



## Research Article

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# Labor Migration: A View from Kazakhstan

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## Abstract

Today, Kazakhstan has a comprehensive system for attracting foreign labor force. There is a quota system for skilled foreign labor and labor immigrants and a multi-stage system for issuing work permits. Nevertheless, state management of labor migration has not yet allowed to solve a number of traditional problems in this area inherent in Kazakhstan: the lack of legal protection of Kazakhstani labor migrants and the provision of opportunities for returning labor migrants to use their new qualification potential for the development of the Republic of Kazakhstan; violations of labor laws by migrants and employers, including the employment or hiring of low-skilled foreign citizens without an employment contract and in violation of working conditions and wages; legal and social vulnerability of labor migrants in Kazakhstan; significant damage to the country's economy due to non-payment of income tax by illegal migrants, the amount of a patent for labor activity; unjustified dismissals of labor migrants, physical and psychological violence, restriction of personal freedom; wage discrimination between Kazakhstani and foreign workers; the system of recording the movement of labor migrants and determining the effectiveness of its use is not perfect; illegal labor migration persists. The study substantiates individual proposals for the formation of a comprehensive mechanism for regulating labor migration, as well as measures that can improve the situation and protection of labor migrants.

**Keywords:** migration, labor migrant, employment, social protection, labor market

## 1. Introduction

Issues of migration policy occupy an important place in the modern economy of Kazakhstan. In the history of the existence of our country as an independent state, three main periods in the development of migration policy and relevant legislation can be distinguished.

The first period was in 1991-2000, and its beginning was characterized by the deterioration of the socio-economic situation in the country, due to the change in the administrative regime and the collapse of the USSR. During this period, the demographic profile of the country changed significantly; under the influence of migration processes, there was a sharp decrease in the country's population from 16.5 million people in 1991 to 14.8 million people in 2000, a decrease in the birth rate, and an increase in the death rate (Kazakhstan, 2022).

The migration state policy of this period was focused on the repatriation of ethnic Kazakhs, which was reflected in the legislative acts on the regulation of migration processes: in 1995, the State Program for Supporting the Kazakh Diaspora, and in 1997 - the first Law of the Republic of Kazakhstan "On Population Migration", were adopted; the Agency on Migration and Demography was created; in 1993, the first annual quota of immigration of Kazakhs was established (10 thousand families or 40 thousand people); in 1998, the Concept of repatriation of ethnic Kazakhs to their historical homeland was adopted.

The second period (2001-2010) is characterized by economic growth, dynamic socio-political transformations, and reforms.

The implemented state programs purposefully focused on supporting motherhood and childhood, poverty reduction, and targeted social assistance to low-income families, and the repatriation of ethnic Kazakhs had a positive impact on the demographic indicators of the country.

During this period, the population reached 16.4 million people, the mortality rate significantly decreased, and the number of ethnic Kazakhs who arrived in the country amounted to about 1 million people.

For the first time since 2004, there was a positive balance in all migration flows, which by 2006 had reached +33.0 thousand people, and it remained until the end of the period.

During this period, there could be observed an increase in the country's attractiveness for foreign specialists; the maximum influx of legal labor migrants (58.8 thousand people) into the country was recorded in 2007. There was also a revival of internal migration, and the number of its participants exceeded 300 thousand people due to the flow of the rural population to large cities and to the new capital. At the same time, the massive influx of the country's population to large cities and the voluntary resettlement of Kazakhs returning from abroad in the southern regions of Kazakhstan exacerbated the problem of demographic imbalance in the country.

The third period (2011-2022) outlined the characteristic conditions of globalization, the dominant influence of external social and socio-economic factors, under the impact of which the ethnic repatriation rates decreased, and the outflow of qualified personnel increased.

In 2012, for the first time after the crisis of the 1990s, a negative balance of migration (-1.4 thousand people) was formed in the country, which subsequently had an increasing trend both in absolute terms and in relation to the total population of the country. In general, during the period from 2011 to 2022, 367.1 thousand people left for permanent residence abroad, mostly of working age, with higher (38%) and/or technical vocational (34%) education. In 2019-2020 alone, 74.3 thousand people left the country for permanent residence abroad, of which 90% went to the countries of the Commonwealth of Independent States, to find employment or repatriate to their historical homeland.

The dynamics of migration flows in recent years show an increase in the number of emigrants with higher education and a decrease in the counter influx of highly educated immigrants into the country: over 10 years, the number of people with higher education who entered the country has more than halved and amounted to 1.9 thousand people in 2020.

The ongoing migration processes identified the problem of the need to develop "human

capital", and state policy was formed to influence the modernization of the country through its prism. In this context, in 2011, a new Law of the Republic of Kazakhstan "On Population Migration" was adopted. The mechanism for attracting foreign labor was brought into line with international standards, a simplified procedure for obtaining work permits for highly qualified specialists was introduced, and the principle of free movement of employees for transnational corporations was introduced. Conditions were also regulated to ensure the proportion of Kazakhstani and foreign specialists, and guarantees of the principle of equal remuneration for work of equal value without any discrimination were introduced.

Measures were taken to regulate the flow of migration from the countries of the Eurasian Economic Union. As part of these measures, more than 1,618.9 thousand permits were issued to labor migrants from countries with a visa-free regime to carry out labor activities, while they paid individual income tax of more than 29.9 billion tenge to the budget of the Republic of Kazakhstan.

The review shows the constant attention and relevance for the state of the problems of labor migration; however, the political and legal development of this area did not allow solving both traditional and new issues in this area inherent in Kazakhstani reality. Several problems remain in the management of labor migration:

- the lack of legal protection of Kazakh labor migrants and the provision of opportunities for returning labor migrants to use their new qualification potential for the development of the Republic of Kazakhstan;
- violations of labor laws by migrants and employers, including the employment or hiring of low-skilled foreign citizens without an employment contract and in violation of working conditions and wages;
- legal and social vulnerability of labor migrants in Kazakhstan; significant damage to the country's economy due to non-payment of income tax by illegal migrants, the amount of a patent for labor activity;
- unjustified dismissals of labor migrants, physical and psychological violence, restriction of personal freedom;
- wage discrimination between Kazakh and foreign workers;
- the system of recording the movement of labor migrants and determining the effectiveness of its use is not perfect;
- illegal labor migration persists.

COVID-19 highlighted that widely accepted norms previously considered to be cornerstones of international mobility were quickly set aside in the face of the pandemic. The pandemic also pointed to pervasive inequalities deeply rooted in modern-day societies around the world, while also demonstrating that migrant workers and diaspora are frontline workers not only in essential occupations but also as agents of global human development as remitters (McAuliffe et al., 2022).

The COVID-19 pandemic and the associated restrictions on the movement of people and on cross-border transport, which have been introduced almost everywhere in the world, have reduced migration flows for a long time. In a world where human mobility is a daily reality, this situation has become a serious challenge for labor migrants who find themselves outside their countries of permanent residence during the pandemic.

In addition, the COVID-19 pandemic has seriously limited business activity, movement within the country (within the region) and led to the loss of jobs, a decrease in incomes of the population and internal interregional migration flows. However, the pandemic has not affected the presence of seasonal foreign workers in the labor market of the Republic of Kazakhstan and is one of its most stable characteristics. Even in 2020, when due to restrictions on the territorial movement of people due to the COVID-19 pandemic, the attraction of foreign labor to the Republic of Kazakhstan has significantly decreased and economic activity in the areas of mass attraction of foreign labor has decreased, a decrease in the number of individuals who received work permits under a patent face remained significant. The overwhelming majority of migrants working under patents for individuals are citizens of Uzbekistan and Tajikistan. The dominant number of migrants working in the Republic

of Kazakhstan under a patent are involved in construction work. They also work in agriculture, markets, services (shops, cafes) and families (as domestic workers).

## **2. Literature Review and Prerequisites for the Development of the Study**

It should be noted that the problem of labor migration and the rights of migrants is typical and relevant at present for the entire world community participating in the processes of globalization and economic integration. Globally, international experts estimate that there are 258 million international migrants (Latham-Sprinkle et al., 2019). According to the latest current global estimates, there were about 281 million international migrants in the world in 2020, representing 3.6 percent of the world's population (McAuliffe, & Triandafyllidou, 2022).

Both historically and currently, migration is determined by the economy. One of Ravenstein's famous laws of migration was formulated as follows: "The main causes of migration are economic" (King & Collyer, 2016; Ravenstein, 1885). The number of migrants in the labor force worldwide has tripled in the past decade, and the remittances they send home to lower- and middle-income countries outpace foreign aid. Money migrants send home from their host countries has exceeded foreign direct investment and overseas development assistance, according to World Bank estimates (Black, 2021).

According to experts of the UN Economic and Social Commission for Asia and the Pacific (UN ESCAP), labor migration is dynamic and constantly growing. Fluctuating economic growth, deepening regional integration, and growing wealth disparities both within and between countries provide strong incentives for workers to move across borders (Anukoonwattaka & Hea, 2014).

Today, on the agenda of the world community are the issues of legalizing the labor activity of migrants, protecting their legal rights, and forming a legal framework in the field of pension and social security for labor migrants. Worldwide, migrant workers number nearly 170 million, according to the latest International Labor Organization estimates, more than three times as many as the 53 million foreign workers in 2010. Unlike the total number of all migrants, which has remained relatively steady when compared to the world's population, foreign-born workers play a growing role in the labor force. Migrants make up an estimated 5 percent of the global workforce today, compared to less than 2 percent in 2010. But while the global economy continues to rely heavily on migrant workers, people continue to face terrible risks when they cannot access legal pathways in their search for better opportunities (Black, 2021).

In modern conditions, Kazakhstan is faced with several important, previously little-studied problems that are currently being updated. The documents of the legal development of the migration sphere, the legislation of Kazakhstan consolidate the state policy of supporting temporary labor migration, including in relation to qualified specialists and workers, by issuing urgent permits to employers to attract foreign labor. The number of cases of illegal export of citizens of Kazakhstan to other countries for labor activities is consistently high, and the geography of export is expanding. There is a need for a scientific and theoretical study of the current legislation regulating migration processes, the study of international experience, and the development of effective measures aimed at combating crime in the field of migration.

The current content of the legislation does not actually regulate the process of employment of Kazakhstanis abroad, does not guarantee their social and labor rights, does not establish liability for violations of obligations accompanying the organization of labor activity. At the same time, the number of offenses against Kazakhstanis employed abroad is increasing. In this connection, the practical relevance of the legal regulation of social relations in the field of labor emigration should be recognized. The development of legislation on labor migration should go in accordance with and in the direction of the implementation of international universal standards in this area, ensuring the further progressive formation of legislation based on and implementing the recommendations of the International Labor Organization.

Understandable and working measures of responsibility for violation of the legislation of the Republic of Kazakhstan on labor migration should be established, and the concretization of the

composition of administrative offenses is in demand. It is important to improve criminal liability for organizing illegal labor migration, it is necessary to clarify the norms of the Criminal Code of the Republic of Kazakhstan that regulate the content of the relevant crimes. At the same time, it should be noted that illegal migrants played a significant role in the tragic events, acts of terrorism, and riots that took place in Kazakhstan in January 2022 (Radio Azattyk, 2022).

Today, the development of a special law on combating human trafficking is on the agenda of state authorities, but the responsibility for forced labor remains out of focus. Legislative resources to ensure the prevention of forced labor remain unclaimed and untapped, including in relation to labor migrants, despite a significant legislative framework enshrining the prohibition of forced labor: a constitutional ban on forced labor, a ban in the Labor Code of the Republic of Kazakhstan, ratification by Kazakhstan of a number of fundamental universal standards.

In addition, in recent months, the Republic of Kazakhstan has faced a relatively new type of migration itself - forced migration, which includes a significant part of labor migrants in the most sought-after professions. In connection with the military conflict on the territory of Ukraine, and the economic and political sanctions announced by the United States, the states of the European Union, and other countries against the Russian Federation, a large flow of so-called forced migrants rushed to Kazakhstan, and there was a significant proportion are highly qualified specialists among them. It should be noted that if earlier mainly migrants from Tajikistan, Kyrgyzstan, and Uzbekistan entered the territory of Kazakhstan, then due to recent events in Ukraine, the influx of migrants – citizens of Ukraine and the Russian Federation – has significantly increased in the territory of the Republic of Kazakhstan (365info.kz, 2022; Forbs Kazakhstan, 2022; Tengrinews, 2022).

At the same time, it is becoming more and more obvious that these types of migrants largely intersect, and the concept of “mixed migration flows”, which is currently recognized by the UN High Military Commissioner for Refugees, as well as other subjects of international law, is highly important, from the point of view of protection of human rights, and is also conceptual for researchers (Koser, 2005; Reed, 2018).

At present, in Kazakhstan, studies devoted to the study of the legal regulation of labor migration and counteracting its negative consequences are few. There are some works (Buribayev et al., 2016; Khamzina et al., 2022; Ibrayeva et al., 2019; Djorobekova et al., 2020; Khamzin et al., 2021; Khamzin, et al., 2015; Zhetpisov et al., 2021; Alpysbaeva et al., 2015; Kurmanov et al., 2017), which are devoted to certain aspects related to the problems of population migration in Kazakhstan. These scientific sources contain the results of research on specific issues related to the legal regulation of migration processes in Kazakhstan and beyond. A study of the problems related to the political and legal problems of regulating labor migration in our country has not been conducted.

In conducting this study, we relied on the results of studies by foreign scientists devoted to the study of general issues related to migration processes (Ivakhnyuk, 2006; Korobkov, 2007; Anukoonwattaka & Heal, 2014; Cadier, 2014; Latham-Sprinkle et al., 2019), as well as illegal and forced migration abroad (Curley, 2004; Koser, 2005; Bank, 2014; Hartwell, 2016; King & Collyer, 2016; Kirillova et al., 2016; Kraly & Abbasi-Shavazi, 2017; Reed, 2018; Yousaf, 2018; Kreichauf, 2021). The currently available studies of foreign scientists (Barsbai et al., 2017; Luzina & Khamzin, 2022; Khalaf, 2015; Ruhs, 2015; O'reilly, 2017; Cohen, 2016) are devoted to the study of migration flows of labor resources, evaluation of the effectiveness of the system of ongoing state programs that stimulate migration, in order to determine the effectiveness of decisions made, internal labor migration processes and the risks associated with migration and building strategies to overcome emerging threats. The presented research results were used by the authors in preparing the conclusions of this manuscript regarding the regulation of labor migration in Kazakhstan.

### **3. Methodology**

In the course of the work, the authors used general scientific methods for collecting primary information, through the prism of the main goal of the study and its tasks, in particular:

- analysis of statistical official data and reports of the Bureau of National Statistics, the Ministry of Labor and Social Protection of the Republic of Kazakhstan, the Committee on Legal Statistics and Special Records of the General Prosecutor's Office of the Republic of Kazakhstan in the field of migration;
- processing and analysis of the results of law enforcement practice (judicial practice, work of state bodies, NGOs) of legislation on the protection of the labor rights of migrants;
- analysis of the existing foreign and international experience in the field of legal regulation of labor migration problems, as well as combating illegal migration.

The main approaches to the study were:

A systematic approach to research consists of the study of labor migration and the social phenomena generated by it in the form of a complex integral interdependent social system.

An integrated approach that involves considering and analyzing both internal and external factors that cause labor migration and social phenomena contributing to it, such as forced labor, human trafficking, etc. At the same time, the use of an integrated approach made it possible to take into account not only internal but also external factors (socio-economic, geopolitical, demographic, etc.).

The integration approach in the conduct of the study made it possible to unite the efforts of all members of the author's group for the best achievement of the set goal of the project, to develop proposals for improving the regulatory framework for regulating the sphere under consideration, as well as to elaborate practical recommendations for state bodies in Kazakhstan.

#### **4. Discussion**

The research group identified the following relevant areas for the implementation of migration policy in the social and labor sphere.

Migration, as a natural mechanism for increasing the income of the population and solving the issue of employment, should be aimed at the development of targeted internal interregional and ethnic immigration to provide labor-deficient regions with labor and a uniform population density in the country. At the same time, it is necessary to ensure migration movements to the regions with the opening of new industries and the creation of new jobs; increase the migration attractiveness of settlements and cities of the host territories through the development of infrastructure and services; provide state support to migrants for their initial adaptation, the acquisition of housing and material assistance, taking into account the cost of living in labor-deficient regions.

The authors of the study consider it important and relevant to develop a new migration policy for the country, which should be based on the best world practices adapted to national specifics and contribute to the development of the domestic economy through the solution of the following key tasks:

Creation of the conditions for transforming Kazakhstan into a center of attraction for qualified personnel with the possibility of comfortable integration of a separate, in-demand category of immigrants into Kazakhstani society, taking into account domestic imbalances and international obligations of the state;

creation of a system of effective protection of the rights of citizens of Kazakhstan who are outside the country;

introduction of effective tools and mechanisms to regulate the accumulated demographic imbalances.

We have identified the following relevant principles and approaches for the development of labor migration in Kazakhstan:

- a) recognition and guarantee of the rights and freedoms of labor migrants in accordance with the Constitution of the Republic of Kazakhstan, regulatory legal acts and international obligations of the Republic of Kazakhstan;
- b) protection of national interests and ensuring national security;



- c) ensuring compliance of the legislation on labor migration of the Republic of Kazakhstan with international norms and recommendations of the United Nations Organization, the International Organization for Migration, the International Labor Organization, considering the current socio-economic situation of the republic, its historical past and traditions, development prospects;
- d) voluntary labor migration;
- e) inadmissibility of illegal labor migration;
- f) the inadmissibility of hiring migrant workers on conditions that degrade their human dignity and are harmful to their health;
- g) inadmissibility of discrimination of migrant workers;
- h) labor mobility as a human right. Create clear and understandable rules.

## 5. Results

Labor migration policy should be built on the study of the real needs of the labor market, selective labor migration based on the provision of preferences for highly educated personnel, and restrictions on the admission of unskilled labor migrants. At the same time, to tighten the regulation of temporary migration of low-skilled workers, it is necessary to update the organization of international cooperation with the countries of their departure, including the clarification of the legislation of the Republic of Kazakhstan on employment and conditions of stay. In addition, to reduce illegal migration, we propose the creation of a system for recording labor migrants, primarily low-skilled ones, to improve the quality of administration.

The above tasks can be solved by implementing the following initiatives.

For valuable professionals in the field of science, healthcare, industry, and IT, the introduction of relief and the provision of a visa with the right to obtain a residence permit is in demand.

It is proposed to introduce a “valuable skills visa” with a residence permit for foreigners, including ethnic Kazakhs who have valuable skills for our country in science, education, industry, information technology, sports, and culture.

It is relevant to develop a rating of key competencies (a dynamically updated list of scarce professions, and specialties) for the annual update of sectoral quotas for labor immigrants, with categorization by priority of professions and full automation of the process.

It is essential to attract the best foreign specialists in scarce professions for advanced training of domestic personnel and the creation of national (international/regional) centers of excellence in cooperation with leading world companies.

For invited specialists, it is necessary to provide a convenient mode of work, simplification of obtaining all permitting procedures, and the provision of a “valuable skills visa” with the issuance of a residence permit.

It is in demand to take measures to form and update the rating of valuable skills (deficient professions and specialties) for advanced training of domestic personnel following them.

The result of the implementation of the proposed measures to stimulate and regulate labor migration should be the introduction of a Digital system for registering, recording, and monitoring the stay of migrants, which meets the best international standards. The system should make it possible to digitally identify a migrant, track his financial transactions, and, if necessary, monitor his location and travel routes. The system should also provide for the provision of a special package of services to migrants (bank card, SIM card, etc.) and the possibility of making money transfers to their homeland on their behalf. This direction is especially relevant, given that the number of migrants in the labor force worldwide has tripled in the past decade, and the remittances they send home to lower- and middle-income countries outpace foreign aid. Money migrants send home from their host countries has exceeded foreign direct investment and overseas development assistance, according to World Bank estimates. In some countries – including El Salvador, Lebanon, Kyrgyzstan, Tajikistan, and Tonga – these remittances made up more than 25 percent of total GDP in 2020 (Black, 2021).

To strengthen the connection with the historical homeland, we propose to introduce the Kandas Card, with the issuance of it to ethnic Kazakhs (citizens of other countries) who are high-level professionals or who have implemented successful business cases in their countries and wish to scale them up in Kazakhstan. Its holder may have the possibility of simplified entry into the country, identical rights with a residence permit (opening a business, owning real estate and other property, conducting financial transactions), except for political rights. Candidates should be allowed to obtain a permit for temporary work, work with a stay in the Republic of Kazakhstan for up to 3 years, and perform professional activities within the framework of long-term projects.

The next area that requires the attention of the state is the protection of the rights of labor migrants (emigrants) who are citizens of Kazakhstan.

It is necessary to study the issue and take measures to assist Kazakhstanis in finding employment with foreign employers and assistance in obtaining a work permit outside of Kazakhstan with the determination of the responsible state body. Support measures should be taken when signing labor contracts (contracts) with foreign employers and ensuring the protection of the rights and working conditions of compatriots when working abroad, as well as work should be organized to sign agreements on the protection of the rights of Kazakh labor emigrants with developed countries.

It is important to develop mechanisms for interaction with highly qualified compatriots - labor emigrants - to use their potential in the development of the national economy.

## 6. Conclusion

The goal of the migration policy of the Republic of Kazakhstan is the effective legislative regulation and management of migration processes, aimed at ensuring national priorities in the field of demographic, economic, social, political, and cultural development of the Republic of Kazakhstan. Such target indicators, which would testify to the success of the political and legal development of labor migration, we believe, include:

- An increase in the share of qualified personnel in the total number of people of working age (persons with higher and secondary vocational education) who arrived in Kazakhstan as labor migrants;
- reduction of illegal employment of foreign labor immigrants, including those employed by individuals in the household;
- increase in internal mobility of those who arrived in the northern and eastern regions of Kazakhstan from the total number of persons within the framework of interregional migration;
- development of a special program to stimulate the resettlement of the population in labor-deficient regions of Kazakhstan;
- introduction of amendments and additions to the Rules for Voluntary Resettlement of Persons to increase the mobility of the labor force by revising the conditions and mechanisms of state support for kandas, subject to resettlement in labor-deficient regions;
- coverage of labor migrants by the electronic monitoring system;
- introduction of the procedure for issuing one permit to attract foreign labor force with distribution to several administrative-territorial units and mentoring of Kazakhstani workers by attracted foreign specialists, as well as replacing foreign workers with Kazakhstani personnel in professions that are not in demand on the domestic labor market;
- implementation of the provisions of the 1951 Convention into the national legislation of the Republic of Kazakhstan (in terms of providing refugees, asylum seekers, and stateless persons on the territory of the Republic of Kazakhstan with access to employment and social assistance on an equal basis with citizens and permanently residing foreigners during their stay on the territory of Kazakhstan to achieve sustainable social and economic development and full and productive employment);
- development of bilateral agreements (memorandums) on ensuring the labor and social



rights of labor migrants with countries that attract a significant number of Kazakhstani citizens (Turkey, UAE, USA, UK, Korea, Israel, Germany);

- development of rules for the work of specialized consuls to protect the labor rights of Kazakhstani citizens working abroad;
- organization of interaction with public organizations in the host countries of labor emigrants from Kazakhstan;
- detailed informing of the citizens of the Republic of Kazakhstan, leaving abroad as labor migrants, about the legislation, cultural and religious norms, language, system of public administration of the receiving state;
- development of mechanisms for interaction with highly qualified compatriots (migrant workers) to use their potential for employment in the economy of Kazakhstan.

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