, i.e. Uzbeks started refusing to give their children Russified names (family names that include suffixes -ov,-ova, -ev, eva; using Russified spelling of Uzbek names--e.g. Qobul instead of Kabul; obligatory usage of patronomics--e.g. Kadirov-ich—was replaced by the words "qizi" and "o'g'li", that can be translated into English "the daughter of" and "the son of" respectively). There were numerous changes in geographical names, too. The Soviet-style names of towns and villages were replaced by Uzbek callings: one of the examples would be the

Russified spelling of the word “Ferghana” in the name of region was written in accordance with Uzbek pronunciation “Farg’ona”; another example is the change of “Moskva district in Andijan region” into “Shahrihan district in Andijan region”.

The format of birth certificates stayed the same: for instance, the information on the child, the information on parents, and the information on issuing authority were shown on birth certificates. The date of birth was spelled out in addition to being written with numbers.

With an average labor migrant getting younger and less educated (refer to Section 2), there was a high demand for accurate translation of various certificates: the translator’s main job here would be to ascertain the status and communicative purpose of both the original text and the translation. As stated earlier, the translator was expected to have a high knowledge of legal terms, be well informed of statutory requirements and the details of Uzbek and Russian cultural and legal systems as well as the peculiarities of administrative procedure. Specific methods were implemented in order to make a translated document understandable for the reader of the target language, i.e. young immigration and customs officials in Russia who spoke only Russian. At the same time, it was important to reflect the original character and unique features of the source language. From the list of strategies available such as borrowing original terms, naturalizing some specific terms into the target language, using language calques, or introducing descriptive translation, in which some explanations are mandatorily included, the various ones were used depending on the complexity of the legal document to be translated. The strategy of descriptive translation was employed for translation of patronomics and in demonstrating the changes in geographical names. The strategy of borrowing original terms was employed for the translation of authorities issuing the document, mainly due to the fact that legal administrative system in Uzbekistan had not experienced any big changes in the early years of independence. As for the spelling of personal names, the source culture’s features were strictly adhered to and the translator chose not to Russify those names as it has been frequently done in previous translations. Due to their strong spirit of revival on national and religious identity, many of young labor migrants stressed upon on the importance of getting their names spelled as close as possible to the original that stems from Muslim names given in Arabic and that can be found in Holy Quran and hadiths from Prophet Muhammad.

One final difficulty experienced in translating birth certificates as well as marriage certificates was the word *mahalla* in address line. Previously it was translated as *ulitsa* denoting the name of the street on which the migrant was residing back in Uzbekistan. However, the scope of the word *mahalla* is much smaller than the one of *ulitsa*. When translated back, *ulitsa* would refer more to *ko’cha* rather than *mahalla*. Another translation *pereulok* was suggested for the word *mahalla*: however, *pereulok* refers to a “small street in the corner, with the dead end”, whereas many *mahallas* are not that small and they do not end in the corner. Again, it was very important for labor migrants that the appropriate word is used or at least the descriptive explanation is given particularly on the words such as *mahalla* as they carry much deeper meaning in migrants’ local communities and daily lives.

8. Conclusion

In conclusion, when translating legal documents for Uzbek labor migrants in Russia, it is important to take into consideration not only the requirements from Federal Migration Service of Russia but also the identity-based concerns of these very migrants. The voices of labor migrants have often been ignored for many years despite the fact that they support the economic development of both their host and home countries. In addition to being suppressed by legal institutions in Russia, sadly, these young people were discriminated by the previous government of the Republic of Uzbekistan and they were often regarded as “lazy citizens” by the former President Islam Karimov. Being rejected by their own government and not feeling welcomed in Russia many of them went into despair, and some of them even sought recognition by joining religious extremist groups and organizations.

Assisting these migrants in rather intense administrative procedure has been a very rewarding experience for this researcher. Thanks to the accurate and timely translation of their documents, the registration process for the migrants have been somehow smoothed and has been causing less stress for these young people. With adequate documentation in their hands, many of them now can focus on their responsibilities at the workplace and in front of their parents, spouses and children.

It is also assuring to see some of the recent changes in current Uzbek government’s attitude towards labor migrants in Russia. They are no longer seen as “lazy citizens” but more as an important part of Uzbekistan’s economy as they work hard and as responsible sons, brothers and fathers send the biggest portion of their earnings to their mothers, wives and children. Although the changes are slow, they are happening, and many of migrants are taking initiatives into their own hands with the assistance from somehow more fortunate compatriots with better education levels and better understanding of Russian legislation and peculiarities of legal Russian language. The collaboration with the compatriots willing to help has certainly brought some positive changes into labor migrants’ daily lives.

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