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Scientific article

Maternal migration issues in foreign countries: legal analysis and recommendations for Kazakhstan

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Abstract. The purpose of this study is to analyze the legal aspects of maternal migration abroad and develop recommendations for adapting Kazakhstan's legislation to the realities of modern migration policy. The key idea is the need to develop a comprehensive approach to protecting the interests of mothers and their children in the context of migration. This article analyzes existing problems and proposes specific measures to improve legal regulation in Kazakhstan. The results of the study can be used in the development of new legislation and programs to support migrants. The study utilizes methods of comparative law, analysis of international treaties, and analysis of national legislation in foreign countries. The study identified gaps in Kazakhstan's legislation related to the protection of the rights of migrant mothers. A comparative analysis of international experience is conducted, and specific recommendations for its adaptation to Kazakhstan's conditions are proposed. This article contributes to the development of the theory and practice of migration law, proposing specific solutions for improving the legal protection of one of the most vulnerable categories of migrants. The results of this work can be used by government agencies, non-governmental organizations, and other stakeholders to develop and implement effective migration policies aimed at protecting the rights of migrant mothers and their children.

Keywords: Migration of mothers, Rights of migrants, Protection of migrant children, Social policy, Migration law

Introduction

Mobility is a defining feature of humanity, and this fact has even prompted some scientists to name our species “homo migrans” [1]. The United Nations Department of Economic and Social Affairs estimates that there were 173 million international migrants in 2000 and 281 million in 2020 [2]. Thus, the number of people living outside their country of birth has grown by more

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than 60% in just two decades. Although formally voluntary migration in search of happiness, career opportunities or improved living conditions continues to prevail, forced migration as a result of man-made or natural disasters is growing even faster, exposing those affected to enormous difficulties.

Consequently, migration has begun to occupy a prominent place in public debates and political discourse in many countries around the world, as well as a significant increase in academic interest in migration. This is reflected in the growing volume of scientific projects [3, 4], and publications [5, 6], and the emergence of specialized postgraduate education programs. Research centers specializing in various migration issues have appeared in many countries, and the International Migration Research Network (IMISCOE) has grown from 24 to 61 institutional members [7, 8].

We recognize that gender differences determine the roles, character traits, and behaviors of men and women [9]. Actualizing the problem of gender in the migration process means identifying the various forms of insecurity faced by men, women, girls, and boys, as well as how gender relations and power imbalances serve as a source of insecurity. More and more women in various regions and countries of the world are forced or voluntarily becoming migrants. They have joined all forms of migration: labor, educational, family reunification migration, etc. According to the International Organization for Migration (IOM), in 2022, the number of women international migrants amounted to 124.8 million people, or 48%, the share of migrant workers - 42% [10]. And this new global phenomenon, the feminization of migration, is of great importance for the entire social sciences.

The feminization of migration is caused by the opening of new niches in the labor market related to socio-economic and demographic changes in the receiving countries, on the one hand, and the active involvement of women in migration processes due to the changing socio-economic roles of women in society in the sending countries, on the other hand.

The increase in the number of women in migration flows is noticeable both at the global and regional levels. The proportion of female migrants from the Philippines and Thailand, the Eurasian and post-Soviet territories, which have traditionally been sending countries for male migrants, is growing. For example, women from Uzbekistan, Tajikistan, and Kyrgyzstan go to work in Russia, Kazakhstan, and the Middle East. Women from Moldova, Ukraine and Belarus are oriented towards European countries.

Women's participation in migration processes can be divided into two models. The first is the "independent" participation of women in movement, freely choosing to change the geography of their residence, start a family, work, etc. The second is that a woman moves "behind her migrant husband" or with him, the so – called "family" type model. In recent years, the first model of women's migration behavior has tended to develop.

The idea of a migrant woman at various stages of society's development is ambiguous, as it reflects sociocultural and political shifts in society.

So, in the ancient world, the migration of women is associated with conquests, religious ceremonies or trade. The migrant woman here is a symbol of victory or a "connecting bridge" between two cultures (for example, among nomads or in the ancient Mediterranean, where warriors brought women from conquered territories).

In the Middle Ages, women's migrations were often associated with marriages for political reasons (alliances between feudal lords; strengthening nomadic alliances). In the art of that time, a migrant woman was often portrayed as a beautiful stranger, bringing confidence and new ideas.

In modern times, the image of a migrant woman is changing under the influence of political and economic interests. She is both a symbol of wealth and a slave.

In the 20th century, the feminist movement and changes in politics lead to the fact that a woman is no longer an object of observation, but an active participant in the socio-political struggle for rights and freedoms. In the art of this period, the migrant woman acts as a strong and independent person, able to overcome difficulties and achieve her goals.

While migration has been widely studied from sociological and economic perspectives, the legal status of migrant mothers remains insufficiently analyzed, particularly in the context of national legislation and its compliance with international human rights standards. Migrant mothers constitute a specific vulnerable group whose rights are affected simultaneously by migration status, gender, and parental responsibilities. In Kazakhstan, the legal regulation of migration, social protection, and family rights does not always adequately address these intersecting vulnerabilities, which necessitates a focused legal analysis.

Methodology and methods

The main hypotheses:

1) The existing legislation of Kazakhstan does not fully comply with international standards for the protection of the rights of migrant mothers;

2) Socio-cultural and economic barriers significantly affect the ability of migrant mothers to protect their rights and interests;

3) International experience can offer effective solutions to improve the situation of migrant mothers in Kazakhstan.

It provides for the application of an integrated approach to research, which includes several methodological areas. This approach makes it possible to comprehensively assess the situation of migrant mothers, as well as to develop effective recommendations for improving their legal status in accordance with international standards.

Sociological research: conducting surveys and interviews among migrant mothers to identify the main problems they face in Kazakhstan. It includes an analysis of the social and economic situation, living conditions, access to medical and educational services.

Legal analysis: the study of the legislation of Kazakhstan and international legal acts related to the protection of the rights of migrants and their families. Assessment of the effectiveness of existing norms in the context of ensuring the rights of migrant mothers.

Comparative analysis: a study of the experience of other countries in protecting the rights of migrant mothers. Identification of best practices and their adaptation to the conditions of Kazakhstan, taking into account cultural and socio-economic characteristics.

Expert assessments: involvement of specialists in the field of migration, human rights, gender studies to analyze the data obtained and develop recommendations.

Qualitative analysis: conducting focus groups with migrant mothers to gain an in-depth understanding of their life situations, motivations, and interactions with government agencies.

Quantitative analysis: statistical processing of data obtained from opinion polls to determine the scale and characteristics of the problem at the national level.

Media monitoring and analysis of public discourse: the study of the reflection of the problem of migrant motherhood in the mass media, as well as trends and stereotypes present in public opinion.

Legal monitoring: monitoring of changes in legislation and its application practices related to the protection of the rights of migrant mothers.

A review of foreign scientific research confirms the hypothesis of a special vulnerability of the migrant mother. Academic work devoted to this subject, rarely focus on the analysis of the legal frameworks that regulate the status and rights of women migrant [13], because the prevailing majority of research is focused on the psychological [14] and social [15] aspects of motherhood in the context of migration [16]. The stress associated with moving and adapting to a new country affects the psychological state of women, which has implications for both their own well-being and the development of their children.

However, most existing studies focus on psychological, social, or cultural aspects of migrant motherhood, while the legal mechanisms ensuring the protection of migrant mothers' rights remain insufficiently explored. This gap highlights the need for a comprehensive legal assessment of national legislation and its practical implementation.

One such study was conducted by scientists Herrero-Arias Raquel, Hollekim Ragnhild, Haukanes Haldis, Vagli Ose [17]. In the publication "The emotional path of motherhood in migration. The case of mothers from Southern Europe in Norway" the authors consider motherhood as an area of studying the functions of emotions and their interaction in the context of migration.

The purpose of Leung Linei's dissertation is to explore how mothers experience migration and how their ethnicity, class, and location affect their migration experiences. It also examines how the ideals of motherhood and motherhood are formed and how they are reflected in the lives of migrant mothers [18].

In M. Gilmartin's works, academic research on migrant mothers focuses on mothers who are separated from their children, often due to their integration into global care chains, or on mothers in the context of family migration [19].

Scientists at the Mexican Migration Laboratory concluded that motherhood, carried out in conditions of inequality and during migration processes, is mediated, regulated and sanctioned by institutions that influence and determine the quality of life of female migrant mothers [20].

Malamassam Meirina Ayumi, in her work "Women's Labor Migration in Asia: Maternal migration and its impact on abandoned children," argues that maternal migration has a significant impact on the development of abandoned children. Despite varying degrees of impact, communication between children and migrant mothers plays an important role in child survival strategies [21].

Also worth noting is the study by Heffron, Wachter, and Hernandez, "Mi Corazón se Partió en Dos: Transnational Motherhood at the Intersection of Migration and Violence," which identified five processes in which migration and violence shaped the meaning of motherhood: risking everything, embodying separation, venturing into reunification, caring for others, and experiencing motherhood because of sexual violence. The results provide insight into how violence shapes and influences women's migration and decision-making, as well as the consequences women face when taking action to mitigate the threats of violence in their own and their children's lives [22].

The issues of integration of migrant mothers into the social structures of the host society [23] are also a subject of scientific interest.

So, Leah Veasey, in her book "Migrant Mothers in the Digital Age: Emotions and Belonging in online communities of migrant mothers" examines the experience of migrant mothers

through the prism of online communities in which [24] people participate. By providing a new perspective on the experiences of women who mother "away from home" in the modern digital age, the author explores the concepts of imaginary maternal communities, personal maternal narratives, and maternal imaginations of migrants, highlighting how migrant mothers present themselves within local, national, and diasporic maternal communities.

Research shows that successful integration contributes not only to improving the quality of life of migrants themselves, but also has a positive impact on the development of the host country [25]. In this context, various support programs are analyzed, including language adaptation, vocational training, and the creation of support communities.

Studies that focus on the right-wing component, in particular, on international conventions such as the UN Convention on the Rights of Migrant Workers and Members of Their Families, and their implementation at the national level [26] note that national migration legislation is undergoing changes aimed at strengthening the protection of the rights of migrants, including mothers-migrants [27]; emphasize the need for an integrated approach to the protection of the rights of [28].

However, actual practice often remains imperfect, and mother-migrant women face discrimination [29], social exclusion [30], and limited access to medical [31], educational [32], and social services [33].

A review of scientific studies conducted in the Republic of Kazakhstan found a lack of work on the protection of the rights of migrant mothers. Separate studies by Kazakhstani legal scholars on labor migration, repatriation, administrative, constitutional, labor, and international law tangentially touch upon the topic of our interest.

Academic research in recent years in the fields of sociology, philosophy, history, psychology, political science, and economics has emphasized that parental responsibility and child care have pronounced gender characteristics, especially rooted in the social role of the mother. In the context of Kazakh society, the prevailing belief is that a woman should harmoniously combine professional activity with maternal duties, while any avoidance of birth or rejection of the role of mother is perceived as a departure from generally accepted norms. Considering the practical side of motherhood, it should be noted that it includes both physical and emotional care, as well as constant presence next to the child [34].

The migration of women reveals serious dissonances between ideas about motherhood and its actual practice. Due to various circumstances, migrant women may not see their children for a long time. In such cases, children are usually left in the care of other family members, such as grandmothers. Mothers often feel guilty about their absence while their children are growing up and view migration as a necessary sacrifice to ensure their children's future. Scientists emphasize that such circumstances lead to fundamental changes in maternity practices [35].

Results and Discussion

From a legal perspective, the vulnerability of migrant mothers is largely determined by their migration status, which directly affects access to employment, healthcare, education, and social protection. In Kazakhstan, these issues are regulated by the Constitution of the Republic of Kazakhstan, the Law "On Population Migration," the Law "On the Legal Status of Foreign Citizens," labor legislation, and family law norms. However, gaps in coordination between these regulatory frameworks create barriers to the effective protection of migrant mothers' rights.

Today, the world is once again experiencing a crisis related to migrants and refugees. More than 4 million migrants entered Europe in 2022 [11]. Most of them are fleeing from military operations in Ukraine, Syria, Afghanistan, Iraq, Palestine, and conflicts in Africa. Turkey, Lebanon and Jordan have accepted millions of Syrian refugees.

Migrants represent a vulnerable category of the population in the host country: they are more likely to be exposed to the risks of poor working conditions; they suffer more from the aggression of local residents; they are more often subjected to unjustified harassment by law enforcement agencies; migrants have fewer opportunities to access high-quality medical and educational services.

Migrants are in an even more difficult situation. Very often, women are forced to leave their homeland because of gender-based violence, which is not considered a crime in the family and in society as a whole. After reaching the host country, migrants face massive violations of their rights. They are usually offered even more unfavorable working conditions than men; the employer may take away documents to hold them hostage; women may be beaten and harassed. Having children puts a woman even further back in line for good jobs. Access to medical care is also becoming a problem. Pregnancy, childbirth and the postpartum period of a significant part of migrants take place in risky living conditions. Due to insufficient nutrition and constant overwork, children are often born with problems and disabilities. At the same time, if a woman chooses an illegal or semi-legal route of movement, then her chances of becoming a victim of sexual violence or traffickers increase greatly. As a result of this situation, they are often in a group of people without sufficient support and information about available resources and services.

The portrait of a migrant woman presents a unique picture of complex social status, cultural differences, and economic dependence. She may be young or mature, educated or illiterate, from a poor country or a developed state. Regardless of this, every migrant woman has her own story and unique resettlement experience (Illustration 1).

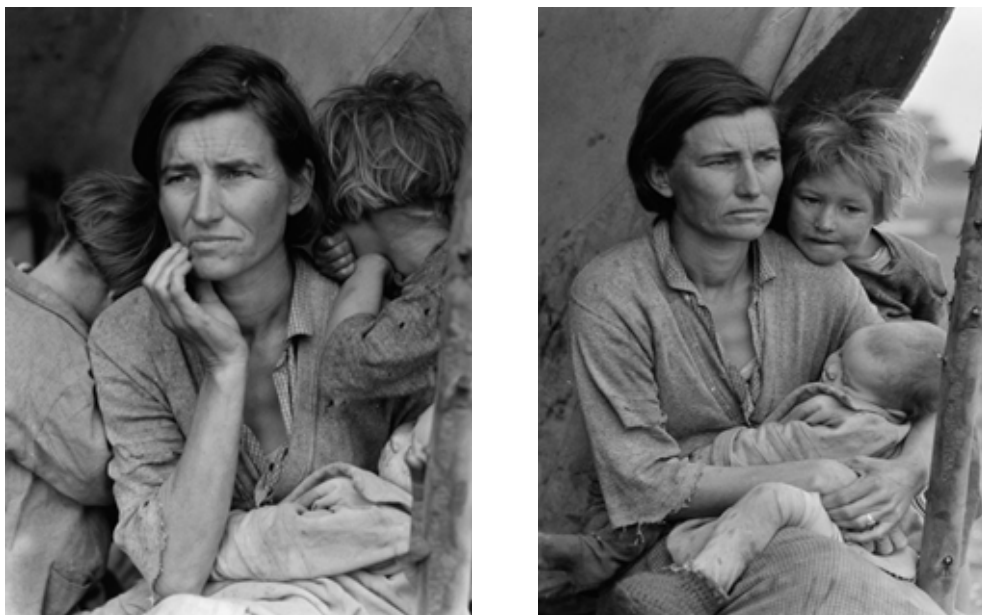


Illustration 1. "Migrant mother". Photographer Dorothea Lange, USA.

Source: <https://vk.com/@magikphoto50-mater-migrantka>

The legal situation of migrant mothers is shaped by both international obligations and national legislation. Kazakhstan is bound by international instruments protecting women and migrants, including the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the International Covenant on Civil and Political Rights, and other human rights treaties. Nevertheless, the implementation of these standards at the national level remains uneven, particularly in areas such as access to social services, labor protection, and legal remedies [12].

Conclusion

The conducted legal analysis demonstrates that migrant mothers in Kazakhstan face systemic barriers resulting from inconsistencies between migration regulations, labor law, social protection mechanisms, and family legislation. These barriers are compounded by administrative procedures and limited access to legal assistance.

Thus, the main problems faced by migrant mothers in Kazakhstan can be classified as follows:

Legal problems: difficulties in obtaining residence and work permits, limited access to legal aid, and problems with the recognition of educational and qualification documents issued outside Kazakhstan.

Socio-economic problems: low level of social protection, lack of job security, often forced to work in low-paid and non-permanent jobs, which significantly reduces the quality of life of migrant mothers and their children.

Integration problems: barriers in language communication, cultural differences, lack of awareness about their rights and available social services, as well as problems of social adaptation of their children.

Problems of child rights protection: issues of ensuring the child's right to education, health and social protection, as well as issues related to citizenship and the legalization of the status of migrant children.

In order to improve the situation of migrant mothers in Kazakhstan and bring it in line with international standards, it is important to define the basic legal framework within which the protection of the rights of migrant mothers fits. The key international documents are the UN Convention on the Protection of the Rights of All Migrants and Members of Their Families, the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), as well as the International Covenant on Civil and Political Rights. At the level of Kazakhstan, the fundamental normative acts are the Constitution of the Republic of Kazakhstan, the Law "On the Legal Status of Foreign Citizens in the Republic of Kazakhstan", the Law "On Population Migration", as well as a number of other legislative and subordinate acts related to migration and social protection issues.

Thus, ensuring the protection of the rights of migrant mothers is not only an act of humanity but also an important factor in social stability and the development of society as a whole. Effective integration of migrant mothers and their children contributes to reducing social tension, strengthening social stability, developing the country's economy, and harmonious development of society as a whole.

Improving the protection of migrant mothers' rights requires a coordinated legal approach that integrates migration policy, gender equality principles, and child protection standards. The development of specialized support mechanisms, simplification of legal procedures,

and alignment of national legislation with international standards would contribute not only to safeguarding human rights but also to strengthening social stability and sustainable development in Kazakhstan.

Contribution of the authors

G.G. Turysbekova – developed the research concept, supervised the study, and contributed to legal analysis and recommendations.

S.K. Yessetova – conducted comparative and doctrinal legal analysis and contributed to methodology and interpretation of results.

A.A. Kassymzhanova – coordinated the research and writing process, prepared the abstract and references, ensured consistency of the manuscript, and finalized conclusions and policy implications.

Gratitude, conflict of interest

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Шет елдердегі ана миграциясы мәселелері: құқықтық талдау және Қазақстанға арналған ұсыныстар

Андатпа. Зерттеудің мақсаты – аналардың шетелге қоныс аударуының құқықтық аспектілерін талдау және Қазақстан заңнамасын қазіргі көші-қон саясатының шынайылығына бейімдеу үшін ұсыныстар әзірлеу болып табылады. Түпкі ой көші-қон жағдайында аналар мен олардың

балаларының мүдделерін қорғауға кешенді көзқарас құру қажеттілігі. Мақала Қазақстандағы қолданыстағы мәселелерді талдап, құқықтық реттеуді жақсарту бойынша нақты шараларды ұсынады.

Зерттеу нәтижелері мигранттарды қолдауға арналған жаңа заңнама мен бағдарламаларды әзірлеу кезеңінде пайдаланылуы мүмкін. Зерттеуде салыстырмалы құқықтану, халықаралық шарттарды және шетел мемлекеттерінің ұлттық заңнамасын талдау әдістері қолданылды.

Мақала мигранттардың ең осал санаттарының бірін құқықтық қорғауды жақсарту үшін нақты шешімдерді ұсына отырып, көші-қон құқығы теориясы мен практикасының дамуына үлес қосады.

Жұмыс нәтижелерін мемлекеттік органдар, үкіметтік емес ұйымдар және басқа да мүдделі тараптар мигрант аналар мен олардың балаларының құқықтарын қорғауға бағытталған тиімді көші-қон саясатын әзірлеу және іске асыру үшін пайдалана алады.

Түйін сөздер: аналардың көші-қоны, мигранттардың құқықтары, мигрант балаларды қорғау, әлеуметтік саясат, миграция құқығы

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Проблемы миграции матерей в зарубежных странах: правовой анализ и рекомендации для Казахстана

Аннотация. Цель исследования состоит в анализе правовых аспектов миграции матерей за рубеж и разработке рекомендаций для адаптации законодательства Казахстана к реалиям современной миграционной политики. Ключевая идея заключается в необходимости создания комплексного подхода к защите интересов матерей и их детей в условиях миграции. Статья представляет собой анализ существующих проблем и предлагает конкретные меры по совершенствованию правового регулирования в Казахстане. Результаты исследования могут быть использованы при разработке новых законодательных актов и программ поддержки мигрантов. В работе использованы методы сравнительного правоведения, анализа международных договоров и национального законодательства зарубежных стран. Исследование выявило пробелы в казахстанском законодательстве, касающиеся защиты прав матерей-мигрантов. Проведен сравнительный анализ зарубежного опыта и предложены конкретные рекомендации по его адаптации к казахстанским условиям. Статья вносит вклад в развитие теории и практики миграционного права, предлагая конкретные решения для улучшения правовой защиты одной из наиболее уязвимых категорий мигрантов. Результаты работы могут быть использованы государственными органами, неправительственными организациями и другими заинтересованными сторонами для разработки и реализации эффективной миграционной политики, направленной на защиту прав матерей-мигрантов и их детей.

Ключевые слова: миграция матерей, права мигрантов, защита детей мигрантов, социальная политика, миграционное право

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