

CONTEMPORARY CRIMINOLOGICAL ASPECTS OF ILLEGAL MIGRATION

Baratova Dilnoza Odiljon kizi

(PhD) in Law, Leading Researcher at the Research Institute of Criminology of the Republic of Uzbekistan

Abstract

The article examines criminological aspects of illegal migration, namely: factors, conditions provoking illegal migration, how much the number of crimes of this type is currently increasing, their number, causes and circumstances leading to the commission of this crime, as well as the category of persons who committed this type of crimes, conditions and circumstances of crimes committed by women, to commit a crime the commission of this crime increases from year to year, along with proposals and recommendations developed to combat illegal migration.

Keywords: Migration, illegal migration, population migration, illegal and uncontrolled migration, national security, international community, reasons of illegal migration, foreign citizens, problems of combating crimes, a criminal person, the socio-demographic analysis.

Introduction

Today's modern world is developing with high dynamism and interdependence of events against the background of globalization of all spheres, and as a result there are differences and contradictions between the development of states, the life of the population and the level of well-being. In this respect, today, human values and development models in society have become the subject of global competition, and it clearly shows that the international community is vulnerable to new challenges and threats.

However, in such conditions, the lack of control and lack of regulation of population migration leads to increased competition in the local labor and housing market, conflict of ethnic and sub-ethnic stereotypes and behavioral norms, marginalization of social and cultural relations of some migrants, and intensifying criminalization of migrants. As a result, illegal migration is becoming a threat to the national security of countries. For example, illegal and uncontrolled migration allows the growth of nationalism, political and religious extremism, ethnic separatism and creates conditions for the emergence of various conflicts. Therefore, taking into account the inevitability of migration processes in the current modern conditions, Uzbekistan requires that these processes be constantly evaluated in terms of the security of the country, the improvement of the well-being of the population, and the impact of illegal migration on the level of crime, and appropriate measures should be taken based on the results.

Consequently, the concept of illegal migration is interpreted in different ways in the literature today, and no single conclusion has been reached in this regard. For example, Shkilev A.N., who studied this problem, defines the concept of illegal migration as follows: "Illegal migration



is the territorial movement of the population in physical space under the influence of socio-economic, political, legal and national-demographic factors in violation of the applicable norms of international law and the requirements of the national legislation of the country" [20 ; S. 12]. Also, in this matter, Kakhbulaeva E.Kh. writes that illegal migration is a rapidly developing socially dangerous phenomenon that violates the norms of international law and national legislation and threatens national security and the interests of the entire international community [9; S. 14]. However, in our opinion, the content of illegal migration is not fully revealed in these definitions, for example, they do not specify the issues related to the subjects of illegal migration and do not reveal the aspects related to its objective signs. In our opinion, the content of illegal migration should also include situations related to the violation of the requirements of international law, and the content of its types should also be taken into account, and of course, as one of the reasons that cause illegal migration, it should not be connected only with the legal crossing of the state border, because the migrant's entry into the country may be completely legal (for example, entering the country with a tourist visa), but the subsequent stay in the country or the activities performed by the migrant may be illegal (expired visa, work activities in violation of migration legislation, etc.).

Based on this, it can be said that illegal migration means foreign citizens or stateless persons who do not permanently reside in Uzbekistan, entering, leaving, staying, transiting the territory of the Republic of Uzbekistan in violation of the norms of international law and the legislation of the Republic of Uzbekistan, and actions aimed at carrying out labor activities or being involved in violation of the established procedure on the territory of Uzbekistan. Therefore, usually the subjects of illegal migration are foreign citizens and stateless persons who do not live permanently in Uzbekistan. It also occurs in cases where persons of this category commit a crime in violation of the law during their entry, exit, stay or transit to the country. As crimes related to illegal migration, it is possible to refer to any crimes committed by foreign citizens and stateless persons, as well as cases related to the commission of the crime provided for in Article 223 of the Criminal Code (Illegal departure or entry into the Republic of Uzbekistan). Although, the majority of crimes committed by migrants fall into the category of serious and especially serious crimes. In particular, more crimes are being committed by migrants consisting of mercenary crime, as part of criminal groups organized on the basis of " brotherhood", crimes against sexual freedom, illegal handling of narcotic drugs and psychotropic substances, as well as crimes related to looting of other people's property (larceny). After all, there are various ways of committing crimes related to illegal migration. For example, for the criminological description of illegal migration, it is mainly important how it is committed.

Here, it is important to note that there are no cases of an alarming increase in the state of the criminogenic situation and the dynamics of crime in our country. One of the main reasons for this is the fundamental reforms being carried out in all spheres in Uzbekistan. However, despite the wide-ranging reforms being carried out in our republic, it is inappropriate to say that crime does not pose a threat to the country's development and security, because new types of crimes are emerging. For this reason, as Abdurasulova Q. R. rightly pointed out, "... new types of crimes and their new manifestations appear in society, so a new approach to the issues of



combating and preventing them is required" [2; B. 36] . Among these crimes, as we mentioned above, crimes related to illegal migration are committed.

It should be said that in recent years, the development of tourism in our country, the openness of the country's borders, in particular, the increase of foreign countries entering the country without a visa, also led to an increase in the flow of foreign citizens visiting Uzbekistan. In particular, if 5.2 million foreign citizens visited Uzbekistan in 2022, this figure increased by 3.4 million people or 3 times compared to the corresponding period of 2021. In January-June 2023, 3.1 million foreign citizens visited Uzbekistan, which shows an increase of 1.2 million or 2.1 times compared to the corresponding period of the previous year [17] .

According to statistics, 685,854 of the 2,273,788 foreign citizens who visited the Republic of Uzbekistan in 2021 were registered as migrants. 10,441 of them (8,141 in 2020) were issued with a permit to work in the country, 133 (91 in 2020) were expelled from the country in administrative order, also, 2,697 foreign citizens (1,357 in 2020) were brought to administrative responsibility for violating the rules of entry to the country, and 124 (101 in 2020) were brought to criminal responsibility for committing various criminal acts [18]. In 2022, crimes were committed by 278 foreign citizens in our country, which is a 36% increase compared to the corresponding period of 2021 (219 people) [16] . Of course, this situation is primarily related to the increase in the number of foreign citizens visiting the country.

An important direction of the problems of combating crimes committed by foreign citizens and stateless persons in connection with illegal migration is to clarify the criminological aspects of these crimes, which will allow to correctly determine the priorities for prevention, detection and elimination of the crime under investigation.

From this point of view, in the legal literature, it is emphasized that "determining the quantitative and qualitative indicators of crime, as any social phenomenon, is of great importance in the prevention of crimes." [19; B. 50; 10; B. 66; 14; S. 196]. Therefore, the criminological description of crimes related to illegal migration today, in our opinion, is significantly influenced by the general crime in our republic and the trends of crimes committed by foreign citizens and stateless persons.

In particular, the general dynamics of crime in the percentage of crimes recorded in 2021-2022 shows that the total number of crimes committed in these years, as well as the number of persons who committed them, is growing year by year [15]. This, in turn, requires the development of optimal ways of combating general crime.

From the dynamics of crimes committed by foreign citizens in the general system of criminality in 2021-2022 and the first half of 2023, it was found that crimes of this category increased by 36% in 2022 compared to 2021 [15]. The emergence of this trend of crimes committed by foreign citizens in the indicated years, first of all, the illegal status of migrants, causing high criminogenic activity, the lack of proper systematic control and insufficient control by the state over the compliance of migrants with international and national legislation, availability of migrants to avoid administrative and criminal responsibility, i.e. the imperfection of the legislation in the field of regulating corrupt situations and migration processes, the lack of sufficient attention of law enforcement agencies to this type of crime, the cases of recording this type of crime only when there are detected crimes, and because of the shortcomings made



in the process of reforms in the field of legal consciousness and legal culture formation in the society, this type of crime has been activated.

This, of course, requires the need for law enforcement agencies to pay more attention to this type of crime in the future. It is necessary to implement measures to increase the effectiveness of the fight against crimes related to illegal migration by including them as a separate item in the annual plans and reports prepared by law enforcement agencies. It is also necessary to improve the system of registration of crimes related to illegal migration. In this case, as much as possible, it is required to create a single system of reflecting the dynamics of this crime in the general list system based on a separate table. This table shows what measures should be taken between citizens and law enforcement officers in which areas to fight crime in the future. At the same time, this issue also shows the need to further increase the role of mass media in forming citizens' moral and crime fighting knowledge.

In addition, the issues of correctly determining the directions of the fight against crime depend to a large extent on the general characteristics of the criminal. For this reason, as Zokirova O. rightly noted, "knowing the specific characteristics of the criminal's personality is important for the prevention of individual crimes, the factors that cause them to be committed, and the elimination of the negative impact of crime on a person." [7; B. 32].

Problems related to the criminological description of a criminal have always been the focus of criminological scientists. After all, "a person," writes the legal scientist Ismailov I., - is considered the most complex object for any field of knowledge, therefore, this problem is controversial and cannot be approached from one side" [8; B. 45]. In the science of criminology, a criminal person is understood as "a set of specific social and psychological characteristics that cause a person to commit a crime." [4; S. 126; 5; S. 68; 11; S. 625]. Consequently, as Abdurasulova Q.R. and Niyozova S. rightly noted, the criminological description of the criminal implies the study of the problem of the criminal's personality and the factors that cause his antisocial behavior[3; B. 45-46].

When researching the criminological description of persons who have committed crimes related to illegal migration, it is necessary to study and take into account the criminological characteristics of a person, because the circumstances that allow to determine the difference between a criminal person and a non-criminal person are determined using these methods. At the same time, the famous scientist Abdurasulova Q.R. rightly states that "a criminal differs from a non-criminal by his level of social danger" [2; B. 215].

Based on the classic point of view in criminology, the following aspects of the structure of a criminal person can be distinguished:

1. The socio-demographic description of the criminal consists of his age, education, family status, profession, which social group he belongs to, and other indicators.
2. The description of a person related to his service position (social position) refers to the role of an individual in society, which is expressed by means of indicators that a person directly manifests himself in the main areas of personal activity (work, household life, relations with citizens).



3. The moral-spiritual description reflects a person's attitude to social values and tasks performed in society, as well as his intellectual ability, emotional attachment, and will [7; B. 33].

The socio-demographic analysis of the composition of the investigated crimes shows that most of them (82%) are men. On the contrary, the share of women in these crimes is only 18 percent, and these results of our research are confirmed once again by the research of advanced criminological scientists [1; B. 18] and the reasons why women's level of criminogenicity is not so high are determined by their social status and specific psychophysiological aspects. Because most women are engaged in household chores and child rearing compared to men, which increases a woman's responsibility towards the family and society. But this situation does not mean that women's crime should be ignored.

According to the information given above, men are still considered to be the contingent for prevention. Therefore, the development and implementation of preventive measures should be aimed at them, but taking into account the rapid growth of this type of crime committed by women in recent years, it would be appropriate to develop special prevention measures for this category of crimes against persons belonging to the female gender.

The characteristics of the human organism with a certain age have an important effect on the formation of the personality. When moving from one age stage to another, a person constantly interacts with the social environment, gains life experience and fills it. Each age stage has its own physiological, psychological and, most importantly, sociological characteristics. This situation also fully applies to the criminal. There is an objective relationship between the features related to the biological and sociological age of the criminal and the type and nature of the crime committed by him. Taking into account the age-related characteristics of a person is necessary at various stages of the fight against crimes related to illegal migration. The age-related characteristics of a criminal who commits crimes related to foreign citizens affect the formation of the motives and goals of committing this crime, the way of realizing the criminal desire. It all depends on human behavior. Therefore, the analysis of age-related criminological parameters is of great interest.

Scientists who have studied the psychology of persons who commit crimes related to illegal migration distinguish their age as a distinguishing feature from persons who commit similar crimes for other reasons [12; S. 71]. In fact, a significant percentage of the researched crimes are committed by adults and older people, and 74.2% of the perpetrators of this type of crime are persons between the ages of 18 and 30. For example, the peak of the tendency to commit this type of crime falls on people aged 24-39, because the crime rate of people of this age is the highest. This shows that this age category is the most criminogenic age.

Based on the above age-related indicators, we can conclude that the planned preventive measures to combat crimes related to illegal migration should be focused on the most criminogenic age group. At the same time, the 40-49-year-olds, who occupy the next places in terms of the level of criminal activity, should not be neglected. Among the identified persons, the indicator of committing these crimes by minors is not very significant. However, the acts committed by persons of this age cannot be ignored and appropriate measures should be taken against them.



In the criminological analysis of the criminal, in addition to the age description, his level of education is also of great interest. The level of education of a person shapes his demands, needs and interests, spiritual, moral and cultural manifestations. Also, the level of education affects the awakening of a person's sense of responsibility for his own wrongdoing, duty to others, respect for the law and other persons.

If we recognize that knowledge is closely related to the human mind and willpower, then a strong will should correspond to a high level of knowledge. When making a general observation of this situation, one can be sure that it can also manifest itself as an axiom. However, high intelligence can in some cases have a relatively antisocial character, and a strong will can become criminal.

Comparative results obtained on the information of persons who committed crimes related to illegal migration show that the information of persons who committed crimes is much higher than those who committed crimes of the same type for various reasons. Among criminals of the first category, the rate of persons with secondary and secondary specialized education is high (85%), while the rate of primary and incomplete secondary education is low (15%).

Studying the information of persons who commit crimes related to illegal migration and its ratio to the population shows that the highest criminal activity is the share of people with secondary and secondary specialized education, on the contrary, the lowest criminal activity corresponds to the share of citizens with primary and higher education. It can be said that among the persons who deserve criminal responsibility for committing a crime, as a rule, the elderly and people with primary education are not inclined to commit a crime due to a number of mental and physical characteristics. As people with higher education have a higher level of culture, they are more able to legally get out of any, even acute, conflict situations compared to others.

Taking into account these circumstances, it is necessary to conclude on the need to constantly carry out individual preventive work in relation to persons with secondary and secondary special education.

Information on the social status of persons who committed crimes related to illegal migration is described as follows: 7% of them are private entrepreneurs, 21% are members of an international organized group, 13% are workers, 7% are managers, 12% are employees, 2.2% are students, the remaining 58.8 % are those who do not work and do not study. It can be seen that among the perpetrators of the crimes under analysis, there are few employees, on the contrary, there is a high percentage of workers. Also, it can be noted that the criminal activity of persons who have terminated socially beneficial relations with society (those who do not work and do not study) is high. Therefore, when determining measures to combat this type of crime, it is appropriate to first of all take into account the impact of the organized transnational crime on the criminogenic situation in the country on persons who do not work anywhere and among those who work, on the trade sector, on the workers, as well as on the crime situation between foreign citizens and stateless persons. .

The results of the research show that the ratio of married and single people is different. Starkov O.V. believes that "the behavior of a criminal is significantly influenced by his family situation, disagreements between spouses, and the moral and spiritual environment among its



members in the family." [13; S. 326]. Therefore, the family status of a person occupies the most important place among the socio-demographic characteristics of a criminal.

According to the results of the research, the share of married people in crimes committed by foreign citizens was 18.5%, cohabitants 3.1%, singles 70.7%, divorced 4.6%, widows 3.1%. Naturally, among those who committed the analyzed crimes in these indicators, it is possible to observe the small number of married people, cohabitants and divorced people, on the contrary, there is a large number of people living alone. Therefore, the criminal activity of people who live alone is high. Therefore, in the fight against this type of crime, it is necessary to pay attention to the people who live alone.

According to the results of empirical studies, 34.4% of the persons who committed this type of crime were persons with previous convictions. For this reason, Zaripov Z.S. and Kerjner M. rightly said, "One of the important characteristics of a criminal is the existence of a criminal record. A person's prior conviction characterizes him as having a strong antisocial barrier, a high risk" [6; S. 65]. In our opinion, these aspects should not be ignored when defining crime prevention measures.

According to the results of the research conducted in this regard, 29.2% of those convicted of crimes committed by foreign citizens once, 7.7% of those convicted twice or more, and 36.9% of those convicted in total. On the other hand, it is worth noting that the cases of convictions for the analyzed crimes were explained by the fact that their previous crimes were recorded for various intentional crimes. From this it can be concluded that early recidivism is characteristic of crimes related to foreign citizens.

At the same time, the study of the social situation of the persons who committed these crimes allows to determine what kind of occupation they are engaged in in the society and in which social class their number is the majority. Based on the information obtained during the detection of such cases, it will be useful in the development and planning of preventive measures to prevent the commission of this type of crime.

Human behavior is closely related to their place in society. In other words, a person's role in society depends to a certain extent on his behavior. Due to the fact that a person may not be satisfied with himself in social life, always being depressed, due to the existence of contradictions between his self-evaluation and the evaluation given to him by others, the individual loses himself in the social environment, is constantly afraid of any action, may become hypersensitive or anxious. Such visions lead to an emotional explosion at a certain end, and in some cases, it can be a manifestation of the fact of committing a crime. Therefore, it is worth noting that the place of people who commit crimes related to illegal migration in society is related to their selfishness, fear, and negative characteristics of the person. Such cases were also confirmed according to the results of our research. In particular, 38% of people who committed a crime had illegal wealth gain (greed), 35% had negative characteristics of the person, 26% had an undefined purpose, and 2.8% had other motives.

From the above, it can be concluded that according to the results of our research, taking into account the main criminological characteristics of crimes committed by foreign citizens and stateless persons in connection with illegal migration, determining the range of persons who can commit such criminal acts, influencing them development of optimal ways, identification



of external circumstances that cause these crimes to be committed, allows to determine the main directions of law enforcement activities on their prevention and investigation.

References:

1. Abdurasulova.K.R- Criminal-legal and criminological problems of women's crime-2005, Paper-18
2. Abdurasulova.K. R-Criminology// Responsible editor doctor of legal sciences M.X. Rustambayev-2008, Paper-36
3. Abdurasulova.K.R, Niyozova S-Crime and criminal personality problems. Study guide-2006, Papers 45-46.
4. Afanyaseva O.R, Goncharova M.V- Criminology: Textbook and workshop for university-2023, Paper-356.
5. Varigin A.N-Fundamentals of criminology and crime prevention: a textbook for universities-2023, Paper-165.
6. Zaripov.Z, Kerjner M-Crime Prevention-1993-Paper-65.
7. Zokirova.O-Features of persons who committed due to jealousy// *Ҳуқуқ–Право–Law.* – 2002. – Number (18). – Paper-33.
8. Ismailov.I-Criminological aspects of study of organized and corrupt crime// *Ҳуқуқ–Право–Law.* – 2004. – Number 2. – Paper-45.
9. Kabxullayeva.E.X-Criminal legal and criminological aspects of organizing illegal migration-2011-Paper-14.
10. Criminology: Textbook// Zaripov.Z.S, Yakubov.A.C, Avanesov.G. A-2007-Paper-66.
11. Criminology: textbook for universities/Kapinus.O.S-2023-Paper-1132.
12. Maxaramov.R.A-Crime prevention in Russia and Uzbekistan: Training manual-2003-Page-71.
13. Starkov.O.V- Criminology. Theory and practice: textbook for universities-2021-Page-326.
14. Telegina E.G, Nazarenko E.V – Criminological characteristics of migration crime and prevention// *Bulletin of Nizhny Novgorod University named after N.I. Lobachevsky-2020, Number-2-Page-193-199.*
15. Information Center of the Ministry of Internal Affairs of the Republic of Uzbekistan for 2021-2022.
16. Information from the Investigativa Department of the Ministry of Internal Affairs of the Republic of Uzbekistan.
17. The official website of the Statistical Agency under the President of the Republic of Uzbekistan // <https://stat.uz>
18. <https://e-cis.info/cooperation/3823/99649> (Migration situation in the Republic of Uzbekistan for 2021).
19. Usmonaliyev.M- Criminology-2001-Paper-50.
20. Shkilev.A.N- Migration: criminal and criminological aspects-2006-Paper-12.

