

**INSON HUQUQLARI BO‘YICHA O‘ZBEKISTON RESPUBLIKASI
MILLIY MARKAZI HUZURIDAGI ILMIY DARAJALAR BERUVCHI
DSc.39/30.11.2020. Yu/S. 128.01 RAQAMLI ILMIY KENGASH**

**O‘ZBEKISTON RESPUBLIKASI HUQUQNI MUHOFAZA QILISH
AKADEMIYASI**

YESEMURATOV ALISHER IZBASAROVICH

**MIGRANTLAR HUQUQLARINI HIMOYA QILISHNING
XALQARO VA MILLIY MEXANIZMLARINI
TAKOMILLASHTIRISH MASALALARI**

12.00.13 – Inson huquqlari

**Yuridik fanlari bo‘yicha falsafa doktori (PhD)
AVTOREFERATI**

Toshkent – 2024

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on science in law**

Yesemuratov Alisher Izbasarovich

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KIRISH (falsafa doktori (PhD) dissertatsiyasi annotatsiyasi)

Dissertatsiya mavzusining dolzarbligi va zarurati. Dunyoda globalashuv jarayonining kuchayishi bilan, migratsiya jarayonlari ham tobora jadallashib bormoqda. Odamlar ishlash, o‘qish, yashash va boshqa maqsadlarda turli davlatlarga ko‘chib o‘tishmoqda. Migratsiya bo‘yicha xalqaro tashkilotning ma’lumotlariga ko‘ra, 2023-yilda dunyoda 281 milliondan ortiq migrant mavjud bo‘lib, ushbu raqam jahon aholisining taxminan 3,6 foizini tashkil qiladi¹.

Migrantlarning qariyb 60 foizi o‘zlari ishlayotgan mamlakatlarda huquqiy masalalar bilan bog‘liq muammolarga ega. 2021-yilda Inson huquqlari bo‘yicha Yevropa sudining ish yurituvida 70 mingdan ziyod shikoyatlarning yarmidan ko‘pi migrantlar qabul qiluvchi yirik mamlakatlardan kelib tushgan. Mazkur murojaatlarning 18 foizini shaxs daxlsizligi va erkinligiga hamda 19 foizini qiynoqlarga doir ishlar tashkil qilgan².

Ko‘plab davlatlar migrantlar huquqlarini himoya qilish bo‘yicha xalqaro konvensiya va kelishuvlarga qo‘shilgan. Buning natijasida, ushbu davlatlar o‘z majburiyatlarini bajarishlari va migrantlar huquqlarini ta’minlash uchun milliy qonunlarni ishlab chiqishlari taqozo etiladi.

Jahonda migrantlar mehnat bozorini to‘ldirib, iqtisodiy o‘sishni qo‘llab-quvvatlaydilar va o‘z mamlakatlari iqtisodiga yiliga 3 trillion AQSH dollaridan ortiq hissa qo‘shadilar³. Zero, ularning huquqlarini himoya qilish nafaqat iqtisodiy barqarorlikni ta’minlash uchun, balki jamiyatda ijtimoiy barqarorlik va tinchlikni saqlashga yordam beradi. Har bir inson, shu jumladan, migrantlar ham, insoniy qadrdimmatga ega. Biroq migrantlarning aksariyat qismi irqchilik va boshqa shakldagi turli kamsitishlarga yanada ko‘proq duch kelmoqda.

Xalqaro mehnat tashkilotining ma’lumotlariga ko‘ra, dunyoda majburiy mehnat qurboniga aylanayotgan taxminan 24,9 million nafar shaxsdan 16 milliondan ortig‘i mehnat migrantlari hisoblanadi⁴. Qolaversa, ularning 20 foizga yaqini ta’lim va tibbiy xizmatlardan foydalanish imkoniyatidan mahrum etilgan⁵. Migrantlarga nisbatan adolatli va insonparvar munosabatda bo‘lish jamiyatning umumiy axloqiy qoidalarining muhim shartidir. Bu esa, mazkur yo‘nalishda fundamental tadqiqotlar o‘tkazishga undaydi.

O‘zbekistondan noqonuniy migrantlarning xorijdagi soni oshgani kuzatilgan. 2023-yilda Turkiyada - 9649 nafar, Gondurasda - 5153 nafar, Meksikada - 6098

¹ World Migration Report 2024 // Elektron manba: <https://worldmigrationreport.iom.int/msite/wmr-2024-interactive/> (Murojaat sanasi: 21.02.2024).

² La cour européenne des droits de l’homme en faits et chiffres. Strasbourg: CEDH, 2022. – P. 3, 7.

³ How Immigrants Contribute to Developing Countries’ Economies // Elektron manba: <https://www.oecd-ilibrary.org/docserver/9789264288737-en.pdf?expires=1721800832&id=id&accname=guest&checksum=6BADC976AA7BA521783068F819A3D3F7> (Murojaat sanasi: 17.03.2024).

⁴ International Labour Organization // Elektron manba: <https://www.ilo.org/publications/eliminating-forced-labour-handbook-parliamentarians-no-30> (Murojaat sanasi: 13.01.2024).

⁵ World Health Organization // <https://www.who.int/news-room/fact-sheets/detail/refugee-and-migrant-health> (Murojaat sanasi: 25.01.2024).

nafar, 2022-yilda Yevropa Ittifoqi davlatlarida 2145 - nafar¹ noqonuniy migrantlar va 2021-2023-yillar AQSH chegarasini noqonuniy kesib o‘tayotgan 13 ming ortiq O‘zbekiston fuqarosi aniqlangan².

O‘zbekistonda 2023-yilda xorijdan ko‘chib kelganlar soni 2955 nafarni, xorijga ko‘chib ketganlar soni esa, 17336 nafarni tashkil etdi³. O‘zbekiston Respublikasi Prezidenti Sh.M.Mirziyoyevning: “...2 mln atrofidagi yurtdoshlarimiz ro‘zg‘orini tebratish uchun oilasi, ota-onasi va farzandlaridan uzoqda – xorijda mehnat qilmoqda. Albatta, musofir yurtda, turli qiyinchilik va mashaqqatlarga chidab, halol mehnat qilib, non topish oson emas. Xorijda bunday sharoitda yashab kelayotgan odamlarimizni haqiqiy qahramon desak, to‘g‘ri bo‘ladi. Chet ellarda tajriba va malaka orttirayotgan ana shunday vatandoshlarimizga rahmat aytishimiz kerak”⁴, deb ta’kidlagani migrantlar huquqlarini himoya qilishning xalqaro va milliy mexanizmlarini yanada takomillashtirishni taqozo etadi. Qolaversa, «O‘zbekiston — 2030» Strategiyasining 95-maqsadida tashqi mehnat migratsiyasi tizimini takomillashtirish, xorijda mehnat faoliyatini yuritayotgan fuqarolarga har tomonlama ko‘mak ko‘rsatilishi belgilangan⁵. Shu sababli ham ushbu mavzuni chuqur tadqiq etish muhim ahamiyatga ega.

O‘zbekiston Respublikasining “O‘zbekiston Respublikasida chet el fuqarolarining va fuqaroligi bo‘lmagan shaxslarning huquqiy holati to‘g‘risida”gi (2021) Qonuni, O‘zbekiston Respublikasi Prezidentining “2022 – 2026-yillarga mo‘ljallangan Yangi O‘zbekistonning taraqqiyot strategiyasi to‘g‘risida”gi (2022), «O‘zbekiston — 2030» strategiyasi to‘g‘risida”gi, (2023), “Xorijda vaqtinchalik mehnat faoliyatini amalga oshirayotgan O‘zbekiston Respublikasi fuqarolari va ularning oila a‘zolarini himoya qilish kafolatlarini yanada kuchaytirish choralari to‘g‘risida”gi (2019), “Mehnat migratsiyasi jarayonlarini takomillashtirish hamda xorijda vaqtincha mehnat faoliyatini amalga oshirayotgan shaxslarni qo‘llab-quvvatlashga doir qo‘shimcha chora-tadbirlar to‘g‘risida”gi (2024), “Migratsiya jarayonlarini boshqarish tizimini isloh qilish bo‘yicha birinchi navbatdagi chora-tadbirlar to‘g‘risida”gi (2024) farmonlari hamda “Xorijga tashkillashtirilgan mehnat migratsiyasiga ketayotgan fuqarolarni rag‘batlantirish bo‘yicha qo‘shimcha chora-tadbirlar to‘g‘risida”gi (2021), “Xavfsiz, tartibli va qonuniy mehnat migratsiyasi tizimini joriy qilish chora-tadbirlari to‘g‘risida”gi (2020), “Xorijda mehnat faoliyatini amalga oshirish jarayonlarini tartibga solish bo‘yicha qo‘shimcha chora-tadbirlar to‘g‘risida”gi (2024) qarorlari va boshqa tegishli normativ-huquqiy hujjatlarda belgilangan vazifalarning ijrosini ta’minlashda ushbu dissertatsiya ishi muayyan darajada xizmat qiladi.

¹ World Migration Report 2024 // Elektron manba: <https://worldmigrationreport.iom.int/msite/wmr-2024-interactive/> (Murojaat sanasi: 21.02.2024).

² В США за два года задержали более 13 тысяч граждан Узбекистана при попытке нелегального въезда // <https://www.gazeta.uz/ru/2023/10/13/us-border/>

³ O‘zbekiston Respublikasi Prezidenti huzuridagi Statistika agentligi - Demografik holat // Elektron manba: <https://stat.uz/uz/rasmiy-statistika/demography-2> (Murojaat sanasi: 23.07.2024).

⁴ Mirziyoyev Sh.M. «Ular — haqiqiy qahramon» // <https://www.gazeta.uz/uz/2023/06/23/migrants/> (Murojaat sanasi: 25.01.2024).

⁵ O‘zbekiston Respublikasi Prezidentining 11.09.2023-yildagi «O‘zbekiston — 2030» strategiyasi to‘g‘risida”gi PF-158-sonli Farmoni. // <https://lex.uz/ru/docs/6600413>. (Murojaat sanasi: 25.01.2024).

Tadqiqotning respublika fan va texnologiyalari rivojlanishining ustuvor yo‘nalishlariga mosligi. Mazkur dissertatsiya respublika fan va texnologiyalari rivojlanishining I. “Axborotlashgan jamiyat va demokratik davlatni ijtimoiy, huquqiy, iqtisodiy, madaniy, ma’naviy-ma’rifiy rivojlantirishda innovatsion g‘oyalar tizimini shakllantirish va ularni amalga oshirish yo‘llari” ustuvor yo‘nalishiga muvofiq bajarilgan.

Muammoning o‘rganilganlik darajasi. O‘zbekistonda migrantlar huquqlarini himoya qilish bilan bog‘liq izlanishlar quyidagi yo‘nalishlarda amalga oshirilgan:

birinchidan, migrantlarning inson huquqlariga doir konseptual va strategik g‘oyalar O‘zbekiston Respublikasi Prezidenti Sh.M.Mirziyoyevning asarlarida yoritib berilgan;

ikkinchidan, o‘zbekistonlik olimlar orasida inson huquqlarining umumiy nazariyasi K.X.Abduraxmanov, A.R.Mo‘minov, T.K.Narbayeva, M.X.Raxmankulov, A.X.Saidov, L.A.Saidova, M.A.Tillabayev, A.A.Tulyaganov, I.T.Turg‘unov, M.T.Turg‘unov, X.M.Yunusov va A.B.G‘afurov kabi olimlar tomonidan tadqiq etilgan.

uchinchidan, K.Sh.Aripova, S.A.Gafurova, S.Dj.Djoldasova, L.X.Isoqov, S.A.Ishanxodjayev, B.T.Musayev, M.A.Rahimova, I.V.Samiyev, M.A.Tillabayev, R.R.Urinboyev, B.I.Egamberdiyev, Sh.Eraliyev, Dj.X.Yuldashev, G.Yuldasheva¹ kabi olimlarning asarlarida migrantlar huquqlarini himoya qilishning ayrim xususiyatlari ochib berilgan. Jumaladan, A.A.Allanova migratsiya qonunchiligini buzganlik uchun javobgarlik muammosini tahlil qilgan bo‘lsa, S.Dj.Djoldasovaning ilmiy izlanishlarida migratsiya sohasini huquqiy tartibga solish hamda S.A.Ishanxodjayev migratsiya sohasidagi davlatlararo hamkorlikning xalqaro-huquqiy jihatlari, shuningdek, L.X.Isoqov O‘zbekiston Respublikasida migrantlar huquqlarini himoya qilishning qiyosiy-huquqiy tahliliga doir masalalarni ko‘rib chiqishgan.

Xorijiy davlatlarining huquqiy adabiyotlarida migrantlar huquqlarini ta‘minlash va himoya qilishning ijtimoiy-iqtisodiy hamda siyosiy-huquqiy tomonlariga katta e‘tibor qaratilmoqda. Bu yo‘nalishga: Bryan A. Garner, V.Chetail, G.Goodwin-Gill, H.Friedrich, Jean Matringe, Lilana Keith, Katja Swider, Michele LeVoy, David Weissbrodt, A.X.Abashidze, D.K.Bekyashev, M.M.Babayev, R.Sh.Davletgeldiev, V.A.Ionsev, D.V.Ivanov, R.A.Kalamkaryan, I.I.Lukashuk, S.V.Martinenko, Ye.A.Nikiforova, V.I.Perevedensev, V.V.Reshetin, L.L.Ribakovskiy, G.I. Tunkin, M.L.Tyurkin va A.Yastrebeva kabi zamonaviy olimlarning tadqiqotlari misol bo‘lib xizmat qiladi.

Shu bilan birga, tanlangan mavzu bo‘yicha nazariy-huquqiy muammolar migrantlar huquqlarini himoya qilish tizimidagi milliy va xalqaro mexanizmlar, milliy qonunchilik va huquqni qo‘llash amaliyoti, xalqaro huquq me‘yorlari hamda xorijiy davlatlarning ilg‘or tajribalarini inobatga olgan holda inson huquqlari nuqtayi nazardan alohida monografik tadqiq etilmagan.

¹ Bu va boshqa manbalar dissertatsiyaning foydalanilgan adabiyotlar ro‘yxatida keltirilgan.

Dissertatsiya tadqiqotining dissertatsiya bajarilgan oliy ta'lim muassasasining ilmiy-tadqiqot ishlari rejalari bilan bog'liqligi. Dissertatsiya mavzusi O'zbekiston Respublikasi Huquqni muhofaza qilish akademiyasining ilmiy tadqiqot ishlari rejasiga kiritilgan "Migrantlar huquqlarini himoya qilishning xalqaro va milliy mexanizmlari" mavzusidagi ilmiy tadqiqot ishi doirasida amalga oshirilgan.

Tadqiqotning maqsadi migrantlar huquqlarini himoya qilishning xalqaro va milliy mexanizmlarini takomillashtirishga qaratilgan taklif hamda tavsiyalar ishlab chiqishdan iborat.

Tadqiqotning vazifalari:

“migratsiya” va “migrant” atamalarining yuridik tabiatini tahlil etish;

migrantlar huquqlarining shakllanishi va rivojlanishining ilmiy-nazariy asoslarini o'rganish, mazkur masalaga oid muammolarni aniqlash va umumlashtirish;

zamonaviy yondashuvlarni tadqiq etish orqali migrantlar huquqlarini himoya qilishning zamonaviy konsepsiyalarini asoslash;

migrantlar huquqlarini himoya qilishga oid xalqaro-huquqiy standartlarning xususiyatlarini tavsiflash va tasniflash;

migrantlar huquqlarini himoya qilishga ixtisoslashgan institutsional mexanizmlarni tahlil etish;

migrantlar huquqlarini himoya qilish bo'yicha xorijiy davlatlar tajribasini o'rganish va milliy amaliyotda qo'llash imkoniyatlarini ko'rib chiqish;

O'zbekistonda migrantlar huquqlarini himoya qilishning dolzarb muammolarini aniqlash hamda ularning yechimiga doir takliflari ishlab chiqish;

migrantlar huquqlarini himoya qilishning xalqaro va milliy mexanizmlarini takomillashtirish bo'yicha ilmiy asoslangan takliflar va tavsiyalarni shakllantirish.

Tadqiqotning obyekti migrantlar huquqlarini himoya qilish bilan bog'liq bo'lgan ijtimoiy munosabatlardan iborat.

Tadqiqotning predmetini migrantlar huquqlarini himoya qilish faoliyati bilan bog'liq ijtimoiy munosabatlarni tartibga soluvchi me'yorlar, ilmiy-konseptual yondashuvlar, qarashlar, prinsiplar, modellar, shakl va usullar, qoidalar, shuningdek, ularning amaliyotda joriy etilishi tashkil qiladi.

Tadqiqotning usullari. Tadqiqot davomida analiz, sintez, deduksiya, induksiya, qiyosiy-huquqiy tahlil, empirik material va statistik ma'lumotlar tahlili, sotsiologik so'rov, kuzatish, tizimli yondashuv, mantiqiylik va boshqa usullardan keng foydalanilgan.

Tadqiqotning ilmiy yangiligi quyidagilardan iborat:

O'zbekiston Respublikasi fuqarolarini xorijda ishga joylashtirish va ularning mehnat huquqlarini ta'minlash jarayonlarini tartibga solishga doir masalalar yuzasidan xorijiy davlatlarning vakolatli organlari bilan o'zaro hamkorlik qilish zarurati asoslab berilgan;

migratsiya va fuqarolikni rasmiylashtirishga oid davlat xizmatlari yashash joyida ko'rsatilishini istagan fuqarolar, shu jumladan, O'zbekiston Respublikasi fuqarolari va immigratlar (chet el fuqarolari, fuqaroligi yo'q shaxslar va ularning

qonuniy vakillari) ham, bunday xizmatlardan foydalanish uchun “Call-markaz”ga murojaat qilishlari mumkinligi isbotlab berilgan;

“Yoshlar daftari”ga kiritilgan yosh migrantlarni dehqon xo’jaligini yuritish uchun yer uchastkalarini ijaraga berish tartibni joriy etishlari yosh mehnat migrantlarining tadbirkorlik bilan shug’ullanish imkoniyatlarini kengaytirilishi asoslantirilgan.

Xorijdan qaytib kelgan mehnat migrantlari ro’yxatiga kiritilgan yoshlarga ochiq elektron tanlov orqali ularga yer uchastkalarini ajratishda soddalashtirilgan tartibni joriy etishlari xorijdan qaytib kelgan mehnat migrantlarining tadbirkorlik sohasida reintegratsiyasi uchun qulay sharoit yaratilishi isbotlab berilgan.

Tadqiqotning amaliy natijalari quyidagilardan iborat:

O‘zbekiston Respublikasining milliy migratsiya qonunchiligini rivojlantirishda alohida ahamiyat kasb etadigan “migratsiya” va “migrant” kabi tushunchalarga mualliflik ta’rifi berilgan;

O‘zbekiston Respublikasi Jinoyat qonunchiligiga “noqonuniy migratsiya” uchun javobgarlik masalasini kiritish maqsadga muvofiqligi asoslantirildi;

huquqni muhofaza qilish organlari xodimlarining huquqiy madaniyatini yanada oshirish, bilim va malakalarini boyitish, kasbiy kompetensiyalarini mustahkamlash uchun migrantlarning huquqlarini himoya qilishning milliy va xalqaro mexanizmlarining o‘qitilishi lozimligi asoslantirilgan;

Migratsiya bo‘yicha global shartnoma maqsadlariga O‘zbekiston Respublikasida erishish bo‘yicha 2024-2030 yillarga mo‘ljallangan Milliy harakatlar rejasi O‘zbekiston Respublikasining migratsion rivojlanish strategiyasini ishlab chiqish zarurati ilmiy asoslantirilgan;

Migratsiya bo‘yicha global shartnoma maqsadlariga O‘zbekiston Respublikasida erishish bo‘yicha 2024-2030 yillarga mo‘ljallangan Milliy harakatlar rejasi ijrosi yuzasidan “yo‘l xaritasi” ni qabul qilish isbotlangan.

Tadqiqot natijalarining ishonchliligi ilmiy izlanish natijalari xalqaro huquq va milliy qonunchilik normalariga taynilgan, ilg‘or xorijiy tajribalar, huquqni qo‘llash amaliyoti, rasmiy manbalardan olingan nazariy qarashlar va metodologik yondashuvlar umumlashtirilgani, sotsiologik so‘rovda 75 nafar prokuratura organlari, 70 nafar ichki ishlar organlari, 60 nafar migratsiya agentligi, 76 nafar nodavlat notijorat tashkiloti xodimlari ishtirok etganligi hamda empirik materiallarga asoslanilgani, tegishli hujjatlar bilan rasmiylashtirilgani, xulosa, taklif hamda tavsiyalar aprotatsiyadan o‘tkazilib, natijalari yetakchi milliy va xorijiy nashrlarda e‘lon qilingani olingan natijalar vakolatli tuzilmalar tomonidan tasdiqlangan va amaliyotga joriy qilinganligi bilan belgilanadi.

Tadqiqot natijalarining ilmiy va amaliy ahamiyati. Tadqiqot natijalarining ilmiy ahamiyati ishlab chiqilgan ilmiy xulosa, taklif va tavsiyalardan migrantlar huquqlarini himoya qilishning xorijiy va milliy mexanizmlari yuzasidan ilmiy izlanishlar olib borishda, qonun ijodkorligi, inson huquqlariga oid qonun hujjatlarining tegishli normalarini sharhlashda, milliy qonunchilikni takomillashtirish, “Konstitutsiyaviy huquq”, “Ma’muriy huquq”, “Inson huquqlari” va “Migratsiya huquqi” kabi fanlarni ilmiy-nazariy jihatdan boyitishda, O‘zbekistonda “Migrantlarning inson huquqlari” fanini shakllantirishda foydalanish mumkinligi bilan izohlanadi.

Tadqiqot davomida ishlab chiqilgan tavsiya va xulosalarning amaliy ahamiyati ularning joriy etilishi migrantlar huquqlarini himoya qilishning xalqaro va milliy mexanizmlarini takomillashtirish, mazkur sohada inson huquq va erkinliklarini himoya qilish, shuningdek, davlatning migrantlar huquqlarini himoya qilish bilan bog‘liq muammolarni hal etishga xizmat qilishi bilan belgilanadi.

Tadqiqot natijalarining joriy qilinishi. Migrantlar huquqlarini himoya qilishning xalqaro va milliy mexanizmlarini takomillashtirish bo‘yicha olingan ilmiy natijalar asosida:

O‘zbekiston Respublikasi fuqarolarini xorijda ishga joylashtirish va ularning mehnat huquqlarini ta‘minlash jarayonlarini tartibga solishga doir masalalar yuzasidan xorijiy davlatlarning vakolatli organlari bilan o‘zaro hamkorlik qilish haqidagi taklifidan O‘zbekiston Respublikasi Prezidentining 2024-yil 4-apreldagi PF-59-son Farmoni bilan tasdiqlangan O‘zbekiston Respublikasi Kambag‘allikni qisqartirish va bandlik vazirligi huzuridagi Tashqi mehnat migratsiyasi agentligi, Vazirlar Mahkamasining Tashqi mehnat migratsiyasi masalalari bo‘limi va O‘zbekiston Respublikasining diplomatik va konsullik muassasalaridagi mehnat migratsiyasi masalalari bo‘yicha attashe faoliyatini tashkil etish tartibining 1.4-bandini ishlab chiqishda foydalanilgan (O‘zbekiston Respublikasi Kambag‘allikni qisqartirish va bandlik vazirligi huzuridagi Tashqi mehnat migratsiyasi agentligining 2024-yil 18-maydagi 03/01-07/4204-1-son ma‘lumotnomasi). Natijada, ushbu taklifning joriy etilishi mehnat migratsiyasi sohasidagi xalqaro hamkorlikni yangi bosqichga ko‘tarishga xizmat qilgan;

migratsiya va fuqarolikni rasmiylashtirishga oid davlat xizmatlari yashash joyida ko‘rsatilishini istagan fuqarolar, shu jumladan, O‘zbekiston Respublikasi fuqarolari va immigrantlar (chet el fuqarolari, fuqaroligi yo‘q shaxslar va ularning qonuniy vakillari) ham, bunday xizmatlardan foydalanish uchun “Call-markaz”ga murojaat etish haqidagi taklifidan O‘zbekiston Respublikasi Vazirlar Mahkamasining 2023-yil 31-iyuldagi 321-son Qarori bilan tasdiqlangan “O‘zbekiston Respublikasi fuqarolari, chet el fuqarolari va fuqaroligi bo‘lmagan shaxslarning yashash joyiga borib, migratsiya va fuqarolikni rasmiylashtirish bo‘yicha davlat xizmatlarini ko‘rsatishning” ma‘muriy reglamentining 11-bandini ishlab chiqishda foydalanilgan (O‘zbekiston Respublikasi Bosh vaziri kotibiyatining 2024-yil 26-sentyabrdagi 12/1-390-son ma‘lumotnomasi). Natijada, ushbu taklifning joriy etilishi mamlakatimizdagi chet el fuqarolari va fuqaroligi bo‘lmagan shaxslarning O‘zbekiston Respublikasi fuqarolari bilan teng ravishda migratsiya sohasidagi davlat xizmatlaridan foydalanish imkoniyatini yaratishga asos bo‘lgan;

“Yoshlar daftari”ga kiritilgan yosh migrantlarni dehqon xo‘jaligini yuritish uchun yer uchastkalarini ochiq elektron tanlov orqali ijaraga berish haqidagi taklifi O‘zbekiston Respublikasi Vazirlar Mahkamasining 2023-yildagi 28-iyuldagi 320-son Qarorining 1-bandini ishlab chiqishda foydalanilgan (O‘zbekiston Respublikasi Bosh vaziri kotibiyatining 2024-yil 26-sentyabrdagi 12/1-390-son ma‘lumotnomasi). Ushbu taklifning joriy etilishi natijasida xorijdan qaytib kelgan “Yoshlar daftari”ga kiritilgan mehnat migrantlarining tadbirkorlik bilan shug‘ullanishlari uchun imkoniyat yaratgan;

xorijdan qaytib kelgan mehnat migrantlari ro'yxatiga kiritilgan yoshlarga ochiq elektron tanlov orqali ularga yer uchastkalarini ajratishda soddalashtirilgan tartibni joriy etish haqidagi taklifi O'zbekiston Respublikasi Vazirlar Mahkamasining 2023-yildagi 28-iyuldagi 320-son Qarorining 1-bandini ishlab chiqishda foydalanilgan (O'zbekiston Respublikasi Bosh vaziri kotibiyatining 2024-yil 26-sentyabrdagi 12/1-390-son ma'lumotnomasi). Ushbu taklifning joriy etilishi natijasida xorijdan qaytib kelgan mehnat migrantlarining tadbirkorlik sohasida reintegratsiyasi uchun qulay sharoit yaratilishiga xizmat qilgan.

Tadqiqot natijalarining aprobatsiyasi. Dissertatsiya tadqiqotining asosiy mazmuni va ilmiy natijalari 5 ta ilmiy anjumanda, jumladan, 3 ta xalqaro, 2 ta respublika miqyosidagi ilmiy-amaliy konferensiya, davra suhbatlari va seminarlarda sinovdan o'tkazilgan.

Tadqiqot natijalarining e'lon qilinganligi. Tadqiqot mavzusi bo'yicha jami 12 ta, jumladan, 1 ta o'quv qo'llanma va dissertatsiyaning asosiy natijalarini chop etish tavsiya etilgan ilmiy jurnallarda 6 ta (shundan 2 tasi xorijda) maqola chop etilgan.

Dissertatsiyaning tuzilishi va hajmi. Dissertatsiya tarkibi kirish, sakkiz paragrafni o'z ichiga olgan uchta bob, xulosa, foydalanilgan adabiyotlar va ilovalardan iborat. Ishning hajmi 148 betni tashkil etadi.

DISSERTASIYANING ASOSIY MAZMUNI

Kirish qismida tadqiqot mavzusining dolzarbligi va zarurati, tadqiqotning respublika fan va texnologiyalari rivojlanishining ustuvor yo'nalishlariga mosligi, dissertatsiya mavzusi bo'yicha muammoning o'rganilganlik darajasi, dissertatsiya mavzusining dissertatsiya bajarilayotgan oliy ta'lim muassasasi ilmiy-tadqiqot rejaları ishlari bilan bog'liqligi, tadqiqotning maqsad va vazifalari, obyekt hamda predmeti, usullari, ilmiy yangiligi va amaliy natijasi, tadqiqot natijalarining ishonchligi, ilmiy va amaliy ahamiyati, joriy qilinishi, aprobatsiyasi hamda e'lon qilinganligi, dissertatsiya ishining tuzilishi va hajmiga doir ma'lumatlar berilgan.

Dissertatsiyaning birinchi bobi "**Migrantlar huquqlarini himoya qilishning nazariy jihatları**" deb nomlanib, unda mavzuning ilmiy-nazariy jihatları, xususan, "migratsiya" va "migrant" atamalarining yuridik tabiati, migrantlar huquqlarining shakllanishi va rivojlanishining ilmiy-nazariy asoslari kompleks tadqiq etilgan.

Mazkur bobning "*Migratsiya*" va "*migrant*" atamalarining yuridik tabiati" ga bag'ishlangan birinchi paragrafida O'zbekiston Respublikasining normativ-huquqiy hujjatlarida "migratsiya", "noqonuniy migratsiya" va "migrant" atamasining ta'rifi berilmaganligi asosiy ilmiy muammo sifatida batafsil o'rganilgan.

Olimlar: K.X.Abduraxmanov, M.M.Babayev, V.M.Baranov, D.K.Bekyashev, Bryan A. Garner, H.Friedrich, S.Dj.Djoldasova, R.Sh.Davletgeldiev, D.V.Ivanov, V.A.Ionsev, L.X.Isoqov, S.V.Martinenko, V.M.Moisenko, V.A.Korabeyev, Yu.A.Kuzmenko, Ye.S.Krasines, V.I.Perevedensev, A.X.Saidov, L.L.Ribakovskiy, E.Orifjonov, A.Otajanov, M.L.Tyurkin, D.Umaraxonova, A.N.Shkilev va B.I.Egamberdiyevlarning "migratsiya", "noqonuniy migratsiya" va "migrant" institutlarining yuridik tabiati haqidagi qarashları tahlil etilib, migrant huquqiy

maqomining o'ziga xos xususiyatlari ochib berilgan. Dissertant tomonidan qilingan tahlillar natijasida ushbu tushunchalarga mualliflik ta'riflari ishlab chiqilgan.

V.I. Perevedensev migratsiyani keng, ma'noda, aholining dunyodagi barcha harakatlarining yig'indisi, deb tushunadi. Tor ma'noda esa, odamlarning ko'chishlari majmui, ya'ni ularning yashash joyini nisbatan uzoq vaqt davomida o'zgartirishi bilan uzviy bog'liq bo'lgan hudud bo'ylab shunday harakatlarni nazarda tutishiga urg'u bergan.

Muallif M.M. Babayev tomonidan migratsiya – odamlarning yashash joyi o'zgarishi bilan bog'liq bo'lgan hududiy harakatlanishi sifatida, B.I. Egamberdiyev tomonidan, ma'muriy hududlarga ko'chib kelgan va ko'chib ketgan aholining demografik tarkibini o'zgartiruvchi muhim omil sifatida, boshqa olimlar tomonidan esa, aholining kelishi, ketishi, bo'lishi va tranzit o'tishi kabi ijtimoiy-huquqiy munosabatlarni shakllantiruvchi jarayon sifatida izohlanganligini qayd etib, migratsiya va unga bog'liq ilmiy tushunchalarning mohiyatiga oid yaxlit hamda yagona qarashlar hali-hamon shakllanmaganligini ko'rsatib o'tgan.

Hozirgi kungacha xalqaro huquqda “migrant” atamasining aniq va umumiy qabul qilingan ta'rifi mavjud emas. Shu bilan birga, BMT migratsiya sabablari yoki qonuniy/noqonuniy maqomiga qaramasdan, mehnat migrantini xorijiy davlatda bir yildan ortiq muddat davomida istiqomat qilayotgan shaxs sifatida ta'riflaydi.

1989-yilda Migratsiya bo'yicha xalqaro tashkilot “migratsiya” tushunchasini aniqlashga harakat qilgan. Uning 59-sessiyasida “migratsiya” va “migrant” tushunchalari belgilab berilgan, unga ko'ra, migrant — bir davlatdan boshqasiga ko'chib o'tgan va xalqaro migratsiya xizmatlariga muhtoj bo'lgan shaxs hisoblanadi.

O'tgan davr mobaynida noqonuniy migratsiya masalasi xalqaro huquq va milliy qonunlarda turlicha talqin qilingan. 1998-yilda MDHga a'zo davlatlar o'rtasida “Noqonuniy migratsiyaga qarshi kurashda hamkorlik to'g'risida”gi bitimning 1-moddasida “noqonuniy migratsiya” tushunchasi muhokama qilingan.

Noqonuniy migratsiya jamiyat va iqtisodiy jarayonlarga salbiy ta'sir ko'rsatuvchi keng ko'lamli hodisa bo'lganligi sababli, dissertant tomonidan O'zbekiston qonunchiligini takomillashtirish uchun “noqonuniy migratsiya” va “noqonuniy migrant” tushunchalariga aniq ta'rif berish zarurati asoslantirilgan.

Bu borada Fridrix Xekman o'z asarlarida yagona atamani tanlash bo'yicha munozaralar hamon davom etayotganini, Brayan A. Garnerning esa, zamonaviy yuridik lug'atga ko'ra, “noqonuniy” va “nolegal” so'zlari to'liq sinonim bo'lib, qonunlarga rioya qilmaslik va tartibsizlikni anglatishini ko'rsatgan.

Ko'pchilik olimlarning fikricha, “nolegal” atamasi jinoyatchilikni o'z ichiga oladi hamda uni qo'llash mumkin emas. Chunki, mazkur tushuncha bilan migrantlarning “noqonuniy” deb belgilanishi natijasida, ularning huquqlariga zarar yetkazishi mumkin.

Qochoqlarni noqonuniy migrant sifatida tasniflash ularning qochoqlik maqomini olish uchun ariza topshirish jarayoniga salbiy ta'sir ko'rsatishi mumkin. Shuningdek, fan va yuridik adabiyotlarda “noqonuniy migratsiya” atamasini, asosan, odam savdosi yoki migrantlarni qonunsiz olib o'tishga qo'llash tendensiyasi mavjud. Ko'plab zamonaviy tadqiqotchilar insonlarni qonundan tashqarida

(noqonuniy) bo'lishi mumkin emasligini, ushbu atama faqatgina normativ-huquqiy hujjatlarga tegishli ekanligini ta'kidlaydilar.

1994-yilda BMT tomonidan Aholi rivojlanishi bo'yicha xalqaro konferensiya o'tkazildi, unda "hujjatsiz" yoki "noqonuniy" migratsiya atamalarini qo'llash tavsiya etildi. Lekin, bu atamalarni keng qamrovli deb qabul qilmaslik kerak. Chunki ular qabul qiluvchi davlatlarga qonuniy ravishda kirib, keyin qonunchilikni buzgan migrantlarni qamrab olmaydi. Shu bilan birga, noqonuniy migrantlar toifasiga davlat hududiga kirish qoidalariga rioya qilgan holda kelgan, lekin noqonuniy ravishda yashayotgan shaxslar ham kirishi lozimligi ko'rsatilgan.

Mazkur paragraf doirasida *migratsiya*, *migrant*, *noqonuniy migrant*, *noqonuniy migratsiya* kabi atamalar bo'yicha mualliflik ta'rifi ishlab chiqilgan. Ushbu tushunchalar migratsiya sohasi mutaxassisleri o'rtasida o'tkazilgan ijtimoiy so'rov natijalari bilan tasdiqlangan (sotsiologik so'rovda qatnashgan respondentlarning 55 foizdan ko'pi ushbu tushunchalar aynan shu mazmunda talqin qilinishini ma'qullagan).

"*Migrantlar huquqlari shakllanishi va rivojlanishining ilmiy-nazariy asoslari*" deb nomlangan ikkinchi paragrafda migratsiyaning turli ta'riflari tahlil qilinib, uning turlari va tasnifiga oid yondashuvlar, migratsiyaning asosiy prinsiplari va munosabatlarini tartibga solish mexanizmlari chuqur tadqiq qilingan.

Dissertantning fikricha, "migratsiya" va "migrantlar" tushunchalari ta'riflari 3 guruhga bo'lib tasniflanadi. Birinchi guruhga (V.M. Moisenko, M.L. Tyurkin) aholi harakatining turli ko'rinishlari va ularning oqibatlarini hisobga olishga asoslangan ta'riflar kiradi.

Ta'riflarning ikkinchi guruhiga ko'ra, migratsiyada – birinchi navbatda, hududiy harakat ustunlik qiladi, uning sabablari va maqsadlari muhim emas, ammo qo'shimcha xususiyatlar istisno etilmaydi. Huquqshunos olim M.M. Babayev migratsiyani keng va tor ma'noda ko'rgan. Keng ma'noda, odamlarning hududdagi har qanday harakati tushunilgan. Tor ma'noda esa, migratsiya aholining yashash joyining o'zgarishi bilan bog'liq bo'lgan hududiy harakati sifatida talqin etilgan.

Uchinchi guruh olimlarining ta'riflarida (V.I. Perevedensev va boshq.) aholining harakati haqida emas, balki harakatga bo'lgan muayyan makondagi ko'chish haqida gap borada. Migratsiyaning ushbu ta'riflari prinsipial jihatdan o'xshash va ma'lum xususiyatlarni aniqlashda farqlanadi.

S.V. Ryazansev noqonuniy mehnat migratsiyasining kelib chiqishi sabablarini: globallasuv, ijtimoiy-iqtisodiy omillar, ya'ni migratsiya tajribasining yo'qligi, fuqarolarni ijtimoiy himoya qilishga oid qonunlarning zaiflashishi, migratsiya oqimini legallashtirish choralari yetishmasligi kabilar bilan asoslab beradi.

Shu o'rinda, dissertant tomonidan migratsiyaning ijtimoiy-siyosiy va iqtisodiy jihatlarini ko'rib chiqish va hozirgi bosqichda migratsiya siyosatini tahlil qilish juda muhimligi ta'kidlangan.

Tadqiqot natijasida migrantlar huquqlarini himoya qilishning milliy mexanizmlari: qonunchilikka asoslangan, institutsional, odil sudlov va adliya hamda fuqarolik jamiyatining mezonlariga tasniflandi.

Migrantlar huquqlarini himoya qilishning xalqaro mexanizmlari xalqaro normalarga asoslangan, xalqaro institutsional va xalqaro nodavlat hamda fuqarolik jamiyati tashkilotlari mezonlariga ko'ra tasniflandi.

Birinchi bobning "*Migrantlar huquqlarini himoya qilishning zamonaviy konsepsiyalari*" nomli uchinchi paragrafida shaxs huquqlarining migratsiya huquqining xalqaro va milliy huquq tizimidagi o'rni, uning huquqshunoslik nazariyasidagi mavqei va unga oid turli yondashuvlar kompleks tadqiq etilgan.

Tadqiqotda migratsiya jarayonlarining huquqiy tartibga solinishi murakkab va dolzarb masala bo'lib, bugungi kunda turli davlatlar va xalqaro tashkilotlar tomonidan alohida e'tibor qaratilayotganligi, migrantlarning huquqlarini himoya qilish, shuningdek, davlatlarning suveren huquqlari bilan birlashtirilgan mexanizmlarni shakllantirish bu sohada muhim vazifalardan biri ekanligi isbotlangan.

G.Gudvin-Gill va boshqa olimlar migratsiya huquqini murakkab va ko'pqirrali tizim sifatida ko'rish zarurligini ta'kidlaganlar. Ular migratsiya huquqini mustaqil huquq sohasi sifatida shakllantirish orqali uning amaliy ahamiyatini oshirishga chaqirganlar. Biroq, ayrim olimlar migratsiyani ma'muriy huquqning bir qismi sifatida qarashni taklif etishmoqda.

Tadqiqotda migratsiya boshqaruvida zamonaviy texnologiyalar asosida intellektual va muvozanatli yondashuvlarning ahamiyati, chet el fuqarolarining mahalliy fuqarolar bilan teng huquqlarini ta'minlash zarurati, shuningdek, migrantlarning huquqiy maqomi va jamiyatga integratsiyasini tartibga soluvchi mexanizmlarning muhimligi qayd etiladi.

Dissertatsiyaning ikkinchi bobi "**Migrantlar huquqlarini himoya qilishning xalqaro mexanizmlari tahlili**" deb nomlanib, unda migrantlar huquqlarini himoya qilishga oid xalqaro-huquqiy standartlar tahlil qilinib, migratsiyani tartibga solishga qaratilgan xalqaro hamda mintaqaviy mexanizmlar tadqiq etilgan.

Ushbu bobning "*Migrantlar huquqlarini himoya qilishga oid xalqaro-huquqiy standartlar xususiyatlari*" deb nomlangan birinchi paragrafida BMT kabi xalqaro tashkilotlarning migrantlarni himoya qilishga doir huquqiy normalar, Yevropa, Amerika va MDH mintaqalarda migratsiyani tartibga solishdagi o'ziga xosliklar tahlil qilingan.

Migratsiyani tartibga solishning xalqaro-huquqiy mexanizmlari davlatlararo hamkorlikka asoslanib, inson harakatlarini boshqarish tizimida muhim o'rin tutadi.

Tadqiqotda migratsiya bilan bog'liq jarayonlar murakkab va ko'pqirrali bo'lib, bu sohada xalqaro shartnomalar asosiy vosita sifatida e'tirof etiladi, chunki ular xalqaro huquq subyektlari uchun majburiy kuchga egaligi va xalqaro huquqda shartnomalarning ustun mavqei va davlatlarning ushbu shartnomaviy usulga katta e'tibor qaratishi ta'kidlanadi. Shu tariqa, xalqaro shartnomalar migratsiyani tartibga solishda asosiy o'rin egallaydi va huquqiy tizimlarning uyg'unlashuviga xizmat qiladi.

Migratsiya sohasida xalqaro va ma'muriy-huquqiy tizimlar migratsiya jarayonlarini samarali boshqarishda muhim ahamiyatga ega. BMTning 1990-yildagi Barcha mehnatkash-migrantlar va ularning oila a'zolarini himoya qilish to'g'risidagi Konvensiyasi migrantlarning ijtimoiy va siyosiy huquqlarini kafolatlaydi. Shu bilan

birga, 1948-yildagi Inson huquqlari umumjahon deklaratsiyasining 13 va 14-moddalari insonlarning harakatlanish va boshpana izlash huquqini mustahkamlaydi.

Dissertatsiyada migratsiyani xalqaro-huquqiy tartibga solishning universal modeli mavjud emasligi, “qochoq” va “migrantlar” tushunchalarini kengaytirish hamda migrantlar huquqlarini himoya qilishda xalqaro hamkorlikni kuchaytirish dolzarbligi asoslantirilgan. Zero, davlatlarning milliy qonunchiligi xalqaro huquqiy normalarni amaliyotda qo‘llashda muhim o‘rin tutadi. Shu bois, ishda migratsiyani samarali boshqarish uchun yangi huquqiy mexanizmlar ishlab chiqilishi zarurligi haqida xulosa qilingan.

Mazkur bobning *“Migrantlar huquqlarini himoya qilishga ixtisoslashgan institutsional mexanizmlar”* deb nomlangan ikkinchi paragrafida xalqaro migratsiya bilan bog‘liq masalalarni hal qilish uchun ixtisoslashgan institutlar va mexanizmlar tahlil qilingan.

Hozirgi vaqtda xalqaro migratsiya bilan bog‘liq barcha masalalarni qamrab oladigan yoki ular bo‘yicha muvofiqlashtiruvchi yagona xalqaro tashkilot mavjud emas. Migratsiya muammolarini konstruktiv hal qilish asoslari Ikkinchi jahon urushidan so‘ng shakllangan bo‘lsa-da, hanuz bu jarayonga ta’sir qiluvchi ko‘plab omillar va muammolar mavjudligiga tadqiqotda alohida urg‘u berilgan.

BMT Xavfsizlik Kengashi migrantlar va qochoqlar huquqlarini himoya qilish masalalariga katta e’tibor qaratmoqda. Xavfsizlik Kengashi qochoqlar va inson huquqlari sohasidagi xalqaro standartlarga muvofiqlikni ta’minlashga intiladi. Biroq, qonunchilikdagi huquqiy bo‘shliq va kamchiliklar, majburiy migrantlar muammolarini hal qilish jarayonida xalqaro hamkorlikning yetishmasligi turli qiyinchiliklarni keltirib chiqaradi.

Dissertantning fikricha, Xalqaro migratsiyani boshqarishda UNHCR va Migratsiya bo‘yicha xalqaro tashkilot muhim rol o‘ynaydi, biroq migratsiya sohasida hal etilmagan muammolar hanuz mavjud. Yevropa Ittifoqi, BMT va boshqa xalqaro tashkilotlar migratsiya va qochoqlar masalalarida faoliyat olib bormoqda, ammo butun dunyoni qamrab oladigan yagona muvofiqlashtiruvchi mexanizmning yo‘qligi qiyinchiliklarni keltirib chiqaradi. Milliy va xalqaro qonunchilikni uyg‘unlashtirish, migrantlar va qochoqlar huquqlarini himoya qilishda yangi mexanizmlarni joriy etish zarur. Shunday qilib, migratsiya sohasida samarali hamkorlikni yo‘lga qo‘yish uchun xalqaro me’yorlarni yanada takomillashtirish muhim ahamiyatga ega.

Ikkinchi bobning *“Migrantlar huquqlarini himoya qilish bo‘yicha xorijiy davlatlar tajribasining qiyosiy-huquqiy tahlili”* deb nomlangan uchinchi paragrafida dunyo davlatlarida migratsiya va uni tartibga solish bo‘yicha milliy qonunchilikning turlicha shakllanganligi o‘rganilib, bu borada har bir davlatning o‘ziga xos xususiyatlari tahlil qilingan.

So‘nggi o‘n yillikda xorijiy mamlakatlarda migratsiya munosabatlarini tartibga soluvchi qonunlar qabul qilindi. Migratsiyani tartibga solish har bir davlatning o‘ziga xos iqtisodiy va ijtimoiy sharoitlariga bog‘liq. Anglo-sakson tizimidagi davlatlarda (AQSH, Kanada, Avstraliya) migratsiya qonunchiligi tarqoq bo‘lib, asosan, migrantlarni jalb qilishga qaratilgan, romano-german huquq tizimidagi Germaniya va Fransiyada esa, qonunlar yaxlit holda.

Germaniya noqonuniy migratsiyaga qarshi kurash choralarini kuchaytirgan. Niderlandiyada noqonuniy migratsiyaga yordam berish jinoiy javobgarlikka sabab bo‘ladi. Yaponiya chet elliklarning mamlakatda noqonuniy bo‘lishining oldini olishga alohida e’tibor qaratadi, deb qayd etadi.

Buyuk Britaniyada migratsiyani boshqarishda qat’iy tartibot mavjud. U yerda migrantlar guruhlarini aniqlash va malakali ishchilarni tanlash tizimi joriy etilgan. AQSHda esa, noqonuniy migratsiyani cheklash maqsadida, “Immigratsiya islohoti va nazorati to‘g‘risida”gi Qonun qabul qilingan hamda unda noqonuniy migrantlarning mehnat bozoridagi ishtiroki cheklanib, ish beruvchilar uchun katta jarimalar belgilangan.

Dissertantning fikricha, migratsiya qonunchiligi har bir davlatning iqtisodiy, ijtimoiy va demografik manfaatlariga bog‘liq. Anglo-sakson va romano-german davlatlari o‘rtasida qonunchilikning tizimlashtirilishida farqlar mavjud bo‘lsa-da, barcha davlatlarda noqonuniy migratsiyaga qarshi kurashish choralari kuchaytirilmoqda.

Shuningdek, migratsiya qonunchiligini yaxshilash uchun huquqiy normalarni uyg‘unlashtirish va inson huquqlarini himoya qilishga qaratilgan xalqaro mexanizmlarni takomillashtirish zarur.

Dissertatsiyaning **“O‘zbekistonda migrantlar huquqlarini himoya qilishning milliy mexanizmlari tavsifi”** deb nomlangan uchinchi bobida O‘zbekistonda migrantlar huquqlarini himoya qilish mexanizmlari tahlil qilinib, ularni takomillashtirish istiqbollari yoritilgan.

Mazkur bobning *“O‘zbekistonda migrantlar huquqlarini himoya qilishning muammolari”* ga bag‘ishlangan birinchi paragrafida O‘zbekistonda migrantlarning huquqlarini himoya qilishga qaratilgan qonunchilikni takomillashtirish, shuningdek, xalqaro-huquqiy standartlar va ularni milliy qonunchilikka implementatsiya qilishning xususiyatlari ochib berilgan.

O‘zbekistonda migrantlar huquqlarini himoya qilish va migratsiya jarayonlarini boshqarishda milliy institutlar muhim o‘rin tutadi. Prezident migratsiya siyosati, fuqarolik va siyosiy boshpana berish masalalarida vakolatga ega bo‘lib, bu siyosat davlat ijtimoiy barqarorligiga bevosita ta’sir qiladi.

Oliy Majlis palatalari migratsiya qonunchiligini ishlab chiqish va odam savdosi hamda majburiy mehnatga qarshi kurashishda muhim rol o‘ynaydi. Parlament nazorati migratsiya siyosati samaradorligini ta’minlashga xizmat qiladi, sud hokimiyati esa qonun ustuvorligini ta’minlab, migrantlar huquqlarini kafolatlaydi.

Ijro organlari, jumladan, Vazirlar Mahkamasi va Tashqi ishlar vazirligi xalqaro hamkorlikni rivojlantirish hamda migrantlarning manfaatlarini himoya qilishda muhim o‘rin tutadi. Ombudsman instituti esa migrantlar va ularning oila a’zolari huquqlarini ta’minlash orqali inson huquqlarini himoya qilishda faol ishtirok etadi. Bu institutlarning uyg‘un faoliyati migratsiya siyosatining samaradorligini oshiradi.

O‘zbekistonning xorijdagi konsullik muassasalari mehnat migratsiyasi masalalari bo‘yicha fuqarolarga yordam ko‘rsatadi va ularning huquqlarini himoya qiladi. Attashe lavozimining joriy etilishi migratsiya jarayonlarini samarali boshqarish va noqonuniy migratsiya xavfini kamaytirishga yordam beradi.

O‘zbekiston migratsiyani tartibga solishda BMTning Barqaror rivojlanish maqsadlariga va Global migratsiya shartnomasiga muvofiq milliy siyosat yuritmoqda. Milliy harakatlar rejasi migrantlar huquqlarini va gender tenglikni ta‘minlashni, shuningdek, migratsiya jarayonlarini samarali boshqarishni ko‘zlaydi.

Migratsiya bo‘yicha global shartnoma maqsadlariga erishish uchun O‘zbekiston Respublikasida 2024-2030-yillarga mo‘ljallangan Milliy harakatlar rejasini qabul qilish zarurati mutaxassislar o‘rtasida o‘tkazilgan sotsiologik tadqiqotlar natijalari bilan isbotlangan (jumladan, anketa so‘rovida qatnashgan migratsiya sohasi mutaxassislarining 50 foizdan ortig‘i mazkur taklifni ma‘qullashini ma‘lum qilgan).

Dissertantning fikricha, O‘zbekiston migrantlar huquqlarini himoya qilishda muhim qadamlar qo‘ygan bo‘lsa-da, qonunchilikni yanada takomillashtirish va xalqaro standartlarga muvofiqlashtirish zarurati mavjud. Hukumat va fuqarolik jamiyati institutlarining hamkorligi migratsiya jarayonlarini samarali boshqarish va migrantlar huquqlarini ta‘minlashga yordam beradi. Bu yo‘nalishda Milliy harakatlar rejasining qabul qilinishi migratsiya jarayonlarini samarali boshqarish va migrantlar huquqlarini kafolatlash uchun huquqiy va tashkiliy asos yaratadi.

Uchinchi bobning ikkinchi paragrafi *“Migrantlar huquqlarini himoya qilishning milliy mexanizmlarini takomillashtirish istiqbollari”*ga bag‘ishlangan bo‘lib, unda O‘zbekiston Respublikasi fuqarolarining migratsiya sohasidagi muammolari tahlil qilingan hamda milliy tizimni takomillashtirish bo‘yicha tavsiyalar berilgan.

O‘zbekistonda migratsiya jarayonlari mamlakatning ichki va tashqi siyosatida muhim o‘rin tutadi. Davlat tomonidan ijtimoiy-iqtisodiy va siyosiy barqarorlikni ta‘minlashda migrantlar huquqlarini himoya qilish boradasigi qonunchilikda mavjud bo‘lgan kolliziya va huquqiy bo‘shliqlarni bartaraf etishga alohida e‘tibor berilmoqda. Bu migratsiya qonunchiligini qayta ko‘rib chiqish hamda uni xalqaro standartlarga muvofiqlashtirish zarurati bilan izohlanadi.

Dissertatsiyada O‘zbekistonda viza muddatini uzaytirish jarayonining o‘rniga qisqa muddatli yashash uchun ruxsatnoma tizimini joriy etish taklif etilgan. Ushbu amaliyot Germaniya, Kanada va Avstraliya kabi davlatlarda migrantlar uchun qulay va xavfsiz sharoitlar yaratishda samarali bo‘lganligi aniqlangan.

2022-yilda Germaniyada qisqa muddatli yashash ruxsatnomasini olgan migrantlarning 80 foizi uzoq muddatli rezidentga aylangani mazkur tizimning malakali ishchi kuchi va sarmoyalarni jalb qilishga yordam beradigan samarali mexanizm ekanligini yaqqol ko‘rsatadi. Dissertantning fikricha, O‘zbekistonda ham shunday tizim joriy etilsa, mamlakat iqtisodiyotini rivojlantirish va xorijiy sarmoyalarni jalb qilish imkoniyatlari yanada oshadi.

Shuningdek, muallif ishda O‘zbekistonda migrantlar huquqlarini himoya qilish bo‘yicha ixtisoslashgan Ombudsman instituti zarurligini isbotlab bergan. Hozirgi inson huquqlari institutlari migrantlarning ehtiyojlariga yetarlicha e‘tibor qaratmagani sababli, ushbu taklif migratsiya sohasida faoliyat yuritayotgan mutaxassislar o‘rtasida o‘tkazilgan so‘rovda ishtirok etgan fuqarolarning 50,8 foizi (125 nafari) tomonidan ham qo‘llab-quvvatlangan. Bu borada ishda, Germaniya va AQSH tajribasiga ko‘ra, migrantlar uchun Ombudsman instituti migratsiya

jarayonlarini kuzatish va huquqbuzarliklarning oldini olishda muhim ahamiyatga ega ekanligi qayd etilgan.

Bundan tashqari, Turkiya, Gruzija, Rossiya va Qozog'iston kabi mamlakatlarda noqonuniy migratsiya og'ir jinoyat deb belgilanganligi bois O'zbekistonda ham noqonuniy migratsiya uchun javobgarlikni kuchaytirish zarurligi taklif etilgan. O'zbekiston Respublikasi Huquqni muhofaza qilish akademiyasi huzurida migrantlar huquqlarini o'rganuvchi laboratoriya tashkil etilishi migratsiya siyosati va qonunchilikni rivojlantirish uchun ilmiy asoslangan tavsiyalar ishlab chiqishda muhim qadam bo'lishi asoslantirilgan.

Hozirgi vaqtda Migratsiya bo'yicha gloal shartnoma tavsiyaviy xarakterga ega bo'lib, uni amalga oshirish davlatlarning ixtiyoriga bog'liq. Bu esa, turli davlatlarda kelishuv normalarining bir xilda qo'llanmasligiga olib keladi. Har bir davlat migratsiya bo'yicha o'z milliy siyosatini amalga oshirsa-da, ularning aksariyati xalqaro standartlarni turlicha talqin qiladi yoki ularga to'liq rioya qilmaydi. Bu nomutanosiblik migrantlar huquqlarini himoya qilishda turli qiyinchiliklar va tengsizliklarni keltirib chiqaradi. Ushbu hujjatni majburiy xususiyatga aylantirish orqali davlatlarning xalqaro majburiyatlarini bajarishi uchun aniq mexanizmlar yaratiladi. Bu esa, ushbu sohadagi xalqaro standartlarning bir xilda tatbiq etilishini ta'minlaydi.

Kristina Oelgemyuller va Katerin Allisonlarning fikricha, Migratsiya bo'yicha global shartnomaning majburiy xususiyatga o'tkazilishi uning yuridik kuchini oshiradi va migratsiya masalalari bo'yicha xalqaro odatiy huquqning rivojlanishiga xizmat qiladi.

Migratsiya bo'yicha global shartnomani majburiy qonuniy hujjatga aylantirish migratsiya jarayonlarini yaxshilash va migrantlar huquqlarini himoya qilishda samarali vosita bo'ladi. Ushbu qadam xalqaro miqyosda migratsiya siyosatidagi bir xillikni ta'minlaydi va davlatlar o'rtasidagi hamkorlikni mustahkamlaydi.

XULOSA

Ilmiy tadqiqot natijasida migrantlar huquqlarini himoya qilishning xalqaro va milliy mexanizmlari tahlil etilib, quyidagi xulosalar shakllantirildi:

I. Migrantlar huquqlarini himoya qilishning xalqaro va milliy mexanizmlariga oid ilmiy-nazariy bilimlarni boyitishga qaratilgan xulosa va tavsiyalar:

1. O'zbekiston Respublikasining milliy migratsiya qonunchiligini rivojlantirishda muhim ahamiyatga ega bo'lgan "*migratsiya*", "*noqonuniy migratsiya*" va "*migrant*" kabi tushunchalar quyidagicha mualliflik ta'rifiga ega:

migratsiya – chet el fuqarolari va fuqaroligi bo'lmagan shaxslarning (migrantlarning) davlat chegarasini kesib o'tishi, ularning muayyan davlat hududida doimiy yoki vaqtinchalik yashash maqsadida harakatlanishi va bo'lishi, shuningdek, ushbu davlat hududi orqali tranzit o'tishi jarayoni.

noqonuniy migratsiya – chet davlat yoki fuqaroligi bo'lmagan shaxsning davlatga belgilangan tartibni buzib kirishini, ularning davlatida belgilangan tartibni

buzib bo‘lishini, davlat hududi orqali belgilangan tartibni buzib tranzitni yoki har qanday shaxsning davlatdan belgilangan tartibni buzib chiqib ketishini tashkil etish; *migrant* — bu jins, irq, millat, yosh, siyosiy va diniy qarashlardan mustasno, o‘zining odatiy yashash joyini majburiy yoki ixtiyoriy ravishda, doimiy yoki vaqtincha tark etgan har qanday shaxs.

2. Davlat chegarasidan noqonuniy olib o‘tilgan shaxs odam savdosi qurboni bo‘lish ehtimolidan kelib chiqib, “*shaxsni davlat chegarasidan noqonuniy olib o‘tish*” atamasiga ilk marotaba quyidagicha ta’rif berildi:

“**shaxsni davlat chegarasidan noqonuniy olib o‘tish**” – davlat chegarasida belgilangan tartibni buzib chet elga chiqish yoki davlatga kirish yoxud chegaradan o‘tishda yordam ko‘rsatish.

3. Migrantlar huquqlarini himoya qilishning milliy mexanizmlari (bu davlat darajasida migrantlarning huquq va manfaatlarini ta’minlash, ularning qonuniy, ijtimoiy, iqtisodiy, madaniy va fuqarolik huquqlarini himoya qilishga qaratilgan qonunlar, siyosatlar va amaliyotlar majmuasi.) quyidagi bir qator mezonlarga ko‘ra tasniflandi:

- qonunchilikka asoslangan mezonlarga ko‘ra, migratsion munosabatlarni tartibga soluvchi konstitutsiyaviy normalar, qonunlar, Prezident farmon va qarorlari, hukumat qarorlari, idoraviy buyruq va boshqa normativ-huquqiy hujjatlar;

- institutsional mezonlarga ko‘ra, milliy mexanizmlar doirasida migrantlar huquqlarini himoya qilishga mas’ul maxsus davlat idoralari va tashkilotlar mavjud. Ushbu tashkilotlar migrantlarga huquqiy yordam ko‘rsatish, maslahat berish, ishga joylashtirish va ularning qonuniy huquqlarini himoya qilish bo‘yicha faoliyat yuritadi. O‘zbekistonda migratsiya masalalari bilan shug‘ullanuvchi bir nechta davlat organlari mavjud, jumladan, Prezident, Prokuratura, Ichki ishlar vazirligi, Bandlik va mehnat munosabatlari vazirligi qoshidagi Tashqi mehnat migratsiyasi agentligi, Inson huquqlari bo‘yicha Milliy markaz, Oliy Majlisning Inson huquqlari bo‘yicha vakili (ombudsman), Bolalar huquqlari bo‘yicha vakili (ombudsman) va boshqa huquqni muhofaza qiluvchi organlar migrantlar huquqlarini himoya qilishda muhim rol o‘ynaydi

- odil sudlov va adliya mezonlariga ko‘ra, adolatli va qonuniy sud tizimini ta’minlash uchun qo‘llaniladigan qoidalar, tamoyillar va standartlar majmuasidir. Bu mezonlar adliya tizimida har bir shaxsning huquqlari va erkinliklarini to‘liq ta’minlashga qaratilgan bo‘lib, quyidagilarni o‘z ichiga oladi: qonuniylik, adolatlilik, xolislik, qonun oldida tenglik, huquqiy yordamga kirish va sud jarayonining oshkoraligi mezonlari.

- fuqarolik jamiyatining mezonlariga ko‘ra, nodavlat notijorat tashkilotlar O‘zbekistonda migrantlar huquqlarini himoya qilishda faol qatnashadi. Ular huquqiy maslahatlar, ta’lim va ma’lumot berish orqali migrantlarga yordam ko‘rsatadi.

4. Migrantlar huquqlarini himoya qilishning xalqaro mexanizmlari quyidagi bir qator mezonlarga ko‘ra tasniflandi:

- xalqaro normalarga asoslangan mezonlarga ko‘ra, davlatlar uchun majburiy bo‘lgan xalqaro shartnomalar va boshqa hujjatlar, migratsiya sohasida tavsiviy xarakterdagi xalqaro hujjatlar (deklaratsiya va yo‘riqnomalar).

- xalqaro institutsional mezonlarga ko'ra, Birlashgan Millatlar Tashkiloti, Migratsiya bo'yicha xalqaro tashkilot, Xalqaro mehnat tashkiloti, BMT Qochoqlar ishlari bo'yicha Oliy komissari boshqarmasi va mintaqaviy tashkilotlar (Yevropa Ittifoqi, Yevropa xavfsizlik va hamkorlik tashkiloti, Mustaqil davlatlar hamdo'stligi).

- xalqaro nodavlat va fuqarolik jamiyati tashkilotlari mezonlariga ko'ra, xalqaro nodavlat va fuqarolik jamiyati tashkilotlari mezonlariga ko'ra, migratsiya sohasidagi xalqaro nodavlat va fuqarolik jamiyati tashkilotlari jahon miqyosida migrantlar, qochoqlar va ko'chib yuruvchi shaxslarning huquqlarini himoya qilish, ularga yordam berish hamda migratsiya siyosatiga oid masalalarni shakllantirishda faol ishtirok etish maqsadida tashkil etilgan.

Migratsiya bo'yicha xalqaro nodavlat va fuqarolik jamiyati tashkilotlari xalqaro miqyosda migrantlar, qochoqlar va ko'chib yuruvchi shaxslar huquqlarini himoya qilish, ularga yordam berish, va migratsiyaga doir siyosatlarni shakllantirishda faol ishtirok etish maqsadida tashkil etilgan.

- xalqaro kuzatuv va monitoring mezonlariga ko'ra, migratsiya bo'yicha xalqaro kuzatuv va monitoring mezonlari migratsiya jarayonlarini samarali nazorat qilish, migrantlar huquqlarini himoya qilish va migratsiya bilan bog'liq siyosatlarni yaxshilash maqsadida ishlab chiqiladi. Bu mezonlar xalqaro tashkilotlar va fuqarolik jamiyati tashkilotlari tomonidan migratsiya jarayonlarini kuzatishda va monitoring qilishda qo'llaniladi.

II. Migrantlar huquqlarini himoya qilishning xalqaro va milliy mexanizmlari bilan bog'liq normativ-huquqiy hujjatlarni takomillashtirishga qaratilgan xulosa va tavsiyalar:

1. O'zbekiston Respublikasi "noqonuniy migratsiya" uchun jinoiy javobgarlik masalasini kiritish zarurligi asoslantirildi va unga ko'ra, Jinoyat kodeksini quyidagi tahrirdagi yangi modda bilan to'ldirish taklif etildi:

"223¹-modda. Noqonuniy migratsiyani tashkil etish

Chet davlat yoki fuqaroligi bo'lmagan shaxsning O'zbekiston Respublikasiga belgilangan tartibni buzib kirishini, ularning O'zbekiston Respublikasida belgilangan tartibni buzib bo'lishini, O'zbekiston Respublikasi hududi orqali belgilangan tartibni buzib, tranzitni yoki har qanday shaxsning O'zbekiston Respublikasidan belgilangan tartibni buzib chiqib ketishini tashkil etish.

bazaviy hisoblash miqdorining ikki yuz baravaridan to'rt yuz baravarigacha miqdorda jarima yoki uch yildan besh yilgacha ozodlikni cheklash yoxud uch yildan besh yilgacha ozodlikdan mahrum qilish bilan jazolanadi.

O'sha harakatlar:

- a) mansab mavqeini suiiste'mol qilish yo'li bilan;
- b) bir guruh shaxslar tomonidan oldindan til biriktirib;
- v) takroran yoki xavfli retsidivist tomonidan;
- g) shaxslarning hayoti uchun xavfli usulda;

besh yildan o'n yilgacha muddatga ozodlikdan mahrum qilish bilan jazolanadi.

2. Migratsiya bo'yicha global shartnoma maqsadlariga O'zbekiston Respublikasida erishish bo'yicha 2024-2030-yillarga mo'ljallangan Milliy

harakatlar rejasini qabul qilish isbotlangan, shuningdek, milliy harakatlar rejasi va uni amalga oshirish bo'yicha 61 banddan iborat bo'lgan "yo'l xaritasi"ning loyihasi ishlab chiqilib, dissertatsiya ishiga ilova qilindi.

3. Jahon tajribasidan kelib chiqib, mamlakatda viza muddatini uzaytirish amaliyotini bekor qilib, qisqa muddatli yashash guvohnomalarini berish tizimini joriy etish maqsadida normativ-huquqiy hujjat loyihasini ishlab chiqish taklif etiladi.

4. Xotin-qizlar va erkaklar uchun teng huquq hamda imkoniyatlarni yaratishga qaratilgan Xalqaro mehnat tashkilotining "Ijtimoiy ta'minotda teng muomala to'g'risida"gi 118-sonli va "Uy xizmatchilari uchun munosib mehnat to'g'risida"gi 189-sonli konvensiyalariga qo'shilish, shuningdek ularning normalarni milliy qonunchilikka implementatsiya qilish.

III. Migrantlar huquqlarini himoya qilishning xalqaro va milliy mexanizmlarining tashkiliy asoslarini takomillashtirish bo'yicha tavsiyalar:

1. O'zbekistonda Migratsiya bo'yicha global shartnoma maqsadlariga erishish bo'yicha monitoringni amalga oshirish yuzasidan O'zbekistonning Milliy hisobotini tayyorlash va uni O'zbekiston Respublikasi Oliy Majlisi palatalariga kiritib borish, shuningdek, mazkur maqsadlarga erishish bo'yicha yillik statistik ko'rsatkichlardan iborat bo'lgan to'plamlarni o'zbek, rus va ingliz tillarida nashr etish, ularni Internet tarmog'iga joylashtirish maqsadga muvofiq.

2. Migratsiya bo'yicha global shartnoma maqsadlariga O'zbekiston Respublikasida erishishning mezon ko'rsatkichlari tizimini shakllantirish maqsadida migratsiya bo'yicha global shartnoma maqsadlariga O'zbekiston Respublikasida erishishning milliy ko'rsatkichlari bo'yicha idoralararo ishchi guruh tuzish, shuningdek, O'zbekiston Respublikasining Davlat budjeti loyihasini tayyorlash va ko'rib chiqishda milliy ko'rsatkichlarni hisobga olish va unda aks ettirishni ta'minlash lozim.

3. O'zbekiston Respublikasida bo'lish qoidalarini buzgan, jazoni o'tash joylaridan chiqqan yoki jinoyat sodir etganlik uchun qamoqqa olingan va ularni belgilangan tartibda ma'muriy chiqarib yuborish lozim bo'lgan chet el fuqarolari va fuqaroligi bo'lmagan shaxslarni vaqtincha saqlash muassasalarini tashkil etish maqsadida chet el fuqarolari va fuqaroligi bo'lmagan shaxslarni vaqtincha saqlash standartlarini ishlab chiqish hamda ularni vaqtincha saqlash muassasalarining huquqiy holati va tashkiliy-huquqiy shakllarini belgilash zarur.

4. Mamlakatimizdagi xususiy bandlik agentliklari uchun adolatli yollashning xalqaro tizimi standartlari (IRIS – International migration recruitment integrity system) yuzasidan o'quv kurslarini tashkil qilish maqsadida xalqaro tashkilotlar bilan hamkorlikda o'quv kurslari dasturini ishlab chiqish hamda o'quv kurslariga xalqaro ekspert-trenerlarni jalb qilgan holda amaliyotga joriy etish zarur.

5. Migratsiya sohasidagi ilmiy izlanishlarni muvofiqlashtirish maqsadida Huquqni muhofaza qilish akademiyasi huzurida Migrantlar huquqlarini ilmiy tadqiq qilish laboratoriyasi tashkil etish va uning faoliyatining asosiy yo'nalishlari sifatida quyidagilarni belgilash:

- migratsiya sohasidagi xalqaro loyihalarda faol ishtirok etish;

- aholi migratsiyasining sabablari, shart-sharoitlari, natija va oqibatlarini tahlil qilish;

- migratsiya sohasidagi munosabatlarni tartibga soluvchi davlat dasturlari loyihalarini ishlab chiqish va vakolatli organlarga taqdim etish;

- mavjud muammolarni o'rganish asosida qonunchilik va huquqni qo'llash amaliyotini takomillashtirishga qaratilgan taklif va tavsiyalar ishlab chiqish.

6. O'zbekistonda migratsiya muhim ijtimoiy-iqtisodiy hodisa bo'lib, alohida e'tibor talab qiladi. Mamlakatdagi mavjud inson huquqlari institutlari migrantlar muammolariga yetarlicha e'tibor qaratmaydi, bu esa migrantlar huquqlari bo'yicha Ombudsmanning ixtisoslashgan institutini yaratish zaruriyatiga olib keladi va bunday institut migrantlarning huquqiy himoyasini takomillashtirish, ularning huquqlarini ta'minlash, kamsitish va ekspluatatsiya qilish holatlarining oldini olish yo'lida muhim qadam bo'ladi.

7. Migratsiya bo'yicha Global kelishuv tavsiyaviy xususiyatga ega bo'lib, uni amalga oshirish davlatlarning o'z ixtiyoriga bog'liq. Bu esa turli davlatlarda kelishuv normalarining bir xil qo'llanmasligiga olib keladi. Har bir davlat migratsiya bo'yicha o'z milliy siyosatini amalga oshirsa-da, ularning aksariyati xalqaro standartlarni turlicha talqin qiladi yoki ularga to'liq rioya qilmaydi. Bu nomutanosiblik migrantlar huquqlarini himoya qilishda turli qiyinchiliklar va notengliklarni keltirib chiqaradi. Migratsiya bo'yicha global shartnomaning maqomini yanada aniqlashtirish va ta'sirchanligini oshirish, xususan, tavsiyaviy xarakterini majburiy xarakterga o'tkazish maqsadga muvofiq.

**SCIENTIFIC COUNCIL AWARDING SCIENTIFIC DEGREES
DSc.39/30.11.2020. Yu/S. 128.01 AT THE NATIONAL HUMAN RIGHTS
CENTER OF THE REPUBLIC OF UZBEKISTAN**

**LAW ENFORCEMENT ACADEMY
OF THE REPUBLIC OF UZBEKISTAN**

ESEMURATOV ALISHER IZBASAROVICH

**ISSUES OF IMPROVING INTERNATIONAL AND NATIONAL
MECHANISMS FOR PROTECTING THE RIGHTS OF MIGRANTS**

12.00.13 – Human rights

**DISSERTATION ABSTRACT
of doctor of philosophy (PhD) on science in law**

Tashkent – 2024

The theme of the doctoral dissertation (DSc) was registered at the Supreme Attestation Commission under the Ministry of Higher Education, science, and innovation of the Republic of Uzbekistan with number B2021.4.DSc/Yu187.

The dissertation is prepared at the Law enforcement academy of the Republic of Uzbekistan.

The abstract of the dissertation is posted in three languages (Uzbek, Russian and English (resume)) on the website of the Scientific Council (<http://nhrc.uz/oz/menu/avtoreferat>) and Information educational portal «Ziyonet» (www.ziyonet.uz).

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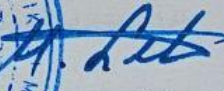
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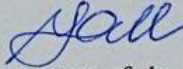
The defense of the dissertation will be held on December 24, 2024 at 15-00 at session of the Scientific Council DSc.39/30.11.2020. Yu/S. 128.01 at the National human rights center of the Republic of Uzbekistan (Address: 100029, Islam Karimov street, 15, Tashkent, Uzbekistan. Phone: +998 71 239 13 58, fax: +998 71 239 43 39, e-mail: info@nhrc.uz).

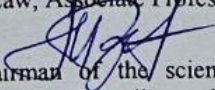
The dissertation is available at the Information Resource Centre of the National human rights center of the Republic of Uzbekistan (registered No. 7). Address: 100029, Islam Karimov street, 15, Tashkent, Uzbekistan.

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INTRODUCTION (Abstract of the Doctor of Philosophy (PhD) Dissertation)

The actuality and relevance of the dissertation theme. Increasing globalization processes are accelerating the trend of migration worldwide, as people move from one country to another for work, education, living, and other reasons. In 2023, more than 281 million migrants worldwide accounted for approximately 3.6% of the world's population, according to data from the International Organization for Migration¹. About 60% of migrants face legal issues in the countries where they work. In 2021, the European Court of Human Rights handled more than 70,000 complaints, over half of which came from major migrant-receiving countries. Among these complaints, 18% concerned personal integrity and freedom, while 19% related to cases of torture².

It is important to note that many countries have joined international conventions and agreements in order to safeguard the rights of migrants. As a result, these countries are required to fulfill their obligations and to develop national legislation that will protect migrants' rights³.

Globally, migrants fill labor markets, support economic growth, and contribute over \$3 trillion annually to their home countries' economies⁴. Protecting their rights is essential not only for ensuring economic stability but also for maintaining social stability and peace in society. Every individual, including migrants, is entitled to human dignity. However, the majority of migrants face increasing levels of racism and various forms of discrimination. According to the International Labour Organization, out of an estimated 24.9 million victims of forced labor worldwide, more than 16 million are labor migrants. Furthermore, nearly 20% of these individuals are deprived of access to education and healthcare services⁵. Qolaversa, ularning 20 foizga yaqini ta'lim va tibbiy xizmatlardan foydalanish imkoniyatidan mahrum etilgan⁶. Fair and humane treatment of migrants is a crucial requirement of society's overall ethical standards. This necessity also inspires the need for fundamental research in this area.

The number of illegal migrants from Uzbekistan abroad has been observed to increase. In 2023, there were 9,649 in Turkey, 5,153 in Honduras and 6,098 in Mexico. In 2022, 2,145 illegal migrants from Uzbekistan were recorded in European

¹ World Migration Report 2024 // Elektron manba: <https://worldmigrationreport.iom.int/msite/wmr-2024-interactive/>.

² La cour européenne des droits de l'homme en faits et chiffres. Strasbourg: CEDH, 2022. – P. 3, 7.

³ International migration and human rights. A paper prepared for the Policy Analysis and Research Programme of the Global Commission on International Migration by Stefanie Grant, Harrison Grant Solicitors // Elektron manba: https://www.iom.int/sites/g/files/tmzbd1486/files/jahia/webdav/site/myjahiasite/shared/shared/mainsite/policy_and_research/gcim/tp/TP7.pdf.

⁴ How Immigrants Contribute to Developing Countries' Economies // Elektron manba: <https://www.oecd-ilibrary.org/docserver/9789264288737-en.pdf?expires=1721800832&id=id&accname=guest&checksum=6BADC976AA7BA521783068F819A3D3F7>.

⁵ International Labour Organization // Elektron manba: <https://www.ilo.org/publications/eliminating-forced-labour-handbook-parliamentarians-no-30>.

⁶ World Health Organization // <https://www.who.int/news-room/fact-sheets/detail/refugee-and-migrant-health>.

Union countries¹ and from 2021 to 2023, over 13,000 Uzbek citizens were identified attempting to illegally cross the U.S. border².

In 2023, the number of individuals who immigrated to Uzbekistan was 2,955, while 17,336 people emigrated abroad³. The President of Uzbekistan, Shavkat Mirziyoyev, emphasized: “Approximately 2 million of our compatriots are working abroad, far from their families, parents, and children, to support their households. Certainly, earning an honest living in a foreign land, enduring various difficulties and hardships, is not easy. It would be fair to call these individuals true heroes. We must express our gratitude to such compatriots who are gaining experience and skills abroad”⁴. This statement underscores the need to further enhance international and national mechanisms for protecting the rights of migrants. Furthermore, Goal 95 of the “Uzbekistan — 2030” Strategy outlines the improvement of the external labor migration system and the provision of comprehensive support to citizens engaged in labor activities abroad⁵. Therefore, conducting an in-depth study of this topic is of critical importance.

The dissertation contributes to fulfilling the tasks outlined in several legislative and normative documents of the Republic of Uzbekistan, including: The Law of the Republic of Uzbekistan “On the legal status of foreign citizens and stateless persons in the Republic of Uzbekistan” (2021), The Presidential Decree “On the Development Strategy of New Uzbekistan for 2022–2026” (2022), The “Uzbekistan — 2030” Strategy (2023), The Presidential Decree “On measures to further strengthen guarantees for protecting citizens of the Republic of Uzbekistan temporarily engaged in labor activities abroad and their family members” (2019), The Presidential Resolution “On additional measures to improve labor migration processes and support individuals temporarily engaged in labor activities abroad” (2024), The Presidential Resolution “On priority measures for reforming the migration management system” (2024), The Presidential Decree “On additional measures to incentivize citizens leaving for organized labor migration abroad” (2021), The Presidential Resolution “On measures to introduce a safe, orderly, and legal labor migration system” (2020), and The Presidential Decree “On additional measures to regulate labor activities abroad” (2024). These documents, alongside other relevant legislative acts, set the framework for addressing issues related to labor migration, the rights of migrants, and the support mechanisms necessary for their well-being. This dissertation provides a targeted analysis and recommendations that align with these normative and legal objectives.

The compliance of the research with the priority directions of scientific and technological development of the republic. This dissertation has been carried

¹ World Migration Report 2024 // Elektron manba: <https://worldmigrationreport.iom.int/msite/wmr-2024-interactive/>.

² В США за два года задержали более 13 тысяч граждан Узбекистана при попытке нелегального въезда // <https://www.gazeta.uz/ru/2023/10/13/us-border/>

³ O‘zbekiston Respublikasi Prezidenti huzuridagi Statistika agentligi - Demografik holat // Elektron manba: <https://stat.uz/uz/rasmiy-statistika/demography-2>.

⁴ Mirziyoyev Sh.M. «Ular — haqiqiy qahramon» // <https://www.gazeta.uz/uz/2023/06/23/migrants/>.

⁵ O‘zbekiston Respublikasi Prezidentining 11.09.2023-yildagi «O‘zbekiston — 2030» strategiyasi to‘g‘risida”gi PF-158-sonli Farmoni. // <https://lex.uz/ru/docs/6600413>.

out in accordance with the priority direction of the development of science and technology in the Republic, namely: “Forming and implementing a system of innovative ideas for the social, legal, economic, cultural, and spiritual-educational development of an informed society and a democratic state.”

The extent of the study of the research problem. The extent of the study of the research problem. Research on the protection of migrant rights in Uzbekistan can be categorized into several areas:

First, conceptual and strategic ideas: The works of the President of the Republic of Uzbekistan, Shavkat Mirziyoyev, provide foundational insights and strategic perspectives on the human rights of migrants;

Second, the general aspects of this issue have been studied by Uzbek scholars such as K.H. Abdurakhmanov, A.R. Muminov, T.K. Narbaeva, M.Kh. Rakhmankulov, A.Kh. Saidov, L.A. Saidova, M.A. Tillabayev, A.A. Tulyaganov, I.T. Turdiev, M.T. Turdiev, Kh.M. Yusupov, and A.B. Gafurov.

Third, specific aspects of protecting migrants' rights have been covered in the works of K.Sh. Aripova, S.A. Gafurova, S.D. Joldasova, L.Kh. Isakov, S.A. Ishanhojaev, B.T. Musaev, M.A. Rakhimova, I.V. Samiev, M.A. Tillabayev, R.R. Urinboev, B.I. Egamberdiev, Sh. Eraliev, J.Kh. Yuldashev, and G. Yuldashev¹. A.A. Allanova has analyzed issues related to liability for violating migration laws, while S.D. Joldasova in her research addressed the legal regulation of migration, and S.A. Ishanhojaev studied the international-legal aspects of intergovernmental cooperation in the field of migration. Additionally, L.Kh. Isakov examined issues related to the comparative legal analysis of the protection of migrant rights in Uzbekistan.

In the legal literature of foreign countries, significant attention is paid to the socio-economic and political-legal aspects of ensuring and protecting the rights of migrants. Scholars such as Bryan A. Garner, V. Chetail, G. Goodwin-Gill, H. Friedrich, Jean Matringe, Liliana Keith, Katja Swider, Michele LeVoy, David Weissbrodt, A.Kh. Abashidze, D.K. Bekyashev, M.M. Babaev, R.Sh. Davletgeldiev, V.A. Yontsev, D.V. Ivanov, R.A. Kalamkaryan, I.I. Lukashuk, S.V. Martinenko, E.A. Nikiforova, V.I. Perevedentsev, V.V. Reshetin, L.L. Rybakovsky, G.I. Tunkin, M.L. Tyurkin, and A. Yastrebova have made valuable contributions in this field.

Nevertheless, theoretical and legal issues related to the chosen topic, such as the system of national and international mechanisms for protecting migrant rights, national legislation and law enforcement practices, international legal standards, and best practices of foreign countries, have not been comprehensively studied from a human rights perspective.

The relation of the dissertation's theme to the scientific-research work of higher education institution where it was implemented. The dissertation topic is included in the research plan of the Law enforcement academy of the Republic of Uzbekistan, specifically under the research project titled “International and national mechanisms for protecting migrant rights.”

The aim of the research. The purpose of this research is to study the international and national mechanisms for protecting migrant rights, analyze

¹ These and other sources are listed in the dissertation's bibliography.

existing problems, and develop scientifically based proposals and recommendations to address these issues.

The objectives of the research are as follows:

- analyze the legal nature of the terms "migration" and "migrant";
- examine the scientific-theoretical foundations of the formation and development of migrant rights, identify and generalize related issues;
- justify modern concepts for protecting migrant rights by studying contemporary approaches;
- characterize and classify the features of international legal standards for protecting migrant rights;
- analyze specialized institutional mechanisms for protecting migrant rights;
- examine foreign experiences in protecting migrant rights and explore opportunities for their application in national practice;
- identify pressing issues in protecting migrant rights in Uzbekistan;
- formulate scientifically grounded recommendations and suggestions to improve international and national mechanisms for protecting migrant rights.

The research object consists of social relations related to the protection of migrant rights.

Subject of the Research. The subject of the research includes the norms, scientific-conceptual approaches, views, principles, models, forms, and methods regulating social relations associated with the protection of migrant rights, as well as their practical implementation.

The research methods. The research widely utilized methods such as analysis, synthesis, deduction, induction, comparative-legal analysis, empirical data and statistical analysis, sociological surveys, observation, systematic approach, logical reasoning, and other techniques.

Scientific novelty of the research is as follows:

- the necessity for Uzbekistan to collaborate with authorized bodies of foreign states to regulate the process of employing citizens abroad and ensuring their labor rights was substantiated;

- the possibility of providing migration and citizenship registration services at the place of residence not only for citizens of Uzbekistan but also for immigrants (foreign nationals and stateless persons and their legal representatives) via a "Call Center" was demonstrated;

The introduction of a procedure for leasing land plots to young migrants included in the "Youth Register" for running a farming business has been justified as a means of expanding opportunities for young labor migrants to engage in entrepreneurship.

For young people included in the list of labor migrants returning from abroad, a simplified process for allocating land plots through an open electronic competition has been substantiated as a way to create favorable conditions for their reintegration into the entrepreneurial sector upon their return.

The practical results of the research include the following:

In the development of the national migration legislation of the Republic of Uzbekistan, the following key aspects have been substantiated:

Authoritative definitions of the terms “migration” and “migrant,” which hold particular significance for the formation of the national migration system, have been provided.

The feasibility of including criminal liability for "illegal migration" in the Criminal Code of the Republic of Uzbekistan has been justified.

The necessity of enhancing the legal culture, knowledge, and professional skills of law enforcement officers has been substantiated, particularly through training on national and international mechanisms for protecting migrants' rights.

The scientific necessity of developing a National Action Plan for 2024–2030 to achieve the goals of the Global Compact for Migration and to create a migration development strategy for the Republic of Uzbekistan has been substantiated.

The adoption of a “roadmap” for implementing the National Action Plan for 2024–2030 to achieve the goals of the Global Compact for Migration in Uzbekistan has been demonstrated.

The reliability of the research findings is ensured by several factors: the results of the scientific research are based on international law and national legislation norms, advanced foreign practices, law enforcement practices, theoretical perspectives drawn from official sources, and methodological approaches; the findings are supported by a sociological survey involving 75 representatives from prosecution bodies, 70 from internal affairs bodies, 60 from migration agencies, and 76 from non-governmental organizations; the research is grounded on empirical data, properly documented, and includes conclusions, proposals, and recommendations that have undergone validation; the results have been published in leading national and international journals, endorsed by relevant authorities, and implemented into practice.

The scientific and practical significance of the results of the research. The scientific significance of the research findings lies in the applicability of the developed conclusions, proposals, and recommendations for advancing scientific studies on international and national mechanisms for protecting migrants' rights. These findings can also be utilized in legislative drafting, interpreting relevant norms of human rights legislation, improving national legal frameworks, enriching the scientific and theoretical foundation of subjects such as "Constitutional Law," "Administrative Law," "Human Rights," and "Migration Law," and in the establishment of the "Human Rights of Migrants" course in Uzbekistan.

The practical significance of the recommendations and conclusions developed during the research is defined by their implementation. They contribute to improving international and national mechanisms for protecting migrants' rights, safeguarding human rights and freedoms in this area, and addressing state-level issues related to the protection of migrants' rights.

Practical relevance of research findings. Based on the scientific results obtained for improving international and national mechanisms for protecting migrants' rights:

The proposal regarding cooperation with the authorized bodies of foreign countries to regulate the processes of employing citizens of the Republic of Uzbekistan abroad and ensuring their labor rights was used in the development of

clause 1.4 of the procedure for organizing the activities of the Labor Migration Agency under the Ministry of Poverty Reduction and Employment of the Republic of Uzbekistan, the Department of External Labor Migration Affairs of the Cabinet of Ministers, and labor migration attachés in the diplomatic and consular missions of the Republic of Uzbekistan, as approved by the Decree of the President of the Republic of Uzbekistan No. PF-59 dated April 4, 2024 (reference No. 03/01-07/4204-1 of the Labor Migration Agency under the Ministry of Poverty Reduction and Employment of the Republic of Uzbekistan dated May 18, 2024). As a result, the implementation of this proposal has elevated international cooperation in the field of labor migration to a new level.

The proposal for citizens wishing to receive state services related to migration and citizenship registration at their place of residence, including citizens of the Republic of Uzbekistan and immigrants (foreign citizens, stateless persons, and their legal representatives), to apply to a "Call Center" was used in the development of clause 11 of the administrative regulation on "Providing state services for migration and citizenship registration at the place of residence of citizens of the Republic of Uzbekistan, foreign citizens, and stateless persons," as approved by the Resolution of the Cabinet of Ministers of the Republic of Uzbekistan No. 321 dated July 31, 2023 (reference No. 12/1-390 from the Office of the Prime Minister of the Republic of Uzbekistan dated September 26, 2024). As a result, the implementation of this proposal laid the foundation for foreign citizens and stateless persons in Uzbekistan to have equal access to state services in the migration sector alongside Uzbek citizens.

The proposal to lease land plots for farming to young migrants included in the "Youth Register" through an open electronic auction was used in the development of clause 1 of the Resolution of the Cabinet of Ministers of the Republic of Uzbekistan No. 320 dated July 28, 2023 (reference No. 12/1-390 from the Office of the Prime Minister of the Republic of Uzbekistan dated September 26, 2024). As a result of the implementation of this proposal, opportunities were created for labor migrants returning from abroad and included in the "Youth Register" to engage in entrepreneurial activities.

The proposal to introduce a simplified procedure for allocating land plots through an open electronic auction to young people included in the list of labor migrants returning from abroad was used in the development of clause 1 of the Resolution of the Cabinet of Ministers of the Republic of Uzbekistan No. 320 dated July 28, 2023 (reference No. 12/1-390 from the Office of the Prime Minister of the Republic of Uzbekistan dated September 26, 2024). As a result of the implementation of this proposal, favorable conditions were created for the reintegration of labor migrants returning from abroad into the entrepreneurial sector.

The approbation of the research results. The main content and scientific results of the dissertation research have been tested at 5 scientific conferences, including 3 international and 2 national scientific-practical conference, as well as in roundtable discussions and seminars.

The publication of the research results. A total of 12 publications were produced on the research topic, including 1 teaching guide, and 6 articles recommended for publication, with one published abroad.

The structure and volume of the dissertation. The dissertation consists of an introduction, three chapters with eight sections, a conclusion, references, and appendices. The work is 148 pages long.

THE MAIN CONTENT OF THE DISSERTATION

The introduction outlines the relevance and necessity of the research topic, its alignment with the priority directions of scientific and technological development in the Republic, the degree to which the issue has been studied, the connection between the dissertation topic and the research plans of the higher education institution where the dissertation is being conducted. It also provides information on the research's objectives and tasks, its object and subject, methods, scientific novelty, and practical results. Additionally, it discusses the reliability of the research results, their scientific and practical significance, implementation, approbation, and publication, as well as details about the structure and scope of the dissertation work.

The first chapter of the dissertation, titled "**Theoretical Aspects of Protecting Migrants' Rights,**" examines the scientific and theoretical dimensions of the topic, particularly focusing on the legal nature of the terms "migration" and "migrant," as well as the scientific and theoretical foundations for the formation and development of migrants' rights.

In the first paragraph, dedicated to the "**Legal Nature of the Terms 'Migration' and 'Migrant'**," the primary scientific problem analyzed is the lack of definitions for the terms "migration," "illegal migration," and "migrant" in the normative-legal documents of the Republic of Uzbekistan.

The perspectives of legal scholars such as K.Kh. Abdurakhmanov, M.M. Babayev, V.M. Baranov, D.K. Bekyashev, Bryan A. Garner, H. Friedrich, S. Dj. Djoldasova, R.Sh.Davletgeldiev, D.V. Ivanov, V.A. Ionsev, L.Kh. Isokov, S.V. Martinenko, V.M. Moisenko, V.A. Korabeyev, Yu.A. Kuzmenko, Ye.S. Krasines, V.I. Perevedentsev, A.Kh. Saidov, L.L. Ribakovskiy, E. Orifjonov, A. Otajanov, M.L. Tyurkin, D. Umarakhonova, A.N. Shkilev, and B.I. Egamberdiyev on the legal nature of the institutions of "migration," "illegal migration," and "migrant" are thoroughly analyzed. The distinctive characteristics of migrants' legal status are revealed. Based on these analyses, the author of the dissertation has developed original definitions for these concepts.

V.I. Perevedentsev defines migration in a broad sense as the totality of all movements of populations globally. In a narrower sense, he emphasizes migration as a series of movements involving people changing their place of residence over a relatively long period, intrinsically linked to spatial relocations.

M.M. Babayev defines migration as the territorial movement of people associated with changes in their place of residence. B.I. Egamberdiyev characterizes it as a significant factor that alters the demographic composition of populations moving into and out of administrative territories. Other scholars interpret migration

as a process that shapes socio-legal relations, encompassing the arrival, departure, residence, and transit of populations. The author notes that there is still no comprehensive or unified perspective on the essence of migration and its related scientific concepts.

To date, there is no precise or universally accepted definition of the term “migrant” in international law. However, the United Nations defines a labor migrant as a person residing in a foreign country for more than one year, regardless of the reasons for migration or their legal/illegal status.

In 1989, the International Organization for Migration (IOM) attempted to clarify the concept of “migration.” During its 59th session, the terms “migration” and “migrant” were defined, with a migrant being described as a person who has moved from one country to another and requires international migration services.

Over time, the issue of illegal migration has been interpreted differently in international law and national legislation. In 1998, the Agreement on Cooperation in Combating Illegal Migration among the CIS member states addressed the concept of “illegal migration” in Article 1.

Illegal migration is a large-scale phenomenon that negatively impacts societal and economic processes. The dissertation substantiates the need to provide precise definitions for the terms "illegal migration" and "illegal migrant" to improve Uzbekistan's legislation in this area.

In this regard, Friedrich Heckmann noted in his works that debates over selecting a unified term are ongoing. Bryan A. Garner, in his modern legal dictionary, defines the terms "illegal" and "irregular" as full synonyms, both referring to actions that disregard laws and create disorder.

Many scholars argue that the term "irregular" implies criminality and should not be used. Labeling migrants as "illegal" could harm their rights, as it potentially stigmatizes them. For instance, categorizing refugees as illegal migrants could adversely affect their process of applying for refugee status.

In academic and legal literature, the term "illegal migration" is often associated with human trafficking or the unauthorized smuggling of migrants. Numerous contemporary researchers emphasize that individuals themselves cannot be "illegal" in essence; rather, the term applies to violations of legal norms or regulatory frameworks.

In 1994, the United Nations convened the International Conference on Population and Development, during which the use of the terms "undocumented" or "illegal" migration was recommended. However, these terms should not be considered comprehensive. They do not fully encompass migrants who initially entered host countries legally but later violated immigration laws. Additionally, it was noted that the category of "illegal migrants" should include individuals who entered a country in compliance with its entry regulations but reside there unlawfully.

Within this paragraph, the author developed original definitions for terms such as migration, migrant, illegal migrant, and illegal migration. These definitions were validated through a social survey conducted among migration specialists, with over

55% of respondents agreeing with the interpretation of these terms in the proposed manner.

The second paragraph, titled “**Scientific and theoretical foundations for the formation and development of migrants' rights,**” analyzes various definitions of migration, approaches to its classification and types, as well as the main principles of migration and mechanisms for regulating migration-related relations.

According to the dissertation author, the definitions of "migration" and "migrants" can be categorized into three groups. The first group (e.g., V.M. Moisenko, M.L. Tyurkin) comprises definitions that are based on accounting for various forms of population movement and their consequences.

The second group of definitions emphasizes territorial movement as the primary aspect of migration, where the reasons and goals of such movement are not considered crucial, though additional characteristics are not excluded. Legal scholar M.M. Babayev viewed migration in both a broad and narrow sense. In a broad sense, it refers to any movement of people within a territory. In a narrow sense, migration is interpreted as the territorial movement of a population associated with a change in their place of residence.

The definitions provided by scholars in the third group (e.g., V.I. Perevedentsev and others) focus not on population movement itself but on relocation within a specific spatial framework. These definitions are fundamentally similar in their principles but differ in identifying specific characteristics of migration.

S.V. Ryazantsev identifies the causes of illegal labor migration as globalization and socio-economic factors, including the lack of migration experience, weakening of laws related to the social protection of citizens, and insufficient measures to legalize migration flows.

In this context, the dissertation emphasizes the importance of examining the socio-political and economic aspects of migration and analyzing migration policy at the current stage.

As a result of the research, the national mechanisms for protecting migrants' rights were classified into four categories: legislative-based mechanisms, institutional mechanisms, judicial and justice-based mechanisms, and mechanisms involving civil society criteria.

The international mechanisms for protecting migrants' rights were categorized based on international norms, international institutional mechanisms, and international non-governmental organizations as well as civil society organizations.

In the third paragraph of the first chapter, titled “Modern concepts of protecting migrants' rights,” the position of individual rights within the context of migration law at the international and national levels, its role within the legal theory, and various approaches to migration law were comprehensively analyzed.

The study highlighted that the legal regulation of migration processes is a complex and pressing issue, receiving significant attention from various states and international organizations. It has been demonstrated that protecting migrants' rights and establishing mechanisms that integrate these protections with the sovereign rights of states is one of the critical tasks in this field.

G. Goodwin-Gill and other scholars have emphasized the need to view migration law as a complex and multifaceted system. They advocate for the establishment of migration law as an independent field of law to enhance its practical significance. However, some scholars propose considering migration as a subset of administrative law.

The research highlights the importance of intellectual and balanced approaches based on modern technologies in migration management, the necessity of ensuring equal rights for foreign nationals and local citizens, and the significance of mechanisms regulating the legal status and integration of migrants into society.

The second chapter of the dissertation, titled “Analysis of international mechanisms for protecting migrants’ rights,” examines international legal standards related to the protection of migrants’ rights and studies international and regional mechanisms aimed at regulating migration.

In the first paragraph of this chapter, titled “Characteristics of international legal standards for protecting migrants’ rights,” the legal norms established by international organizations such as the United Nations, as well as the specific features of migration regulation in the European, American, and CIS regions, are analyzed.

International legal mechanisms for regulating migration, based on intergovernmental cooperation, play a crucial role in managing human mobility.

The study emphasizes that migration-related processes are complex and multifaceted, with international treaties recognized as the primary tool in this field. These treaties are binding for subjects of international law and are highlighted for their superior status within international law, as well as the significant attention states give to this contractual approach. Thus, international treaties play a central role in regulating migration and contribute to the harmonization of legal systems.

The integration of international and administrative-legal systems is essential for the effective management of migration processes. The 1990 UN International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families guarantees the social and political rights of migrants. Similarly, Articles 13 and 14 of the 1948 Universal Declaration of Human Rights enshrine the rights to freedom of movement and the right to seek asylum.

The dissertation argues that there is no universal model for the international legal regulation of migration. It emphasizes the need to expand the definitions of "refugees" and "migrants" and to strengthen international cooperation in protecting migrants' rights. National legislation plays a pivotal role in implementing international legal norms in practice. Therefore, the dissertation concludes that new legal mechanisms must be developed to manage migration more effectively.

The second paragraph of this chapter, titled “**Institutional mechanisms specializing in protecting migrants’ rights**,” analyzes institutions and mechanisms designed to address issues related to international migration.

Currently, no single international organization comprehensively addresses or coordinates all issues related to international migration. While the foundations for constructively addressing migration challenges were established after World War II, the dissertation emphasizes that numerous factors and unresolved problems continue to influence this process.

The UN Security Council pays significant attention to protecting the rights of migrants and refugees. The Security Council strives to ensure compliance with international standards in the fields of refugee protection and human rights. However, gaps and deficiencies in legislation, as well as the lack of international cooperation in addressing forced migration issues, create various challenges.

The author of the dissertation argues that the United Nations High Commissioner for Refugees (UNHCR) and the International Organization for Migration (IOM) play crucial roles in managing international migration. However, unresolved issues persist within the migration domain. Organizations such as the European Union, the United Nations, and other international entities actively engage with migration and refugee issues. Despite their efforts, the absence of a unified global coordinating mechanism presents significant difficulties.

The research concludes that harmonizing national and international legislation and introducing new mechanisms to protect the rights of migrants and refugees are essential. Furthermore, enhancing international norms and fostering effective collaboration in the migration field is critical for addressing these challenges.

The third paragraph of the second chapter, titled **“Comparative legal analysis of foreign states’ experience in protecting migrants’ rights,”** examines the diverse approaches to national migration legislation worldwide, analyzing the unique characteristics of each country’s regulatory framework.

In the past decade, foreign countries have adopted laws regulating migration relations. The regulation of migration largely depends on the unique economic and social conditions of each country. In Anglo-Saxon legal systems (such as the U.S., Canada, and Australia), migration legislation is fragmented and primarily focused on attracting migrants. In contrast, in Romano-Germanic legal systems, such as in Germany and France, migration laws are more unified and comprehensive.

Germany has intensified measures to combat illegal migration. In the Netherlands, facilitating illegal migration leads to criminal liability. Japan places particular emphasis on preventing unauthorized stays by foreigners within the country. These approaches reflect the diverse strategies countries employ to address migration challenges.

The United Kingdom has implemented a strict regulatory framework for managing migration, including a system for identifying migrant groups and selecting skilled workers. In the United States, the “Immigration Reform and Control Act” was enacted to restrict illegal migration. This law limits illegal migrants’ participation in the labor market and imposes heavy fines on employers hiring unauthorized workers.

The dissertation asserts that migration legislation is shaped by each country’s economic, social, and demographic interests. While differences exist between the legal frameworks of Anglo-Saxon and Romano-Germanic states, all countries have intensified measures to combat illegal migration.

Furthermore, the research highlights the necessity of harmonizing legal norms and improving international mechanisms aimed at protecting human rights to enhance migration legislation.

The third chapter of the dissertation, titled **“Description of national mechanisms for protecting migrants' rights in Uzbekistan,”** analyzes the mechanisms for protecting migrants' rights in Uzbekistan and outlines prospects for their improvement.

The first paragraph, dedicated to **“Challenges in protecting migrants' rights in Uzbekistan,”** explores the need to enhance legislation aimed at protecting migrants' rights and examines the features of implementing international legal standards into national legislation.

In Uzbekistan, national institutions play a crucial role in protecting the rights of migrants and managing migration processes. The President holds authority over migration policy, citizenship, and asylum matters, with these policies directly impacting the country's social stability.

The chambers of the Oliy Majlis (Parliament) play a significant role in developing migration legislation and combating human trafficking and forced labor. Parliamentary oversight ensures the effectiveness of migration policies, while the judiciary guarantees the rule of law and protects the rights of migrants.

Executive bodies, including the Cabinet of Ministers and the Ministry of Foreign Affairs, are essential in fostering international cooperation and safeguarding the interests of migrants. The Ombudsman's Office actively contributes to protecting human rights by ensuring the rights of migrants and their families. The coordinated work of these institutions enhances the efficiency of migration policies.

Uzbekistan's consular missions abroad assist citizens with labor migration issues and protect their rights. The introduction of the position of attaché helps to effectively manage migration processes and reduce the risks associated with illegal migration.

Uzbekistan aligns its migration policies with the UN Sustainable Development Goals and the Global Compact for Migration. The National Action Plan aims to ensure the protection of migrants' rights, promote gender equality, and enhance the effective management of migration processes.

The necessity of adopting a National Action Plan for 2024–2030 to achieve the objectives of the Global Compact for Migration in Uzbekistan has been substantiated through sociological research among specialists. Over 50% of migration experts who participated in surveys supported this initiative.

The dissertation asserts that while Uzbekistan has made significant progress in protecting migrants' rights, there remains a need to further improve legislation and harmonize it with international standards. Cooperation between the government and civil society institutions is critical for effectively managing migration processes and ensuring the rights of migrants. In this context, the adoption of the National Action Plan would provide the legal and organizational foundation needed to effectively manage migration processes and safeguard migrants' rights.

The second paragraph of the third chapter, titled **“Prospects for improving national mechanisms for protecting migrants' rights,”** analyzes the challenges faced by citizens of the Republic of Uzbekistan in the migration sphere and provides recommendations for improving the national system.

Migration processes play a significant role in Uzbekistan's domestic and foreign policy. The state places special emphasis on addressing conflicts and legal gaps in existing legislation related to the protection of migrants' rights, as these efforts are vital for ensuring socio-economic and political stability. This highlights the necessity of revising migration legislation and aligning it with international standards.

The dissertation proposes the introduction of a short-term residence permit system in place of the current visa extension procedure in Uzbekistan. This approach has been identified as effective in creating favorable and secure conditions for migrants in countries such as Germany, Canada, and Australia.

For instance, in Germany, 80% of migrants who received short-term residence permits in 2022 transitioned to long-term residency, demonstrating the system's effectiveness in attracting skilled labor and investments. The dissertation argues that implementing a similar system in Uzbekistan could significantly enhance opportunities for economic development and the attraction of foreign investments.

The author also substantiates the necessity of establishing a specialized Ombudsman institution in Uzbekistan to protect migrants' rights. Due to the insufficient focus on migrants' needs by existing human rights institutions, this proposal was supported by 50.8% (125 respondents) of citizens participating in a survey conducted among migration specialists. Drawing on the experiences of Germany and the United States, the study highlights that an Ombudsman institution for migrants plays a crucial role in monitoring migration processes and preventing rights violations.

Additionally, the dissertation recommends strengthening liability for illegal migration in Uzbekistan, referencing countries such as Turkey, Georgia, Russia, and Kazakhstan, where illegal migration is considered a serious crime. The proposal to establish a research laboratory under the Academy of Law Enforcement of the Republic of Uzbekistan dedicated to studying migrants' rights is presented as a vital step. Such an institution would contribute to developing scientifically grounded recommendations for improving migration policy and legislation.

The Global Compact for Migration currently has a non-binding nature, leaving its implementation at the discretion of individual states. This results in inconsistent application of its provisions across countries. While states implement their own national migration policies, many interpret international standards differently or fail to fully comply with them. This inconsistency leads to challenges and inequalities in protecting migrants' rights. The dissertation argues that transforming this document into a binding framework would establish clear mechanisms for ensuring compliance with international obligations and promote uniform application of international standards in the field of migration.

According to Kristina Oelgemyuller and Katerin Allison, making the Global Compact for Migration legally binding would enhance its legal force and contribute to the development of international customary law in the field of migration.

Transforming the Global Compact for Migration into a binding legal document would serve as an effective tool for improving migration processes and protecting the rights of migrants. Such a step would ensure uniformity in migration policies at the international level and strengthen cooperation among states.

CONCLUSION

Based on the research findings, an analysis of international and national mechanisms for protecting migrant rights has been conducted, leading to the following proposals and recommendations:

I. Conclusions and recommendations for enriching scientific-theoretical knowledge on international and national mechanisms for protecting migrant rights:

1. The following original definitions for key terms - “migration,” “illegal migration,” and “migrant” - which are vital for the development of Uzbekistan’s national migration legislation, are proposed:

Migration: The process by which foreign nationals and stateless persons (migrants) cross state borders, move and reside within a given state’s territory temporarily or permanently, or transit through that state’s territory.

Illegal migration: The act of a foreign national or stateless person entering a state in violation of established procedures, residing within that state contrary to regulations, transiting through the territory unlawfully, or leaving the state without following prescribed procedures.

Migrant: Any individual, regardless of gender, race, nationality, age, political or religious beliefs, who has left their habitual place of residence either voluntarily or involuntarily, temporarily or permanently.

2. The term “*illegal border crossing*” is newly defined, considering the likelihood of the trafficked individual becoming a victim of human trafficking:

“Illegal border crossing” – aiding or participating in unauthorized border crossing or entry/exit from a state in violation of established regulations.

3. National mechanisms for protecting migrant rights (a set of laws, policies, and practices aimed at securing migrants' legal, social, economic, cultural, and civil rights at the state level) are categorized according to the following criteria:

Legal-based criteria: Constitutional norms, laws, presidential decrees, government resolutions, ministerial orders, and other regulatory documents governing migration.

Institutional criteria: Dedicated government bodies responsible for protecting migrant rights, including legal assistance, counseling, job placement, and safeguarding legal rights. In Uzbekistan, key institutions include the President, Prosecutor’s Office, Ministry of Internal Affairs, Ministry of Employment and Labor Relations’ External Labor Migration Agency, National Center for Human Rights, the Ombudsman for Human Rights, the Ombudsman for Children's Rights, and other law enforcement agencies.

Justice and judicial criteria: Rules, principles, and standards to ensure a fair and lawful judicial system, focusing on legality, fairness, impartiality, equality before the law, access to legal aid, and transparency of court proceedings.

Civil society criteria: Non-governmental organizations in Uzbekistan actively participate in protecting migrant rights by offering legal advice, education, and information.

4. International mechanisms for protecting migrant rights are classified according to several criteria:

International norms criteria: International treaties and binding agreements for states, as well as international recommendations and guidelines related to migration (e.g., declarations and manuals).

International institutional criteria: Organizations such as the United Nations, the International Organization for Migration (IOM), the International Labor Organization (ILO), the UN High Commissioner for Refugees (UNHCR), and regional organizations (e.g., European Union, OSCE, CIS).

International non-governmental and civil society criteria: NGOs and civil society organizations operating globally to protect migrant, refugee, and mobile person rights, provide assistance, and shape migration policy.

International monitoring and oversight criteria: International monitoring mechanisms aimed at effectively controlling migration processes, protecting migrant rights, and improving migration-related policies. These criteria are used by international organizations and civil society organizations in monitoring migration processes.

II. Conclusions and Recommendations for Improving the Normative-Legal Documents Related to International and National Mechanisms for Protecting Migrant Rights:

1. It is substantiated that Uzbekistan needs to introduce criminal liability for “**Illegal Migration.**” To this end, it is proposed to amend the Criminal Code with the following article:

Article 223¹: Organization of Illegal Migration

The organization of entry into the Republic of Uzbekistan by a foreign national or a stateless person in violation of established procedures, their unlawful stay in Uzbekistan, their transit through Uzbekistan in violation of regulations, or any person’s departure from Uzbekistan in breach of legal procedures, shall be punishable by:

A fine ranging from 200 to 400 times the base calculation amount, restriction of freedom for 3 to 5 years, or imprisonment for 3 to 5 years.

The following actions shall be punishable by 5 to 10 years of imprisonment:

- a) If committed through abuse of official authority;
- b) If committed by a group of individuals through prior collusion;
- c) If committed repeatedly or by a dangerous recidivist;
- d) If committed using methods hazardous to human life.

2. Based on the Global Compact for Migration, it is substantiated that Uzbekistan should adopt a National Action Plan for 2024–2030, along with a “roadmap” of 61 points for implementing it, which is attached to the dissertation.

3. Drawing from global experience, it is recommended that Uzbekistan abolish the visa extension practice and introduce a system of short-term residence permits by developing a normative-legal document to that effect.

4. Uzbekistan should consider joining ILO Conventions No. 118 on Equality of Treatment in Social Security and No. 189 on Decent Work for Domestic Workers

to create equal rights and opportunities for men and women. Their norms should also be integrated into national legislation.

III. Conclusions and Recommendations for Improving the Organizational Foundations of International and National Mechanisms for Protecting Migrant Rights:

1. It is recommended to prepare Uzbekistan's National Report on progress toward achieving the goals of the Global Compact for Migration and submit it to the chambers of the Oliy Majlis. Additionally, annual statistical compendiums in Uzbek, Russian, and English should be published and made available online.

2. To create a system of benchmark indicators for monitoring Uzbekistan's progress toward the Global Compact for Migration goals, an interagency working group should be formed. This group would develop national indicators and ensure their incorporation into the preparation and review of Uzbekistan's State Budget.

3. It is essential to develop standards for temporary detention facilities for foreign nationals and stateless persons who violate residency rules in Uzbekistan, have been released from correctional facilities, or are detained for criminal acts and subject to deportation. These standards should define the legal status and organizational-legal forms of such facilities.

4. To promote fair recruitment practices, training courses on the International Recruitment Integrity System (IRIS) standards should be organized in collaboration with international organizations. Programs should involve international expert trainers and focus on developing fair employment practices among private recruitment agencies.

5. A scientific research laboratory under the Academy of Law Enforcement should be established to coordinate scientific studies on migration. Its key areas of activity would include: active participation in international migration projects, analysis of the causes, conditions, outcomes, and consequences of population migration, drafting state program proposals on migration regulation and presenting them to competent authorities, and developing recommendations for improving legislation and enforcement practices based on identified problems.

6. In Uzbekistan, migration is a significant socio-economic phenomenon that demands special attention. The existing human rights institutions in the country do not sufficiently address the challenges faced by migrants, highlighting the need to establish a specialized Ombudsman for Migrants' Rights. Such an institution would play a vital role in improving the legal protection of migrants, ensuring their rights, and preventing discrimination and exploitation.

7. The Global Compact for Migration, being non-binding, relies on the voluntary implementation by states, leading to inconsistencies in how its norms are applied across countries. While each state implements its national migration policy, many interpret international standards differently or fail to fully adhere to them. This inconsistency creates challenges and inequalities in protecting migrants' rights. It would be beneficial to clarify and strengthen the status of the Global Compact, particularly by transforming its advisory nature into a binding framework to enhance its effectiveness.

**НАУЧНЫЙ СОВЕТ DSc.39/30.11.2020. Yu/S. 128.01 ПО ПРИСУЖДЕНИЮ
УЧЕНЫХ СТЕПЕНЕЙ ПРИ НАЦИОНАЛЬНОМ ЦЕНТРЕ
РЕСПУБЛИКИ УЗБЕКИСТАН ПО ПРАВАМ ЧЕЛОВЕКА**

**ПРАВООХРАНИТЕЛЬНАЯ АКАДЕМИЯ РЕСПУБЛИКИ
УЗБЕКИСТАН**

ЕСЕМУРАТОВ АЛИШЕР ИЗБАСАРОВИЧ

**ВОПРОСЫ СОВЕРШЕНСТВОВАНИЯ МЕЖДУНАРОДНЫХ И
НАЦИОНАЛЬНЫХ МЕХАНИЗМОВ ЗАЩИТЫ ПРАВ МИГРАНТОВ**

12.00.13 – Права человека

АВТОРЕФЕРАТ
диссертации доктора философии (PhD) по юридическим наукам

Ташкент – 2024

Тема диссертации на соискание ученой степени доктора философии (PhD) зарегистрирована в Высшей аттестационной комиссии при Министерстве высшего образования, науки и инноваций Республики Узбекистан под номером В2024.2.PhD/Yu828.

Диссертация выполнена в Правоохранительной Академии Республики Узбекистан. Автореферат диссертации на трех языках (узбекский, русский, английский (резюме)) размещен на веб-странице Научного совета (<http://nhrc.uz/oz/menu/avtoreferat>) и на Информационно-образовательном портале «ZiyoNET» (www.ziyo.net.uz).

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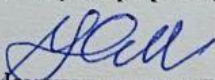
Защита диссертации состоится 24 декабря 2024 года, в 15-00 часов на заседании Научного совета DSc.39/30.11.2020. Yu/S. 128.01 при Национальном центре по правам человека Республики Узбекистан (Адрес: 100029, г. Ташкент, ул. Ислама Каримова, 15. Тел.: +998 71 239 13 58, факс: +998 71 239 43 39, e-mail: info@nhrc.uz).

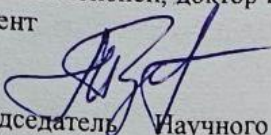
С диссертацией можно ознакомиться в Информационно-ресурсном центре Национального центра Республики Узбекистан по правам человека (зарегистрирована за № 7). Адрес: 100029, г. Ташкент, ул. Ислама Каримова, 15.

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ВВЕДЕНИЕ (аннотация докторской (PhD) диссертации)

Целью исследования является изучение международных и национальных механизмов защиты прав мигрантов, анализ существующих проблем и разработка научно обоснованных предложений и рекомендаций, направленных на их решение.

Объектом исследования состоит из общественных отношений, связанных с защитой прав мигрантов.

Научная новизна исследования состоит в следующем:

Обоснована необходимость взаимного сотрудничества с компетентными органами иностранных государств по вопросам, связанным с регулированием процессов трудоустройства граждан Республики Узбекистан за рубежом и обеспечением их трудовых прав;

Доказано, что обращаться в органы государственной власти по вопросам миграции и регистрации гражданства могут не только граждане Республики Узбекистан, но и иммигранты (иностранные граждане и лица без гражданства и их законные представители), изъявившие желание, чтобы государственные услуги по регистрации миграции и гражданства были доставлены по месту их жительства в «Колл-центр»;

Обоснована введение процедуры аренды земельных участков для молодых мигрантов, включенных в «Молодежную тетрадь», с целью ведения фермерского хозяйства как меры по расширению возможностей для молодых трудовых мигрантов заниматься предпринимательской деятельностью.

Обоснована введение упрощенного порядка предоставления земельных участков молодым людям, возвращающихся из-за рубежа, через открытый электронный конкурс как мера создания благоприятных условий для их реинтеграции в предпринимательский сектор после возвращения из-за границы.

Внедрение результатов исследования. Полученные научные результаты о национальных и зарубежных механизмах защиты прав мигрантов были использованы:

предложение о взаимном сотрудничестве с уполномоченными органами зарубежных государств по вопросам трудоустройства и регулирования процессов обеспечения трудовых прав граждан Республики Узбекистан за рубежом и обеспечения их трудовых прав использовано при разработке пункта 1.4 Порядок организации деятельности Агентства внешней трудовой миграции при Министерстве занятости и сокращения бедности, Отдела по вопросам внешней трудовой миграции Кабинета Министров и атташе по вопросам трудовой миграции в дипломатических и консульских учреждениях Республики Узбекистан утвержденное Указом Президента Республики Узбекистан № ПФ-59 от 4 апреля 2024 года (справка № 03/01-07/4204 от 1 мая 18 от 2024 года Агентства внешней трудовой миграции при Министерстве занятости и сокращения бедности Республики Узбекистан). Внесение данного предложения способствовало улучшению международного сотрудничества в сфере трудовой миграции;

предложение о возможности предоставления государственных услуг по миграции и оформлению гражданства на месте жительства, как для граждан Республики Узбекистан, так и для иммигрантов (иностранных граждан, лиц без гражданства и их законных представителей), обращающихся в «Call-центр», было использовано при разработке пункта 11 Административного регламента «О предоставлении государственных услуг по миграции и оформлению гражданства на месте жительства гражданам Республики Узбекистан, иностранным гражданам и лицам без гражданства», утвержденного Постановлением Кабинета Министров Республики Узбекистан № 321 от 31 июля 2023 года (справка Секретариата Премьер-министра Республики Узбекистан № 12/1-390 от 26 сентября 2024 года). Внедрение данного предложения стало основой для предоставления иностранным гражданам и лицам без гражданства возможности пользоваться государственными услугами в области миграции наравне с гражданами Республики Узбекистан.

предложение о предоставлении земельных участков в аренду через открытый электронный конкурс молодым мигрантам, включенным в «Молодежную тетрадь», для ведения фермерского хозяйства было использовано при разработке пункта 1 Постановления Кабинета Министров Республики Узбекистан №320 от 28 июля 2023 года (справка Секретариата Премьер-министра Республики Узбекистан №12/1-390 от 26 сентября 2024 года). Реализация данного предложения создала возможности для молодых мигрантов, включенных в «Молодежную тетрадь» возможность вернувшись из-за рубежа, заниматься предпринимательской деятельностью.

предложение о внедрении упрощенного порядка предоставления земельных участков через открытый электронный конкурс молодым людям, включенным в список трудовых мигрантов, возвращающихся из-за рубежа, было также использовано при разработке пункта 1 Постановления Кабинета Министров Республики Узбекистан №320 от 28 июля 2023 года (справка Секретариата Премьер-министра Республики Узбекистан №12/1-390 от 26 сентября 2024 года). Реализация данного предложения способствовала созданию благоприятных условий для реинтеграции возвращающихся трудовых мигрантов в предпринимательский сектор.

Апробация результатов исследования. Основное содержание и научные результаты диссертационного исследования были апробированы на 5 научных конференциях, в том числе на 3 международных и 2 республиканских научно-практических конференциях, «круглых столах» и семинарах.

Опубликование результатов исследования. По теме исследования опубликовано 12 научных работ, в том числе 1 учебное пособие и 6 статей (2 зарубежная) в научных изданиях, рекомендованных для публикации основных научных результатов докторских диссертаций.

E'LON QILINGAN ISHLAR RO'YXATI
СПИСОК ОПУБЛИКОВАННЫХ РАБОТ
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