

Theoretical Foundations of Foreign Migration Processes in International Law

Razakova Farangiz,

1st year graduate student, University of World Economy and Diplomacy,

Faculty of International Law, Uzbekistan, Tashkent

E-mail: farangizrzaqova@gmail.com

Abstract:

Currently, many countries are facing migration processes. This phenomenon is considered as one of the consequences of globalization, represents a world process and requires a clear international legal regulation. This article discusses the legal regulation of migration policy at the international level.

Keywords: external migration, legal regulation, population migration, International Migration Organization, migrant flow, illegal migration.

Introduction

The methodological basis of the research consists of the following: principles of knowledge of social and legal phenomena in the field of migration in their historical development, interdependence, theoretical and practical connection; general scientific approaches - systematic, complex, personal-social-active approach, historical-legal, comparative-legal and socio-economic; observation, analysis and synthesis, induction and deduction, statistical empirical methods - survey, study and generalization of accumulated experience, reviews, reports on migration activities and other methods of scientific knowledge were used. Theoretical and practical significance of research results. Migration is a very complex phenomenon. This is because human migration is diverse and ever-changing. In addition, it is not easy to classify people who migrate, because they are in different conditions, from different environments and have different individual characteristics. Accordingly, understanding the causes and consequences of migration, as well as acquiring theoretical and practical skills, are important both in solving emerging problems and in developing effective policies for the protection of migrants. The object of the research work is social relations that arise between all the offices, agencies and international organizations that exercise the powers of the state related to migration in the country and migrants going abroad for work, as well as legal relations with citizens living abroad. The subject of the research work is international and national legal regulation of external migration, the concept of immigration, immigrant, the legal nature of migration, the specific features of the International Organization for Migration in relation to citizens living abroad, its scientific and legal essence, the

flow of migrants, illegal scientific discussions of migration, labor migrations specific to our country and international features, scientific-theoretical and practical problems related to the legal regulation of the migration process.

Today's real borders are not between peoples, but between the strong and the weak, the free and the shackled, the privileged and the discriminated. Now no wall can separate a humanitarian or human rights crisis in one part of the world from a national security crisis in another¹. Migration, a constant feature of history, is one of the most important and urgent global problems of our time. When people cross a country's border, their legal status undergoes a metamorphosis. They suddenly get a special migrant label or status. We live in a world where immigrants are constantly changing. It significantly influences the economic, political and social agendas of sovereign states, intergovernmental agencies and civil society groups. In the current era of globalization, migration laws and their application are increasingly understood as the last bastion of sovereignty, thus influencing their character, content and political views of the state. It is also important to put basic human rights at the heart of migration and asylum policies. Our world is made up of states and individuals that are constantly coming. It is also a world of borders where people cross for many reasons: to work, to visit family, to escape violence and natural disasters, to study, to receive treatment or to return to their home country. Migration is not just a movement of border crossing, but a significant factor in the dissolution of traditional boundaries between languages, cultures, ethnic groups and nation-states, affecting all participants.

Migration, in general, involves an ever-changing dynamic. Since the emergence of the phenomenon of migration, it has been manifested on a global scale with its advantages and disadvantages, and it is an indisputable element of our time, which affects the social and economic life of countries. Faced with this reality, world governments are forced to look for the most effective ways of interstate cooperation on migration. In recent decades, the process of globalization has significantly increased international migration, especially to developed countries. The study of migrants, their economic motivation, as well as the consequences of this migration has become an important topic for various studies, as well as for the international political agenda. In layman's terms, world "migration" refers to the movement of people from one place to another. According to the Demographic Dictionary, "migration is a form of geographic mobility or spatial mobility between one geographical unit and another, usually from a place of origin or departure to a destination or place of arrival change over time". Migration, in a social sense, refers to the physical movement of an individual or group from one society to another. This transition usually involves leaving one social environment and entering another. Migration is the third component of population change, the other two being death and birth. However, migration differs from the other two processes, i.e. death and birth, because it is not a biological factor like the other two, which act within a biological framework, although it is influenced by social, cultural and economic factors.

Migration is influenced by the preferences of the individuals involved. Usually, every migration move is intentional, but in exceptional cases this may not be true. Thus, migration is the response of human organisms to economic, social, and demographic forces in the environment. Uzbekistan will witness the migration of its population to developed countries such as Western Europe, Russia, South Korea, America, Canada and Turkey. In fact, the history of Uzbekistan is the history of waves of immigrants who came and settled in different regions of this country.

¹ Kofi Annan, UN Secretary-General, in his acceptance speech after accepting the 2001 Nobel Peace Prize

Thousands of people of different nationalities immigrated during the Second World War and the former Soviet era. The proof of this is that more than 130 nationalities and peoples live in Uzbekistan. Similarly, a large number of people from Uzbekistan migrate to the countries of the Middle East, Western Europe, America, Australia, East and South-East Asia in search of better opportunities. Thus, migration is an important sign of social change in society.

Research on external migration has greatly contributed to our understanding of the diversity associated with mobility and migration. It has developed a clear understanding of why people migrate, how migration occurs, and the broader implications of migration, both for migrants themselves and for the communities involved in migration. As a broad research field, migration studies has developed at the intersection of various disciplines. This includes disciplines such as sociology, political science, anthropology, geography, law and economics, but increasingly includes a wider range of disciplines, including health studies, development studies, management studies and etc.

Migration is a field of study, which means that it is a field of research focused on a specific topic, drawing on insights from different disciplines, rather than a science with a body of basic knowledge covering different topics. It has clear roots in economics, geography, anthropology and sociology, in particular. However, if we look at migration publications and conferences today, the disciplinary diversity of the field has increased significantly, such as political science, law, demography, cultural studies, languages, history, health and many other important disciplines. contributed². It is difficult to imagine a discipline in which migration studies do not belong; for example, even for engineering studies, migration has become an important topic in focusing on the role of social networks as migration infrastructure³.

In addition to being multidisciplinary (combining ideas from different disciplines), the field is increasingly interdisciplinary (with a unique approach that combines aspects from different disciplines) or even transdisciplinary (with an approach that systematically integrates knowledge and methods from different disciplines). The ILO has historically taken the lead in defining and enforcing workers' rights through specific conventions and recommendations, and more recently through the 1998 Declaration on Fundamental Principles and Rights at Work. (migrant workers regardless of status).

ILO labor standards focus on labor rights, including forced labor and exploitation. They also provide special protection to migrant workers. Convention No. 97 defines the rights of migrants - for example. - wages, social security, taxation, joining trade unions and handing over personal belongings. Convention 143 defines the rights of irregular migrants and their rights to equal treatment with nationals⁴. Recommendation (86 of 1949) deals with a related matter - e.g. - ensures family reunification and permanent residence in the host country in case of unemployment; it contains an example of a bilateral contract. The two systems that protect workers' rights according to ILO labor standards and protect human rights based on UN and regional treaties complement and reinforce each other.

² <https://migrationresearch.com/taxonomies/topics-cross-cutting-topics-in-migration-research-migration-research-and-theory-development-of-migration-studies>

³ An Introduction to Migration Studies: The Rise and Coming of Age of a Research Field, Erasmus School of Social and Behavioural Sciences; Room T17-16, Erasmus University, Rotterdam, The Netherlands Peter Scholten

⁴ Convention 97 on Migration for Employment; Convention 143 on Migrants in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers

Labor standards developed within the framework of the ILO have greatly influenced the content of international human rights treaties, including the ICCPR, the CESCR and the CMW. Employment rights such as fair wages, safe and healthy working conditions, reasonable working hours and trade union rights are protected by international human rights law and international labor standards. In many cases, migrant workers have greater protection under international human rights law because human rights treaties are more widely ratified than ILO standards⁵. The Inter-American Court of Human Rights has clarified the labor rights of migrant workers, taking into account the labor relations, the rights of which as a migrant worker, these rights should be recognized and guaranteed regardless of his regular or irregular employment.

Large-scale movement of people is a defining feature, globalization and always colonization has played a major role in the emergence of nation-states and the development of the capitalist world market. States are often reluctant to open their borders to foreigners because they fear that their own culture, population characteristics, and uncontrolled immigration may affect their jobs. At the same time, companies need migration to support economic growth. Migration is not just a movement of border crossing, but a significant factor in the dissolution of traditional boundaries between languages, cultures, ethnic groups and nation-states, affecting all participants. Many countries are ideologically committed to opening their borders because their national identity is historically and traditionally based on migration. Other countries that have not historically experienced migration are less open and tolerant, in which case social conflict may arise between natives and newcomers, which may be seen as "disruptive" factors of national culture and identity. In addition, due to the fact that migration is of great importance and is an urgent problem of our society, it is necessary to clearly distinguish and express terms such as "refugee", "asylum seeker", "immigrant", "emigrant" in order to better understand the contradictions in this area. Migration is influenced by a number of factors: economic, political and social - either in the country of origin of migrants ("departure factors") or in the country of destination (pull factors or "pull factors"). Historically, the economic prosperity and political stability of developed regions have been factors that attract migrants.

In these countries, international migration can be used as a means of overcoming certain shortages in the labor market. At the same time, international migration is also beneficial in the context of the aging of the population of developed countries. It is worth noting that most of the states receiving immigrants have a negative attitude towards the large flow of migrants, which creates a difficult situation for the receiving state. On the other hand, migrant-sending countries often benefit from remittances as a result of higher wages in destination countries, but experience a "brain drain" of skilled and educated professionals, which has a negative impact on their population. As well as the economic development of the state. However, labor migration is desirable and even necessary to support economic growth and is important for the global transfer of skills needed for societal development⁶. Migration as a whole encompasses a dynamic, ever-changing reality where the reasons and reasons why people move are varied and complex. People migrate because of persecution, violation of basic human rights, poverty, war, natural disasters or

⁵ IACtHR Advisory Opinion OC-18/13 of 17 September 2003. The Court advised that 'the migratory status of a person cannot constitute a justification to deprive him of the enjoyment and exercise of human rights, including those of a labour related nature. When assuming an employment relationship, the migrant acquires rights that must be recognised and ensured because he is an employee irrespective of his regular or irregular status in the State where he is employed. The rights are a result of the employment relationship.' IACtHR Advisory opinion, above.

⁶ Migration – an Overview on Terminology, Causes and Effects Article · January 2020, Georgiana Florentina Tataru. Trinity College Dublin.

simply in search of a better life. The distinction between the causes of migration is not clear-cut, and the boundaries set by international law do not always reflect the reality of migrants' lives. However, migration will remain a fundamental and unstoppable social factor at the global level until various determining and attracting factors, including economic disparities between sending and receiving countries, are eliminated. Human mobility cannot be fought, but rather embraced.

Conclusion.

In today's world, international migration is one of the main phenomena characterizing globalization, an inevitable result of the transition to the post-industrial stage of social development, as well as a source of both problems and opportunities for all mankind. The development of globalization and democratization of social life has created much wider opportunities for the movement of people between countries, the consistent change of its stages, periods and conditions has significantly activated migration processes. In a general sense, migration policy is a system of special national laws, as well as migration agreements aimed at regulating migration flows, limiting the entry or exit of refugees and illegal immigrants, and stimulating the flow of economically effective human capital, especially researchers and highly qualified specialists.

During the implementation of this study, the researcher made the following recommendations:

- Local governments should train young people in vocational skills in order to save them from the dire unemployment that is the effect of unemployment. Young people can be taught bricklaying, construction sites, pottery, and etc.
- More attention should be paid to the education sector, as there is still a lack of equipping the elite with entrepreneurial skills so that they can start self-employment schemes and other activities.
- implementation of labor relations legislation by labor migrants, employers and their representatives in order to protect labor rights and legal interests of migrants;

International migration plays an important role in the population growth in metropolitan areas in the developed world, but contributes little to the redistribution of population in less developed countries. International migration can be compared to international trade as both are mechanisms of globalization. In most host countries, immigrants pay taxes and are entitled to at least some public services, shifting the net tax burden on natives. After becoming a citizen, immigrants typically gain the right to vote, changing domestic politics. As emigrants leave, they create corresponding financial and political disruptions in sending countries.

References:

1. Universal Declaration of Human Rights (1948 December 1948).
2. International Covenant on Civil and Political Rights (1966 December 1966).
3. Convention Relating to the Status of Refugees (December 1950).
4. Declaration Relating to the Status of Refugees (1967 January 1967).
5. International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (December 18, 1990).
6. Agreement on Cooperation in the Field of Labor Migration and Social Protection of Labor Migrants (1994).

7. Convention 97 on Migration for Employment; Convention 143 on Migrants in Abusive Conditions and the Promotiion of Equality of Opportunity and Treatment of Migrant Workers
8. An Introduction to Migration Studies: The Rise and Coming of Age of a Research Field, Erasmus School of Social and Behavioural Sciences; Room T17-16, Erasmus University, Rotterdam, The Netherlands Peter Scholten
9. Kofi Annan, UN Secretary-General, in his acceptance speech after accepting the 2001 Nobel Peace Prize
10. Migration – an Overview on Terminology, Causes and Effects Article · January 2020, Georgiana Florentina Tataru. Trinity College Dublin.

<https://migrationresearch.com/taxonomies/topics-cross-cutting-topics-in-migration-research-migration-research-and-theory-development-of-migration-studies>