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В данной статье рассматривается урегулирование вопроса о статусе Каспийского моря. Так как в 1991 г. после распада СССР, кроме России и Ирана, новые независимые государства, как Азербайджан, Казахстан и Туркменистан, появились как игроки в Каспийском регионе.

The issue of the legal status of Caspian Sea was considered on this article, because the new independent states as Azerbaijan, Kazakhstan and Turkmenistan have emerged as a players in the Caspian Sea except Russia and Iran.

*Л.Ф. Деловарова*

## MIGRATION REGULATION ISSUES IN CENTRAL ASIA

During the whole XX century there was a rapid expansion of migratory flows, and at the beginning of the XXI century the phenomenon of migration has become contributing factor of global change.

The collapse of the Soviet Union, changing situation in Europe and the emergence of new non-traditional security challenges caused new geopolitical realities. In these new conditions the migration studies assume new shape.

Migration as a problem did not exist during the Soviet rule. Millions of people more than half a century easily moved on within 15 republics. It was regulated by government by using by some tools (“propiska”).

During the twenty years of independence, the post-Soviet states have followed its own path of development. Due to various circumstances, these states differ in their level of development. In this context, the region has developed its own migration system. In this system, five Central Asian states and Russia should be specially emphasizes. And four of five countries (Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan) are donors and Kazakhstan and, mostly, Russia are host states.

The purpose of this article is to focus on the issue of migration regulation processes in Central Asia. The studying of this problem is very important as a migration strongly binds states in the region.

Migrants in the region are very important link between these states. They make a huge contribution to the donors and the host countries. However, these movements are not always painless. Migration processes are accompanied by numerous problems for the migrants themselves, donor and host countries. Therefore, the cooperation of the states in the region is extremely important.

This is especially significant now when the migration increases and the number of illegal migrants are very high. The situation is further complicated

by the fact that social stability in the region is very weak. This is evidenced by the frequent revolutions in Kyrgyzstan (2005, 2010), closed regimes in Uzbekistan and Turkmenistan and, finally, by unstable Afghanistan.

Researching the problems of cooperation between states in this region and migration regulation will shed a light on future prospects of the positive impact of migration on the processes of further transformation in the region. However development of effective mechanisms of regulation on the national level, cooperation between states at the regional level has been very slow.

In the case of ignoring of these problems by the expert community unregulated migration processes in Central Asia may lead to extremely negative consequences. This in turn can affect relations between states, to cause inter-ethnic conflicts, reduce social security and generally freeze to the integration processes which are extremely slow.

*In order to analyze and explain the complexity of migration regulation processes in Central Asia, it is necessary to:*

1. *To define the relevant causes of present migration in Central Asia.*

2. *To circumvent the problem posed to governmental (national) regulation.*

3. *To suggest the logics of present states – monitoring program aimed at monitoring, intrastate activity, interstate, and regional cooperation in CA.*

1. *First of all it is necessary to define the main causes of migrations.*

Migrations in Central Asia are caused by a number of different reasons. Very symbolically they can be classified in *common and special reasons*. Also it is necessary to mention *voluntary and involuntary and even forced migrations*.

As for common reasons – economic, social, political, demographic etc. – they are closely connected

and interdependent. Of course economic reasons are dominant in the region. They also cause social motivation. For example, the imbalance between supply and demand of labor and low living standards cause the population movements within the region. During the last decade of the XX century increased internal regional labour migration flows were directed mostly to Russia and Kazakhstan from Uzbekistan, Tajikistan and Kyrgyzstan. The reason was that during this period the political system and economy development level were defined and in some countries living conditions of people were very difficult. These phenomena are closely linked to social and demographic aspects of migration. So instable economy, authoritarian and close political regimes caused serious motivation for migration.

Moreover it is necessary to note some other reasons which can be also classified as common for the region, for example, migrations for education among young people, intellectual migrations etc.

Repatriation of population to their historic motherland is caused by the desire to avoid all forms of discrimination. For example, Russian population during first years of USSR disintegration migrated to Russia and other ethnic groups within the region later and till the moment. *It is a specific feature of regional migration. Of course it is mostly a soviet heritage when politics was determined as a multinational without any borders. But today when five sovereign states are on their middle or further way of identity building there are more ethnic conflicts in the region.*

As for the *voluntary or involuntary causes, here the key point is migrant's choice of forced action. In the first case the migrant is free to choose where to go and for how long. In second case he has to go and very often the direction is limited. In this situation migrants are in more difficult situation and make more difficulties in the place they go.* One of the obvious example can be refugees from Kyrgyzstan (summer 2010).

Despite the reasons what cause migration, it is always focused on seeking for a better life. So causes of migration in Central Asia are closely interrelated and are an interconnected tangle of multi-node factors which entails to a number of problems in receiving states.

*2. Migrations in the region pose problems to governmental (national) regulation in different fields. Migration flows in Central Asia is not a painless process and every year it becomes less controllable especially after September 2001.*

*Governments of the regional states are increasingly thinking of the management of these processes, as migrants evolve into all areas of these states.*

*Countries who give of migrants are also faced with many challenges.*

*The main challenge for the Central Asian migration is associated with the number of transferred labour resources. Marked gap in Kazakhstan between demand and supply of labor resources obviously can not be overcome either by natural increase of population (150 thousand people per year) or through the influx of migration in today's millionth level [1].*

In fact Kazakhstan faces the issue of further promoting the extensive flow of migrants. It can be fraught with not only the state but also for the whole region. Thus, Kazakhstan faces an acute dilemma of managing human potential, which constrains the active development of society and at the same time preserves the traditional threats to its stability within at least the medium term.

As for Kyrgyzstan and Tajikistan, the large migration losses with significant component of skilled labour resources from urban centers in the northern regions of both countries increase the difficulty of implementing government plans for economic revival. In addition, the constant outflow of up to half the male population of Tajikistan and about a third of the male population of Kyrgyzstan is blocking the functioning of the real production sector as a basis for public safety.

Since the Tajik authorities have openly bet on long-term (within 15-20 years) export of labor sources in volume to 1.5 million people annually, and Kyrgyz are not identified yet sufficiently effective ways to reduce labor migration. Both countries will experience significant difficulties in the real consolidation of society and will remain "open" for a wide range of external and internal challenges.

The Republic of Uzbekistan has the most abundant human resources – about 44% labour recourses in Central Asia. Since the beginning of this decade the outflow of labour migrants from Uzbekistan have been increasing steadily, but authorities began to respond directly to him only since 2003 is noteworthy that by this time an increasingly prominent role in the environment of migrants has become the representatives of national intelligence. According to official statistics, the migration of 7-8% of the population of Uzbekistan, and experts estimate the annual number of foreign workers at no less than 600 thousand people, 60-80% which is nearly 0.5 million people went to Russia. During recent years also increased the amount of labour migrants to Kazakhstan [2].

There is no doubt that the vast majority of Uzbek migrants work in host countries, including Kazakhstan, illegally. At the same time the Uzbek experts believe that the migration flow has no influence on

the development of the country. However, they acknowledge that due to external migration of Uzbekistan is staffing costs, as immigration flows in the educational and qualifying respect for a much inferior quality of emigration.

As a threat in the long term Uzbek authors indicated the possibility of depopulation in the undermining of the modern model of population reproduction [3]. Uzbek situation, marked by the erosion of strict control over labour migration and increasing demand in the growth of its outer movements, characterized by, apparently, and Turkmenistan. It seems that there is such a need is more acute than in Uzbekistan, as the Turkmen population is growing very rapidly – about 3% per year [4].

Thus, a number of transferred human resources in Central Asia generally intensifies the contradiction between the current and strategic tasks of public administration and make the main effort to focus on stopping population crisis rather than addressing its root causes. Challenges of migration processes in Central Asia are part of the system of contradictions and do not directly depend on the administrative or legal regulations.

However, due to lack of adequate policy approaches to massive population displacements, the prospects for inhibition of population crisis worsened. None of the Central Asian countries will be able to reduce migration risks, while continuing to respond only to their most dramatic manifestation.

### *3. Monitoring programs and regional cooperation*

Intensifying processes of globalization necessitate concerted efforts of different states, following some general principles of unification in some, albeit limited, scope of management tools.

By law, this approach brings a claim against the hierarchical alignment from global to regional (comprising several states), from regional to national levels. Mutually agreed upon approach is particularly important with respect to labor migration, pervasive process which, even if it develops within a limited range covers at least a few countries.

Therefore, an analysis of legal approaches to regulating labor migration should be started with a mention of the fundamental principles and norms of relevant international law, then passing to the legislation at the regional level (the CIS level) and then to bilateral agreements. The last one is national level.

The international community pays great attention to migrant workers and their families. This issue is devoted to several conventions of the International Labour Organization (ILO) and the special UN Convention, which together form the basis for the de-

velopment of national legislation and international agreements, policies and practices in this area.

Comprehensive act regulating labour migration is the International Convention for the Protection of the Rights of All Migrant Workers and Members of Their Families, adopted by the UN in 1990 [5]. In terms of overall objectives, this document aims to promote the enjoyment and protection of persons migrating from one country to obtain work, and containment and, ultimately, the eradication of illegal migration. In addition to the principles of ensuring equality of opportunity, international instruments are based on the principle of responsibility of a migrant worker in front of the host country, which imposes obligations of migrants complain with national legislation of the host country and does not relieve him from liability for breach of this legislation. Central Asian countries are not yet ready to fulfill the requirements of international conventions, nor legal, nor, especially, on a practical level. This fully applies to Tajikistan, the only country among the considered, which joined the UN Convention. None of the states of Central Asia has acceded to ILO Convention № 143 which is very important for both migrants and hosting states [6].

In this context, it should be mentioned too frequent restructuring of government bodies engaged in migration management in all these countries, which reduces the effectiveness of this control, breaks the continuity and deprives the authorities the possibility of consistently and efficiently carry out its functions.

### *Legislative acts in the framework of the CIS as a basis for cooperation*

*Since labour migration in the CA countries was rapidly gaining momentum immediately after the disintegration of the Soviet Union quickly became necessary to protect at least the most essential rights of migrant workers, despite the fact that the necessary control structures, and dual national legislation in some countries only to create, and others to their creation is also not started.* April 15, 1994 was signed an agreement on cooperation in the field of labor migration and social protection of migrant workers in the CIS countries, signed by all CIS countries in Moscow and has been ratified by all countries except Uzbekistan. This agreement is still the main, the base document for the partnership in the sphere of labor migration in the CIS. Agreement-1994 is a very general nature. Although it is intended “to regulate the main directions of cooperation between CIS countries in the field of employment and social protection of migrant workers and their families in receiving countries, it covers a very narrow scope of regulation. CIS Agreement – one of the first documents of the Commonwealth enacted in the period

of maximum economic downturn in all countries, the Tajik civil war, massive flows of immigrants from Central Asia to Russia. Then, labour migration is not included with the priorities of CIS countries. On the nature and quality of the Agreement affected by the fact that the CIS has not yet adopted new labour laws and hasn't created institutions on migration management. The agreement is clearly insufficient knowledge of how to use the relevant international law and the peculiarities of the job market conditions. All this is explained in general, without details. A serious drawback of the document is the lack of provisions on non-discrimination by sex, age, ethnic, racial, religious or other grounds. Probably, during the height of nationalism and ethnic conflict CIS were not willing to follow this principle. Agreement on labour migration complements the CIS cooperation in combating illegal migration, signed in March 6, 1998 in Moscow.

It wasn't signed by representatives from Georgia, Turkmenistan and Uzbekistan. The rod of the Agreement is monitoring – punitive functions. It says nothing about governmental management and cooperation. The CIS Council of Heads of Government approved Programme of Action for development in June 20, 2000, included development of a Convention on the Legal Status of Migrant Workers and Members of Their Families of the Commonwealth of Independent States. The work in this field is progressing very slowly. In June 22, 2007 draft convention was finally reviewed and approved by the Advisory Board on Labour, Migration and Social Protection of State of the CIS countries. The project was developed in the context of relevant international conventions and covers a wider range of issues compared to the 1994 Agreement. In the case of adoption of the convention, it could be a good basis for further intergovernmental cooperation. Decision of the Council of Heads of CIS States on October 5, 2007 (Dushanbe) adopted the Declaration on coordinated migration policies.

The declaration of such a high level is an evidence of acute relevance of migration issues in the CIS, the recognition of the relevance of all the countries on the one hand, and on the other – an attempt to strengthen efforts in this field.

Permanent attempts to create within the CIS more durable and capable instates strongly inhibit the production of the conciliation policy of uniform legislation, because every time the development of a package of documents starts from the beginning instead of going further. Thus, the cooperation of States in respect of addressing migration in the region within the CIS is in a very precarious state and, above all because of the status of this association. All

documents initiated cannot affect the major problems associated with migrant workers in the field of regional control and regulation. Moreover there is no any solid base of five states in the self-titled region. The bases for regulatory issues in the field of migration are bilateral agreements. An important obstacle is the reluctance of the ruling elites to strengthen integration in the region.

Adoption of numerous legislative acts at the national level cannot solve the problems associated with managing multiple and uncontrolled migratory flows. In this context, the key point of the migration policies of the countries caught up in the face of migration challenges is the transition from conducting certain activities to develop a systemic model of migration management. This will strengthen the stability and internal development of regional integration, as well as to achieve the necessary level of security, which will be protected by the national interests of all partners. Very important step on the way is to create information sharing system.

Kazakhstan is hosting the regular collection of data by Agency for Statistics.

In Kyrgyzstan, it is conducted a household survey, the question of entering the immigration card is discussed. In Uzbekistan, the main source is the household survey, but the results of development of customs declarations are expected. In Tajikistan, statistics on migration cards began to take shape, but now it is temporarily unavailable because of interagency disputes [7]. The population census are also conducted, but the main drawback is that the data quickly become obsolete and there are a number of undercount migrant workers (especially-retired, as well as illegal immigrants), but the main drawback is that the data quickly become obsolete; there is a large undercount of migrant workers (especially-retired, as well as illegal immigrants). Therefore, the main attention should be paid to the development of current systems, the annual registration of migrants.

The problem of regulation of migration processes in Central Asia is a very complex and multifaceted phenomenon.

Migration in the region causes by various reasons but the key is economic reason. The number of forced migrants is also increased.

The main reason on the way of comprehensive governmental (national) regulation of migration processes is the lack of adequate and effective policy approaches to the mass population movements. Frequent reorganization of the structures responsible for the regulation and control in migration is also a problem. This also results inconsistencies in the policy.

The weak point is the adoption of international instruments (documents) on migration.

Regional cooperation in migration regulation is characterized by slow and inefficient development.

Another important issue is somewhat selfish behavior of the ruling elites and the reluctance realization of ideas of integration and the promotion of cooperation in general and in the field of migration.

The monitoring and collecting information on the integration of migrants is very poorly developed.

In the medium term migration processes in Central Asia will expand their scale but at the same time they will increasingly change demographic, ethnic and political landscapes of the region and only joint and fruitful cooperation between regional states can settle the problems associated with migration in Central Asia.

1. Макроэкономический анализ и прогноз рынка труда в Казахстане на основе данных социально-экономического развития: Валового Внутреннего Продукта, Миграции и Занятости <http://www.kazid.kz/articles/Labour.pdf>.

2. Демографический путь Узбекистана // <http://www.demoscope.ru/weekly/2006/0235/tema01.php>; Центр социально-экономических исследований Узбекистана: Миграционный отток не оказывает на нас влияния, 11 мая 2006 г. // <http://www.regnum.ru>

3. Центр социально-экономических исследований Узбекистана: Миграционный отток не оказывает на нас влияния, 11 мая 2006 г. // <http://www.regnum.ru>

4. Численность населения в Туркмении выросла с начала года на 90 тыс. человек, 14 мая 2004 г. // <http://www.watan.ru/rus>

5. Международная конвенция о защите прав всех трудящихся-мигрантов и членов их семей [http://www.un.org/ru/documents/decl\\_conv/conventions/migrant.shtml](http://www.un.org/ru/documents/decl_conv/conventions/migrant.shtml)

6. Convention № 143 // <http://www.ilo.org/ilolex>

7. Чудиновских О. Статистика трудовой миграции в странах ЦАР и России: современное состояние и перспективы обмена данными МГУ им. М.В.Ломоносова // <http://migrocenter.ru>

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Миграционные процессы в Центральной Азии являются одной из ключевых характеристик трансформации государств региона и важным звеном, прочно связывающим эти государства. В статье отражены основные проблемы в области регулирования миграционных процессов в регионе.

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Орталық Азиядағы миграциялық үрдістер аймақтағы мемлекеттердің трансформациялануындағы негізгі сипатының бірі болып табылады және бұл мемлекеттерді тығыз байланыстырушы маңызды сала болып отыр. Мақалада аймақтағы миграциялық үрдістерді реттеудің төңірегіндегі негізгі мәселелер қарастырылған.

*А. Байтокова*

## АСЕАН-НЫҢ ИНТЕГРАЦИЯЛЫҚ ДАМУЫ

Мемлекеттер арасындағы әріптестік бұрыннан келе жатқан дәстүр. Бірақ, XX ғасырдың орта шенінен бастап қана мемлекеттер тұрақты әріптестікке көшті. Әріптестікті күшейтуге, оның салаларын кеңейтуге және интеграциялық процесстерді дамытуға деген қажеттілік мемлекетаралық институттардың пайда болуына әсер етті. Сондықтан да интеграцияны іске асыру үшін жай ғана әріптестік жеткіліксіз. Ол үшін мемлекетаралық қарым-қатынасты реттейтін механизмдерді құру керек. Бұл тұрғыда интеграция ең алдымен, үкіметаралық ұйымдардың қалыптасуымен тікелей байланысты.

Қазіргі халықаралық қатынас жүйесіндегі маңызды интеграциялық құрылымдардың бірі Оңтүстік-Шығыс Азия мемлекеттері Ассоциациясы (АСЕАН), Азиаттық – Тынықмұхиттық аймақта ғана емес, бүкіл дүниежүзінде көпсалалы ынтымақтастықпен қарқынды дамып келе жатқан кеңес беру, сенім, төзімділік, ұйымға мүше барлық мемлекеттердің мүддесін тең ескеру

сынды негізгі ұстанымы, оларды аймақтық ішкі мәселелерді шешудің оңтайлы жолына түсіріп, маңызды жетістіктерге жеткізді. АСЕАН Азиаттық – Тынықмұхиттық аймағында саяси және экономикалық өзара әрекет етуде көтерген «Көпжақтылық бірлік» ұранын нақтылы жүзеге асырған әлемдік экономикада өзіндік орын мен ықпалға ие аймақтық ынтымақтастық ұйым болып отыр.

Сондықтан аймақтық интеграцияда АСЕАН дамуының тәжірибесін терең жүйелі түрде зерттеудің Қазақстан үшін теориялық және тәжірибелік маңызы зор. Бірақ бұл саладағы зерттеулер Отандық қоғамдық ғылымдар саласында көп емес. Халықаралық қатынастар саласында Шығыс Азиядағы халықаралық қатынастар дамуының эволюциясын зерттеген М. Ауғанның көзқарасы бойынша, АСЕАН секілді Аймақтық форум іспетті интеграциялық құрылымның рөлі аймақта тарапты мәселелер желісімен күннен-күнге аса маңызды бола түсуде [1].