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**Illegal migrants from trafficking crimes
in the context of labor exploitation**

Abstract: While human trafficking is viewed as one of the most lucrative and dangerous types of criminal activity in criminological terms, it is viewed as a modern form of slavery in the social context. For many countries in the modern world, the rate of labor trafficking (forced labor) is characteristic of the growth rate. According to the International Labor Organization, about 13 million people were forced into labor in the world in 2005, of which 64% belonged to the private sector of the economy and 20% to the state and military sectors. Most of those involved in forced labor (56%) are women. In 2012, these figures almost doubled, and the number of those involved in forced labor reached nearly 21 million. Of these, 14 million (68%) were employed in the private sector and 2.2 million in the public sector. 5.5 million (26%) were under the age of 18. According to the United Nations 2014 report, more than 20 million people, one-third of whom are children each year, become victims of human trafficking and 40 percent are forced into labor. According to reports from international organizations, of the 56,000 known human trafficking victims worldwide, 51% are women, 21% are men, and 28% are children. 58% of the victims are exploited by criminals and organizations through more than 570 routes to other countries. The deepening of the problem plays a special role in the financial crisis in many countries of the world, the geography of armed conflicts, the rise in demand for cheap labor and the emergence of unregulated migration flows. It is estimated that there are 40.3 million victims of

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modern slavery in the world, of which 16 million are forced into labor, construction, and agriculture.

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Trafficking in labor is of particular relevance in the context of the socio-economic situation and the geographical location of the country. For example, in the case of the former Soviet Union, the use of forced labor, forced labor, and human trafficking are characteristic of alien elements of socialism, but in its successor Russia, the number of victims of trafficking in 2012, according to the ILO 1.6 million people [12]. After the collapse of the Soviet Union, the socioeconomic situation in Russia deteriorated significantly, stratification among the population, poverty and unemployment increased dramatically, creating a fertile ground for the involvement of criminal groups in human trafficking. The expansion of corruption, the creation of a “migrant-dependent” economy based on the cheap and illegal labor of foreigners has stimulated the work of trafficking victims from neighboring countries, first of all the Central Asian countries. It should not be forgotten that Russia is also the largest transit corridor between Asia and European countries in human trafficking. Finally, trafficking in labor is closely linked to the illegal labor migration that covers a significant part of the population of the former Soviet countries.

Trafficking in persons and slavery are closely linked to the problem of migrant workers. Because most migrant workers belonging to the most vulnerable groups of the population have official status in the countries where they come from. Some of them come to live permanently, some to work, some to study, some to seek refugee status. In addition to the countries that accept or only migrate, there are also countries that accept and export migrants. Thus, the most developed countries of Europe, the USA, Canada, Australia are the countries that accept the



most migrants. For example, if you believe in the press, 41% of London's immigrant city is comprised of people born outside the UK [5].

China, India, Bangladesh, Turkey and Vietnam are the countries most exporting migrants. The Arab countries were also included in the list after known events. The countries that maintain the balance of migrant recruitment and retirement are mainly Eastern European countries and some CIS countries. Currently, China and Russia are the leaders in the number of overseas and educated people. Russia also acts as a transit corridor between Asia and Europe because of its geographical location. The territory of the country is practically southeast Asia, Afghanistan, Pakistan, China and so on. is the only transit region for migrant traffic from countries to Europe. Russia's Far East region acts as a transit point for migrant flows to Central Europe with Central Asia, and to the northwest with Belarus, Ukraine and Moldova. According to estimates, the number of illegal transit migrants in Russia reaches 300,000 and most of them are citizens of Afghanistan, Bangladesh, Vietnam, India, Pakistan, China, Turkey, South Caucasus. Transit migrants use Russia as a corridor, mainly for access to EU countries and the United States. The transportation of one transit migrant from Russia to these countries costs about \$ 7,000 [13].

It is important to note here that international law stipulates that every citizen has the right to travel freely and to enter the country through the border points. A citizen may not be denied the right to leave or enter the country, except in certain circumstances (for example, arrest, parole, etc.). The right of a citizen to leave the country is based on his / her passport or other travel documents and must obtain a visa if the visa is required. According to Article 3.0.16 of the Migration Code of the Republic of Azerbaijan, a visa is the official document granting the right of foreigners and stateless persons to enter and exit from the Republic of Azerbaijan and leave the territory of the Republic of Azerbaijan in the prescribed manner [4].



In addition to persons crossing the country illegally, persons who are not registered in the country of origin are also considered as illegal migrants. In this regard, the following groups of persons are referred to as illegal migrants: 1) those crossing the state border illegally; 2) persons crossing the state border on legal grounds, but not registering with the police or other relevant state body, or not increasing the visa upon expiry; 3) persons engaged in other activities, not in the activities specified in the document (for example, those who are in the name of education but are not actually educated or engaged in labor activity) [9, p. 25].

It is also important to note that labor migration is the legal basis for an individual to engage in paid work, to move his / her place of residence by migrating from one country to another, while a migrant migrates from one country to another for legal employment means personal. The above group of persons is considered to be affected by illegal migration. Although the legal theory and practice do not have a clear position on the terminological expression of illegal migration, we find that the previous literature uses the term “illegal migration” more often. With the collapse of the socialist regime in some countries of the former Soviet Union, the socio-economic situation and the entry of citizens of most independent states into each other's territories without a visa regime has led to an increase in the number of immigrants. Therefore, in Russia and other post-Soviet countries, where the influx of migrants is high, the terms “illegal migration” and “undocumented migration” have been used rather than “illegal migration”. The International Organization for Migration endorsed the idea of using the terms ‘illegal migration’, ‘undocumented migration’, given that the majority of migrant workers have no work permits, and these terms have already been incorporated in various countries' regulations.

There are three types of illegal migration: 1) illegal entry into the country; 2) to be illegal in the country; 3) Do not engage in labor activity in the country without legal basis [7, p. 82].



Illegal entry into the territory of the country means entering the territory of another state illegally crossing the border of another state without the aforementioned document and permission. A typical example is the recent influx of migrants from conflict zones, particularly from Iraq, Syria and other Arab countries. However, some migrants continue to stay here illegally, without having to enter the country legally, without having to renew their visas, or forging permits or failing to take any other required procedures. Whereas, by law, a foreigner or a stateless person who is in the territory of another country has the right to stay in that country for a specified period of time, which is determined in accordance with the national law of each country.

For example, according to Article 20 of the Migration Code of the Republic of Azerbaijan dated October 17, 2014, the term of stay of foreigners and stateless persons arriving to the Republic of Azerbaijan on a visa is provided for the period of stay in the country. However, the period of temporary stay in the country may not exceed 90 days, except as provided by international treaties to which the Republic of Azerbaijan is a party. If foreigners and stateless persons have not been granted temporary residence in the country, they have not been granted a temporary residence permit, and they have not received a request from the Republic of Azerbaijan to extend their temporary stay or to grant temporary residence permit.

Of course, there are also cases where foreigners and stateless persons can be temporarily deported. For example, our national legislation includes the following: 1) the need for urgent treatment of foreigners and stateless persons in the territory of the Republic of Azerbaijan; 2) serious illness or death of foreigners and stateless persons living in the Republic of Azerbaijan; 3) issuance of a motivated request by the organization that invited these persons to the country for the completion of the work provided by foreigners and stateless persons arriving to the Republic of Azerbaijan in connection with the necessity of service; 4) prolongation of



temporary stay in the Republic of Azerbaijan of the father, mother, husband (wife), child, brother, sister of a foreigner or stateless person.

Foreigners and stateless persons must obtain a work permit, as well as a temporary residence permit, in addition to a temporary residence in the territory of another state. In addition to working permits in the legislation, there is also the concept of a labor visa. According to Article 51 of the Migration Code of the Republic of Azerbaijan, work permit is an official document authorizing foreigners and stateless persons to engage in paid employment in the territory of the Republic of Azerbaijan. Issuance of work permits is carried out within the labor migration quota approved by the relevant executive authority. The quota is applied to increase the efficiency of work in the field of efficient use of local labor resources and regulation of labor migration processes. The quota internal labor market, the demand for the workforce, the availability of vacancies that are not claimed by a citizen of the Republic of Azerbaijan, which meets the requirements of the workplace, the ability of the employment agencies to meet the employers' labor needs through the local labor resources the need for attracting specialists. Labor visa is the employer of physical persons, as well as branches and representative offices of foreign legal entities, intending to engage in paid labor activity in the Republic of Azerbaijan and for this purpose the state bodies of the Republic of Azerbaijan, legal entities operating in the Republic of Azerbaijan to foreigners and stateless persons who have come under the petition. The duration of stay in the country on a work visa is up to 90 days.

In theory and practice, “unregulated migration”, “undocumented migration”, “unregulated migration”, “smuggling of migrants”, “illegal migration”, etc. The terms are commonly used. Of course, all these terms are concepts related to human trafficking, but it should be taken into account that not all cases of illegal migration or smuggling of migrants are not the same as human trafficking. The following are mentioned in the literature as their distinctive features:



1) due to the nature of the agreement. For example, in the case of illegal smuggling of migrants, they are often informed or warned in advance of the possibility of committing dangerous, even degrading actions against them. However, the migrants agree to the same conditions to be delivered to the destination. In the case of human trafficking, migrants may not be aware of such conditions beforehand, or even if they are aware of it, their consent to it will be lost as a result of the coercion, cruelty, and fraudulent activities of the traffickers;

2) for the element of exploitation. If the smuggling of migrants ends at the point where they reach their destination, trafficking in persons implies the permanent exploitation of victims in one way or another for the purpose of earning income;

3) by source of financial income. Migrant “smugglers” receive their wages in advance, before they are delivered to their destination (destination), and the proceeds from trafficking in human beings are counted as final exploits;

4) From the legal point of view of the action. If illegal migration of migrants is considered transnational in all cases, trafficking may not always be the case [9, p. 16].

There is a strong correlation between illegal migration and human trafficking. The basis for this relationship is that the risk of sexual or labor exploitation in countries where illegal migrants are trafficked is extremely high. Taking into account these and other socially dangerous consequences, criminal liability was established for the organization of illegal migration. Thus, the Law of the Republic of Azerbaijan dated December 03, 2013 No. 833-IVQD is included in the new Article 318-1 in the following content:

“Article 318-1. Organization of illegal migration

318-1.1. Organization of illegal entry to the Republic of Azerbaijan by foreigners or stateless persons, illegal stay in the territory of the Republic of



Azerbaijan, illegal transit through the territory of the Republic of Azerbaijan or illegal departure of any person from the Republic of Azerbaijan -

shall be punished with fine from four thousand to eight thousand manats, or correctional labor up to two years, or imprisonment up to three years.

318-1.2. The same actions:

318-1.2.1. by an organized group;

318-1.2.2. committed by an official using his / her official position;

318-1.2.3. in case of repetition;

318-1.2.4. by a dangerous method for human life -

is punished by imprisonment for a term of two to five years with or without deprivation of the right to hold a certain position or to be engaged in certain activities for up to two years” [2].

The national legal literature shows that the public danger of the offense described in Article 318-1 of the Criminal Code is the illegal entry of foreigners and stateless persons to the Republic of Azerbaijan, the stay of the Republic of Azerbaijan, and the violation of the borders of our state, as well as national security. creating conditions for committing terrorist activities in the territory of the Republic, organization of illegal turnover of drugs and psychotropic substances, firearms, ammunition, etc. [3, p. 1010]. We agree with this position, but also support the inclusion of such crimes as human trafficking and forced labor. Thus, the same criminal structure was incorporated into the Criminal Code of the Russian Federation on December 28, 2004. Statistical reporting of these crimes has been conducted in the country since 2012, and it has become clear that over one-fourth (26-27%) of the crimes committed in the area of human trafficking are accompanied by illegal migration [8, p. 29].

It should be noted that the General Directorate of Combating Trafficking of the Ministry of Internal Affairs of the Republic of Azerbaijan keeps general statistics of crimes related to human trafficking in our country. It contains



information on cases of human trafficking, forced labor, trafficking in human trafficking, as well as other crimes related to human trafficking, including involvement in prostitution, detention of immorality, and other crimes.

Below we present the statistical data compiled by that department for 2005-2018:

Throughout the Republic		For years													
		2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
The total of criminal cases		162	215	283	403	340	212	169	222	228	272	317	314	295	285
Types of crimes	Articles of the Criminal Code of AR														
Trafficking	art. 144-1	1	29	72	79	79	67	67	89	78	98	109	141	142	144
Forced labor	art. 144-2	-	-	-	1	3	1	2	2	3	4	7	6	6	4
Illegal acts with documents for the purpose of trafficking	art. 144-3	-	-	-	-	-	-	-	-	-	3	11	19	26	35
Involvement in prostitution	art. 243	54	57	49	116	92	62	43	45	69	76	57	41	49	60
Attracting underage prostitution	art. 171	4	7	8	10	5	2	2	2	3	2	1	4	7	5
The trafficking of child pornography	art. 171-1	-	-	-	-	-	-	-	-	-	-	-	-	1	-
Keep the nests of	art. 244	93	112	150	180	148	73	51	75	66	82	123	99	58	24



immorality															
Forced to act in a sexual manner	art. 151	5	5	1	10	3	2	2	4	6	5	6	2	3	4
Trafficking in human organs or tissues and forcing them to be transplanted	art. 137	-	-	-	-	1	-	1	-	-	1	-	-	-	1
Illegal distribution of pornographic materials or items	art. 242	5	5	3	7	9	5	1	5	3	1	3	2	3	8
Slavery	art. 106	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Change another child's child	art. 172	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Unlawful adoption	art. 174	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Disseminate confidential information about the victim of trafficking	art. 316-1	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Persons who committed crimes (on judicial responsibility)	Total::2525	153	207	300	349	289	137	97	145	124	149	171	162	121	101
including human traffickers	Total:543	1	23	93	91	76	39	20	22	17	26	32	36	33	34
Trafficking victims	Total:885	1	86	101	78	91	34	29	53	56	54	63	70	71	98

As you can see, there is no crime of organizing illegal migration in the table reflecting statistical data. In terms of human trafficking and forced labor, Azerbaijan is primarily a country of origin, and in some cases, a destination



country. Let us explain this with concrete facts. In 2011, complaints of forced labor of citizens of China, Turkey and Afghanistan from various international organizations were investigated by the General Directorate for Combating Trafficking of the Ministry of Internal Affairs, mainly due to delays, underfunding and other labor disputes. In 2011, 1 case of forced labor was registered, and 2 in 2012. According to the State Migration Service's inspections at 484 facilities, relevant measures have been taken against 235 legal entities and individuals who violated the rules of hiring more than two thousand foreigners and stateless persons. During the investigation of complaints about forced labor of citizens of Turkey, Turkmenistan and Uzbekistan, working in various companies, it was found that complaints were mainly related to delays, underpayments and other labor disputes. According to the allegations of forced labor of citizens and foreigners in agriculture, no victims were identified in the monitoring conducted in Shamkir, Kurdamir, Guba, Sheki, Gabala, Ismayilli, Zagatala, Salyan, Barda, and Bilasuvar districts. In 2014, 4 forced labor offenses, 164 administrative offenses were revealed by the Ministry of Internal Affairs, the Ministry of Labor and Social Protection and the State Migration Service as part of labor migration control in construction sites and manufacturing facilities located in the capital and in separate regions of the country. 2543 foreigners deported have been deported. Of the 54 victims (51 women, 3 men), 37 were transported to Turkey, 8 to the Russian Federation, 6 to the United Arab Emirates, and 3 were exploited internationally (two citizens of the Russian Federation, one from the People's Republic of China). 94% of victims were taken to foreign countries, and 6% were exploited nationwide. In 2015, there were 8 forced labor offenses, of the 63 victims (57 women and 6 men), 38 were transported to Turkey, 8 to the United Arab Emirates, 3 to the Russian Federation, 14 were employed, including 7 in foreign countries (5 Uzbekistan, 1 Turkmenistan and 1 Ukrainian citizen). In 2016, a study conducted by the International Organization for Migration in Azerbaijan did not reveal the



fact that foreigners were involved in forced labor, although administrative sanctions were imposed on 90 individuals who violated the relevant legislation. The expulsion of 5,523 foreigners who had violated the rules of residence and residence in the country was also important in preventing forced labor of migrants. In 2017, 6 cases of forced labor across the country were revealed, and 5 victims, including 2 foreigners, were employed in domestic service and agriculture. One of the most important measures in the prevention of forced labor was the identification and bringing to administrative responsibility of 20,285 foreigners who violated the rules of stay and residence in the country, including the deportation of 6,330 people [1].

Thus, the purposeful actions to prevent forced labor in the republic, including violations of the rules of stay and residence in the country, to identify victims, exclude the widespread use of migrants, their exploitation for the purpose of human trafficking. However, given the correlation between illegal migration and human trafficking, it is appropriate to note this crime in the table above. On the other hand, we consider it appropriate to include a specific number of crimes committed in the same statistical report as the percentage of crimes against human trafficking, as well as other crimes associated with human trafficking. This will help determine the specific gravity of each socially dangerous act in the general picture of the alleged crimes, the basic and most commonly observed drawings of the general socio-psychological portrait of the perpetrators.

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