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**Migrant Labour in Kazakhstan:
A cause for concern?**

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Abstract

Kazakhstan, a country with relatively strong economic growth, significant natural resources and low population density, shares borders with countries of low economic growth, high poverty and unemployment. The lack of a coherent strategy for labour migration and a large informal sector has contributed towards a situation where large numbers of low skilled migrants are working in breach of Kazakhstan's minimum labour standards. There is also evidence of significant incidence of unfree labour. This paper considers the living and working conditions of Central Asian migrants in Kazakhstan and the applicability of the trafficking framework to their situation.

Keywords: Kazakhstan, labour migration, forced labour, trafficking, labour markets.

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Introduction

In summer 2006 several dozen Czech and Slovak construction workers approached the Slovak Embassy in Astana, Kazakhstan for assistance. They reported that they had worked for many weeks without pay, with no days off and in dangerous conditions. They had not been provided with drinking water or enough food, and their accommodation and hygiene provision in trailers were “catastrophic”. The trailers were constantly watched, but nevertheless their valuables were stolen. They also alleged that they received death threats, were prevented from seeking medical assistance, and some of them were raped and physically assaulted. In addition they were warned against contacting the Slovak Embassy in Astana because embassy staff allegedly cooperated with the employer (1).

What is unusual about this case is that the subjects are citizens of the European Union. In other respects it is similar to a stream of reports in the national and regional media about the poor working conditions and abuse of migrant workers in Kazakhstan. While the Ministry of Labour and the police are reluctant to concede that there are cases of “forced labour” in Kazakhstan, according to the United States’ government Trafficking in Persons (TIP) report the police formally identified 87 victims of labour trafficking and 25 victims of commercial sexual exploitation in 2007.

Despite the large numbers of anecdotal reports, there is little data on the situation of migrant workers in Kazakhstan. This paper first describes the regional context within which migration to Kazakhstan occurs. It then considers whether there are indeed grounds for concern about the living and working conditions of migrants, drawing on data from a unique study of migrants from CIS countries working in Kazakhstan and discusses the applicability and implications of using trafficking and forced labour paradigms for understanding these conditions.

Central Asia Region

Kazakhstan borders Russia, Uzbekistan, China, Kyrgyzstan and Turkmenistan. It is the largest country among the five post-Soviet Central Asian states with a territory of 2,717,300 square km (equivalent to the size of Western Europe) much of which is sparsely populated and inhospitable. Ruled since 1989 by President Nursultan Nazarbayev, it became independent from the Soviet Union in 1991 and along with other Central Asian states inherited an economy dependent on Soviet supply and trade networks. The demise of central planning, and the loss of established patterns of supply and trade and financial transfers from Moscow contributed to large falls in economic output and a significant increase in poverty levels across the region. Though the official data on socio-economic development in Central Asia countries are

scarce and at times contradictory, they confirm that the development trajectories of the Central Asian countries soon diversified.

In Kazakhstan GDP grew at an average annual rate of more than 10 percent between 2000 and 2006, fueled mainly by considerable natural resources, including oil and natural gas. Within a decade the country expects to be among the top five world exporters of oil and uranium. According to the latest figure available in World Development Indicators database, 15.4 per cent of the population lived under the national poverty level in 2002. The National Statistical Agency of Kazakhstan puts poverty rates in 2007 at 12.7 per cent. This figure masks significant regional differences: in the poorest region of Mangystau, poverty stand at 26.9 per cent, over eight times higher than in the least poor region – the capital, Astana.

The developments in the neighboring Central Asian countries of Kyrgyzstan, Tajikistan and Uzbekistan have not paralleled those in Kazakhstan. In Kyrgyzstan, neither GDP nor GDP per capita have reached 1990 levels and in 2005 43.1 per cent of the population was poor (World Bank 2005). Between 1992 and 1997 Tajikistan experienced civil war, which contributed to a severe economic downturn. In 2003, 64 per cent of the population was poor, making Tajikistan the poorest country among the former Soviet republics. Lack of employment opportunities at home has motivated many to migrate to Russia and Kazakhstan. The data on Uzbekistan's socio-economic development are scarce, among other things due to continuing restrictions on access to information. Official data suggest that after the breakup of the Soviet Union, Uzbekistan's output fell less than in any other former Soviet republic, and growth turned positive in 1996/97. Nevertheless in 2005, 25.8 per cent per cent lived under the poverty line (IMF 2008). Labour market surveys conducted by the Ministry of Labour and Social Protection showed the informal sector accounts for 56 per cent of those employed and that since 2003 there has been a significant increase in those employed in seasonal and temporary jobs (mainly agriculture and construction) with a negative effect on living standards for households in rural areas (United Nations Development Programme 2008). In short, by 2005 Kazakhstan was a country with relatively strong economic growth, significant natural resources, and low population density, sharing borders with countries of low economic growth, high poverty and unemployment.

Migration and Kazakhstan

The dissolution of the USSR in 1991 was followed by significant migration flows initially driven by ethnic and political factors and dominated by persons 'repatriating' to their 'home countries', including 11 million ethnic Russians migrating to the Russian Federation.

In Kazakhstan, Kazakhs formed 82 per cent of the population in 1897, but by 1989 they were only 39.7 per cent. The proportion of Russians increased in the same period from 16 per cent to 37.8 per cent. Following independence in 1991 all Kazakhs living abroad were granted citizenship, while all non-Kazakhs were required to pass a Kazakh language exam in order to hold a government job. Only 0.9 per cent of the ethnic Russian population of Kazakhstan spoke Kazakh. These and other policies resulted in an outflow of ethnic Russians, Ukrainians, Germans and Tartars, and an inflow of ethnic Kazakhs (so-called “Oralmans”), and by 2001 ethnic Kazakhs constituted 53.4 per cent of the population.

By the second half of the 1990s labour migration started to feature prominently among migration flows in the CIS. After the Russian financial crisis in 1998, Kazakhstan emerged as an important destination country, especially for migrants from Central Asian Republics and, to a lesser extent, also from Russia and China. Since 2004 Kazakhstan has been a net immigration country (Sadovskaya 2005), though it is also an important labour source for the Russian Federation. Despite its lower wage premium, Kazakhstan is the preferred destination over Russia for some Central Asian migrants because of its geographical proximity to their home countries, lower costs, cultural proximity (including similar languages) and also because of perceptions it is a safer country than Russia, where xenophobia and racially motivated attacks are increasingly making life difficult for people from Central Asia (Freedom House World Report 2007).

Kazakhstan attracts predominantly low-skilled workers from neighbouring countries while highly skilled persons tend to migrate to the Russian Federation or to countries outside of the CIS. The main areas attracting foreign labour in Kazakhstan are: Almaty and Jambul regions (tobacco and vegetable plantations); South Kazakhstan (cotton and vegetables); Almaty, Astana and other major cities (construction, market and household workers); and West Kazakhstan (oil and gas, construction) (Sadovskaya 2005). Anecdotal evidence suggests that many Uzbeks and Tajiks are working in construction, with Tajiks also often working in the restaurant and catering business and Chinese and Kyrgyz in trade. Kyrgyz and Uzbeks are also active in cotton industry in the South of Kazakhstan (Tishimov 2008; Hancilova 2007).

Foreign nationals must obtain work permits (in 2007 the quota for work permits was 64,000), and their access to the formal labour market is regulated by international agreements and national legislation including the Constitution of the Republic of Kazakhstan. This legislative basis is complex and at times deficient and difficult to navigate (ODIHR 2007). Nationals of CIS states, like all foreign citizens over the age of 16, must obtain a migration card at the border. They must also register their place of residence after 5 days – as must citizens. However, they have visa-free entry to Kazakhstan and can reside, but not

work, for up to six months. Coupled with the thriving informal economy in services, open air markets, farming and construction this means that in practice CIS migrants have easy access to certain labour markets. According to some estimates, in season there could be as many as 1,000,000 so-called irregular migrants (Ivakhnyuk 2006). In 2006 Kazakhstan implemented a pilot legalisation campaign. The authorities expected up to 100,000 requests, but by the 31st December 2006 more than 164,000 migrants from CIS countries had applied for work permits. More than 70 per cent were from Uzbekistan, while Kyrgyz, Russian and Tajik nationals accounted for the remainder (Dosybieva 2007). Over two thirds of applicants worked in the construction industry, 13 per cent in services and 9 per cent in agriculture (Kazakhstan Today 2006).

Migrant workers in Kazakhstan: a cause for concern?

This section draws on 1,500 face-to-face structured interviews and 30 semi-structured interviews with migrants from CIS countries working in Kazakhstan between October 2006 and January 2007. This was part of a larger project on migration and labour markets in Kazakhstan comprising interviews and surveys with employers, government officials including migration police, NGOs and journalists. It was funded by the Organisation for Security and Co-operation in Europe's (OSCE) Office for Democratic Institutions and Human Rights. The fieldwork and data inputting was co-ordinated and conducted by the SANGE research centre in Almaty, Kazakhstan. The sample of migrants was not representative. For the survey, access was obtained to 150 migrants in 10 regions using the snowball method. The in depth interviews specifically targeted those who might be seen as having experienced some form of forced labour at some period in their migratory history.

The largest group of nationals surveyed were from Uzbekistan (767) followed by Kyrgyzstan (448) and Russia (142). Just over 30 per cent of the sample were female, and many of these (199) were from Kyrgyzstan. More than three quarters were aged 37 or below, 58 per cent were married and 60 per cent had children. Forty five percent had been educated beyond secondary school. The table below gives the sample by sector where currently working and by citizenship. Construction was almost exclusively male, while women tended to work in trade, personal services and health, education and food.

**Table 1 Sector of employment and country of origin of CIS migrants surveyed in Kazakhstan
2006/7**

Country of origin	Agriculture	Construction	Trade	Domestic/ Personal services	Health, Education, Food	Other	Total
Tajikistan	13	10	16	3	0	0	42
Uzbekistan	122	343	153	37	75	19	749
Kyrgyzstan	130	79	191	11	23	9	443
Turkmenistan	0	8	8	2	1	0	19
Russia	13	32	44	7	23	23	142
Other ¹	1	14	15	24	3	13	81
Total	290	486	427	84	125	64	1476 ²

Source: OSCE project CIS migrants in Kazakhstan.

The majority of respondents were employed informally in construction, agriculture, domestic service and trade. About four fifths were being paid in cash and only 17 per cent of respondents (2) stated that they had a written contract and nearly half of these were in construction.

At first sight wage data indicates that most migrants, while low wage earners, are nevertheless being paid within rates established by national legislation. Over 90 per cent of those who answered the wage question seem to be earning the monthly minimum wage of 9200 tenge (approx US\$75) or above. Reported wages in agriculture were lower than in other sectors, with over three quarters of workers being paid below or just above the monthly minimum wage, as compared to construction where nearly three quarters were earning \$150 a month or more. However, nearly one third of respondents did not

¹ Other includes 58 from the South Caucasus countries, and people from Ukraine, Belorussia, Moldova and Chechnya.

² The total does not include 24 for whom we do not have sectoral data.

answer the question about wages and wage data should be treated with caution. Nearly one in four migrant workers and 18 per cent of those paid above the minimum wage were to be paid “at the end of the season” or “when the employer wants”. Eight percent of our survey respondents had, in the past, experienced non-payment of wages, while 11 per cent reported knowing three or more migrants who had been cheated of their wages. Qualitative data on migration histories and evidence from other research (Minasyan and Hancilova 2005; Minasyan et al. 2007; Tyuryukanova 2006) suggest that promises of payment can be broken, and that when time for payment is due, debts and other alleged costs can be deducted from monies owed.

However, even for those who have been paid, there are indications that the wages fall below the minimum. Article 122 para 3 of the Labour Code of Kazakhstan states that “the minimum amount of hourly wages of an employee who fulfilled his work duties may not be less than the minimum amount of monthly wage divided by the average monthly number of working hours”. It is in the *number of hours* that they are working for their wages migrant workers are subjected to conditions that break the labour code. The Labour Code sets the standard length of work time at 40 hours a week (36 for work that is deemed “harmful” or “hazardous”), or a maximum of 8 hours a day for five days a week, with overtime payable at 1.5 times the usual rate (Articles 81 and 82). Most migrants were working *significantly* in excess of these hours. Of 1332 respondents who gave the number of hours they worked per day, 923 or 69 per cent worked over eight hours a day, with 406 or 30 per cent working 12 hours a day or more. This was particularly pronounced in agriculture, with more than half of the people in that sector working 12 hours a day or more. Moreover, 42 per cent of those for whom we have data (N=1364) were working 30 days a month (64 per cent of those working in agriculture), while 70 per cent were not getting the two days off per week stipulated by the Labour Code.

Excessive hours and lack of days off were the principal reason migrants gave when they reported hardship. Interviewees similarly described exhaustion and overwork; “Migrants do not sleep, working days and nights”. The respondents reported significant discrepancies between the verbal agreements prior to the start of the work and the actual working hours even though they were agreeing to work long hours from the outset. Fifty eight per cent of the verbal agreements exceeded eight hours a day, yet 18 per cent of those who responded were working six or more hours per day *in addition* to those that they had agreed to work.

A further cause of hardship for some two thirds of respondents was the harshness of physical labour involved and tough living conditions. Fifteen per cent of respondents felt that they were working under inhuman conditions (mostly in agriculture and construction). Qualitative data suggest problems with

access to bathing and washing water, decent food, warmth and rest. Of those for whom we have data, over two thirds were living in accommodation provided by their employer, rising to three quarters of those who were working more than eight hours a day. Interviewees often complained of the quality of accommodation provided being very poor, without basic facilities, including running water. Lack of time due to long working hours and limited mobility due to various reasons meant that four out of ten respondents were dependent on employers for the purchase of food or access to water. While some employers were reported as being generous or fair with it, for others this was another means of profiting.

The employer who promised to provide food, bought “black” flour of and the cheapest vegetable oil (when you cook it makes food taste impossibly bitter). If he took a bag of flour for 700 tenge he wrote in the debtor’s book (and told us) that it cost him 1,000 tenge and forced us to sign. ...As for food ..., the first employer bought some products for the family, but then charged a double price for them: low-quality flour, tea without sugar and hot meal only once a day.

Case Study 24

These harsh conditions may have been impacting on health particularly among women. Twenty nine per cent of respondents had been in need of medical care since they had arrived in Kazakhstan (40 per cent of women, and 40 per cent of those working in agriculture).

Migration and forced labour

Is there any evidence that the situation of migrants in Kazakhstan ever constitutes “forced labour”? A key point here is that forced labour is *not a measurement of severity of exploitation*. It is a situation determined by the relationship between a worker and a labour user. According to the ILO Convention

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the term "forced or compulsory labour" shall mean all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily

Article 2 (1)

This definition of “forced labour” leaves open the definition of “menace”, “penalty” and “voluntary”, but the ILO has suggested possible indicators that might help to identify forced labour including physical abduction, sale of person, induced indebtedness, physical violence, physical confinement in the workplace, threats of penalty for non-compliance including denunciation to authorities, and retention of identity documents (ILO 2005:6).

The research found some evidence of physical force – abduction, beatings and physical confinement, - particularly in agriculture. Three interviewees described themselves as “sold” or “bought”. There was one case found of physical abduction, a young Uzbek woman who was kidnapped when an Uzbek man stole some goods from the bazaar, originally on the grounds that she would be returned when he paid the money. She was first taken to a cellar and then, when it became clear that there was no payment likely to be made, she was taken out of the city and set to work cultivating peppers:

There was a guard to prevent them escaping. They took away all the papers and she was scared after the terrible cellar. They worked from early morning until dark. There was no talk of remuneration: everybody owed the master. K. worked until the late autumn. There was no light or hot water and they lived in a mud hut dug in the ground in the field....In the autumn when the peppers were ripe the customers started to come by in huge trucks.... Once a Kazakh guy came with a truck and K could talk to him and escaped. Case study 15

Eleven per cent of survey respondents indicated that they had experienced some form of physical, psychological abuse or compulsion to work in Kazakhstan, and 8.5 per cent reported physical confinement. Physical and sexual abuses by employers were reported in qualitative data, sometimes in a quite matter of fact kind of way:

Master is not too evil but if they do something wrong, he can beat them. Once he went to acquaintances and started drinking, the employer found him and beat him right there. Case study 20

But the ILO definition and its indicators of forced labour do not require physical force. Non-physical coercive practises seem far more common. Survey data suggests that many employers hold migrants' passports (19 per cent). Many migrants fear an encounter with the authorities who could detain and possibly also deport them and this makes employers' threats of denunciation a credible and powerful means of control. The in-depth interviews confirmed that threats of denunciation are used:

The employer's relatives are big bosses and he frightens the workers all the time; 'If something goes wrong I will send you back home without wages very fast and nobody will do anything to me for that'.

Case study 25

Debt may also be used to make people do work that they would otherwise refuse. One fifth of survey respondents said that they had to borrow money to organise their travel to Kazakhstan, and while for some the debt was possible to repay, for others it resulted in a form of debt bondage. For example, after

the tobacco harvest one family found that they owed the farmer more money for their food than they had earned from their labour. This had severe consequences:

In the late fall after harvest it appeared that the family owed him even more than before, so all the year's work came to nothing. Then the master sold them to the others. The girl's family was bought by two employers: parents and brothers were taken by one man, and the girl and her sister by the other.

Case study 24

The problem of consent

However, once one moves beyond a simple equation of force with physical coercion, the notion of "consent" becomes highly problematic. The ILO definition explicitly does not cover situations of pure economic necessity, where people "consent" because of a lack of alternatives. This was the situation for many interviewees: in one case for instance a Russian man described how he had left his family behind in Russia after his wife filed for divorce following his heavy drinking. Having wandered about, getting work where he could, and even living in the sewer system he found his current "master". He receives no wages, but has food, clothes and shelter, and has run away twice, but returned because there is some stability. Now he has decided:

He will live with the master to the end; and the employer will bury him humanly, since no one else needs him.

Case study 1

This kind of situation and comments like, "*one can reject this kind of job but there is no better choice*" (Case study 11) indicate the kind of limited expectations that many interviewees had. In some cases, not being beaten too much, having enough to eat and a roof over their head was "enough", in other words better than the available alternatives. Indeed, it is the fear of *forced non-labour*, of not working at all, that seems to motivate many of the migrants and to keep them in unsatisfactory situations. In the end, bad as they may be, these situations are preferred to the available alternatives. For example, though the respondents were clear that long hours were a source of serious hardship, of those 527 respondents who were working more than 11 hours per day, 283 said that they didn't want to work any fewer hours because they would be paid less (186) or would lose their job (97). Some interviewees, while emphasising exhaustion also described the long hours as "in their interests" in order to get the job done.

It is arguably when people are faced with the most limited choices that "consent" to "exploitation" may be most genuine (Steinfeld 2001; O'Connell Davidson 2006). Consent is therefore particularly difficult to

gauge in a context of extremely limited options, and the universe of choices confronted by most of the migrants participating in the study was indeed extremely limited. Over two thirds of those surveyed said that they had left their country for Kazakhstan because of low wages or unemployment. Qualitative interviews confirm the complexity of migrants' attitudes towards whether they are "free" labour:

The employer keeps his passport. He is afraid of the employer. But remuneration suits him at the moment. He cannot leave his employer but he does not want to. He wants to earn a lot of money.It is impossible to go home: there is no work in his home country. It is better to work and to die here than to go home.

Case study 17

Consent is also related to time. Put simplistically, one may "consent" to a situation as it is better than the alternatives of hunger or death, but some time on, no longer hungry, and with other opportunities available, one might no longer consent to it. This suggests that the possibility of exit from employment, as well as entry to employment is an important dynamic in analysing "unfree labour". This point has been raised previously by ILO, which maintains that one has to be able to withdraw his/her consent (i.e. to leave an employment) at any time (ILO 2005: para 15).

To refine our analysis of degrees of unfreedom and in particular to allow for the freedom of exit from a contract we therefore used responses gathered to two questions: "Can you leave your employer freely if you want to?" and "If you consider your work hard or unfavourable, why don't you change your job?", one of whose options was "can't freely leave my employer". We used this to devise a measure of degrees of subjective experiences of unfreedom. We distinguished between those whose responses to both indicated that they considered themselves to be free labour; those who considered themselves unfree in that they couldn't leave either employer or job (or indicated "hesitate to answer" for one of these and unfree for the other); and ambivalence towards freedom for those who gave contradictory responses. While this is a somewhat crude measure it nevertheless is a useful summary variable. Using this method 23.5 per cent consider themselves free labour, 25 per cent consider themselves unfree labour, 46 per cent are ambivalent or contradictory, and the remainder we do not have enough data. Of those who consider themselves unfree labour 30 per cent are on their first visit to Kazakhstan, and 16 per cent are on a second or subsequent visit. This confirms qualitative findings that migrants often describe themselves as being taken advantage of on their first trip, but then doing better and knowing the system if they returned. Generally those who feel themselves as free labour describe themselves as experiencing lesser degrees of labour violations and of imprisonment.

Table 2: Labour conditions and degrees of unfreedom

	Free (N=353)	Ambivalent (N=694)	Unfree (N=376)
No remuneration	6 per cent	20 per cent	30 per cent
Uncertain payment	6 per cent	18 per cent	20 per cent
Work too intensive	3.4 per cent	11 per cent	31 per cent
Inhuman conditions	4 per cent	12 per cent	29 per cent
Imprisonment	1.4 per cent	3.7 per cent	24 per cent

Source: data from OSCE project CIS migrants in Kazakhstan 2006/7

Notably these data suggest that even for those who consider themselves “free” there are nevertheless grounds for concern and it might be that those who have relatively better conditions do not consider themselves “unfree” even if they are in the same type of employment relationship.

Trafficking to Kazakhstan

The Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the UN Convention against Transnational Organised Crime (also called Palermo Protocol) defines trafficking as comprising three elements: an *action* consisting of “the recruitment, transportation, transfer, harbouring or receipt of persons,”; *by means of* “the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person”; and *for the purpose of exploitation...*(which).. shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.

Under the trafficking definition there is some relation then between “exploitation” and forced labour. But how to distinguish trafficking from legally tolerated employment contracts (also from legally

tolerated forms of exploitation of women and children within families)? Questions about what constitutes an exploitative employment practice are much disputed. While all members of the International Labour Organisation (ILO) are bound to adhere to eight so called “Core Conventions”, (including the 1930 Forced Labour Convention and the 1957 Abolition of Forced Labour Convention), the interpretations and implementation vary tremendously. In the absence of a global political consensus on minimum employment rights, and of cross-national and cross-sector norms regarding employment relations, it is extremely difficult to come up with a yardstick against which “exploitation” can be measured (Anderson and O’Connell Davidson 2003). This is particularly relevant when considering those migrant workers who are moving from a country with lower wages, less protected employment relations or higher unemployment rates, thereby bringing lower reservation wages and different frames of reference. In order to consider “exploitation” we therefore used the minimum standards outlined by the Constitution and the Labour Code of Kazakhstan as the baseline against which exploitative conditions can be measured. This was on the basis that these lay out the minimum standards considered acceptable for citizens and there is no prima facie reason why they should not apply morally (if not legally) to non-citizens.

The “trafficking” framework tends to emphasise migration (movement), though this is not required by the Palermo Protocol’s definition of trafficking. Trafficking, while associated with transnational organised crime, does not have to take place across international borders, neither does one have to be an “illegal” migrant in order to be trafficked. However, in practise “trafficking” and migration, and “illegal immigration” in particular are often conflated and this raises the question of whether those staying and working illegally experience worse conditions than other migrants? And does illegality result in a greater subjective experience of unfreedom?

To consider these questions we must first determine what is meant by “illegality”, and this can be extremely complex in practise. Migrants from CIS states do not require a visa to enter Kazakhstan but they are required to carry a migration card. This indicates the purpose of visit of the migrant, and for those who are not covered by a visa regime the purpose is generally given as “private”. These cards are issued at the time of border crossing. Cases have been brought against CIS migrants who work having stated their entry purpose as “private” and they have been deported. However given that we were unable to obtain this level of detail from migrants for the purposes of our analysis we have considered the possession of a migration card to indicate legality at this level. Having entered Kazakhstan a migrant must register their place of residence within five days of arrival. While they do not in law have to indicate any changes in residence, in practise migrants have been deported having not done so. We have not considered changes in residence and only those who claim to never have registered their residence

are categorised as having broken this condition. Finally migrants (other than individual entrepreneurs) must work for employers who have a license and a permit to hire foreign citizens. The obtaining of such permission is a complex procedure, with the employer required to advertise the job, submit justifications and proof that Kazakhstani citizens are not available to do this work (though some of these requirements are waived for agricultural seasonal labour). Crucially, once permission has been granted the employer must conclude a written employment agreement which must be signed by both parties and register it with the municipality. In considering the legality of employment therefore we used responses to the question “Is your work in Kazakhstan legal?” and “Does your employer have an official license to hire foreign workers?”. Of course, a migrant might well answer in the affirmative to both those questions, believing them to be true, but nevertheless in fact might be working illegally, i.e. we have to assume that affirmative responses might produce overestimates of legal as opposed to illegal employment. We have therefore used responses to the question of whether or not an employer has a license to employ foreigners for confirmation of patterns only as in practise a worker may believe this to be the case when in fact it is not true. In cases where the respondents claimed that their work was legal but indicated that they did not have a written contract we have assessed their status as working *illegally* since a written employment agreement is required for a legal employment. We made an exception for those working in trade on the grounds that they might be classed as individual entrepreneurs and therefore not requiring a contract with an employer.

Over three quarters of our respondents (78 per cent) claimed to have a migration card – though as noted above this is not in itself evidence that the migration card has been completed in such a way as to fulfil legal requirements. Most survey respondents therefore seem to have crossed the border legally, but a significant minority (22 per cent) may not have done so. This is confirmed by general reports of significant illegal cross border movement (Institute for War and Peace Reporting 2007). Of the total numbers surveyed, 62 per cent had both a migration card and registration, and 17.6 per cent had a migration card, registration and either a written contract or an understanding that their employer had a license to employ foreign workers. It is only the last that could be deemed fully compliant with legal requirements, and while the proportion seems low, indeed significantly less than the proportion of migrants that claim to be working legally (49 per cent), it is probably an overestimation since it assumes that employment contracts are registered with the municipality and/or that an employer really does have a foreign employment license.

Those who do not have a migration card, cannot be registered and work legally, that is their border crossing, residence and employment are all “illegal”. At a *minimum* i.e. a conservative analysis of the data, this represents 15.1 per cent (N=227) of our sample. We have termed these migrants “non-compliant”

(Ruhs and Anderson 2008). Those who have a migration card, have registered their residency with the police and have a written employment contract (17.6 per cent of our sample (N=265)), we have considered “compliant”. Those, who have a migration card and who have registered with the local police represent the majority of our sample at 9 (N=853) and we term them “semi-compliant”. For 154 cases (10.3 per cent) we do not have enough data to determine degree of compliance. These categorisations are to provide general indications of patterns only. We have been concerned not to overestimate the proportions of those working illegally or in full compliance with the law. Thus the category of “semi-compliant” is a loose one.

Migrants’ degree of compliance does not seem to be related to gender, citizenship or whether or not it is their first visit to Kazakhstan, but those working in agriculture are far more likely than other sectors to be non-compliant. Only 6.9 per cent of those working in agriculture were compliant, as compared with 18.5 per cent in construction. ‘Non compliant’ migrants are far more likely to be categorised as experiencing themselves as unfree labour – 44 per cent. Only 6.6 per cent of this group experiences themselves as free labour as compared with 27 per cent of those who are fully compliant – though interestingly 22 per cent of ‘compliant’ migrants experience themselves as unfree labour, indicating that legal status is not in itself enough to guarantee a satisfactory employment relationship as well as raising questions about the legal status of even this group. In terms of actual working conditions degree of compliance has a significant impact, and one can see a gradation of severity of abuses in almost all variables depending on degree of compliance. The figures in the table below are rounded up and approximate percentages only (numbers answering particular questions varied), but they do indicate a clear pattern.

Table 3: Working conditions by legal status

Working conditions	'Non-compliant': No migration card AND no registration AND no written contract	'Semi-compliant': EITHER no migration card OR no registration OR written contract	'Compliant': Migration card AND registration AND written contract
Work over 11 hours a day	55	40	20
Earn under \$75/mth (min wage)*	17	11	7
Can be fired at any time	49	34	15
No remuneration	21	7	3
Work too intense	31	11	9
Physically constrained*	28	5	3
Violence	6	1	0.8
Threats	22	4	2
Harsh conditions	45	38	22

Source: data from OSCE project CIS migrants in Kazakhstan 2006/7

The figures with respect to earnings and physical constraints (both asterixed) are affected by the bias of non-compliant workers in the agricultural sector, though there are still significant differences even with these variables. In general however the pattern is remarkably consistent and unaffected by other variables. Moreover, as noted above, a proportion of those who are classified as semi-compliant are

likely in practise to be non-compliant, meaning that the discrepancy between non-compliant and compliant is likely to be even more marked.

It should be pointed out that while legal status has an important impact on migrants' labour experiences in Kazakhstan, migrants do not have to be in breach of any laws in order to be vulnerable. Attention needs to be paid to the "compliant" column of Table 3 as well as the non-compliant column. There was also evidence of this in the qualitative data. One woman from Uzbekistan described coming to Kazakhstan to work, being registered, working legally with a written contract as a housepainter.

After several months of work she began to be sexually harassed and suffered threats and insults from the team-leader, a citizen of Kazakhstan because she was a migrant worker and did not have a right to defend herself. When she was beaten up she wanted to seek help from law enforcement but was afraid of threats from the team leader that if she called the police he would find a way not only to revenge himself but also to deport her from Kazakhstan... she was forced to leave the previous place of work and among her assistance needs is the recovery of psychological health.

Case study 27

Not all employers abuse this dependence, and some interviewees talked about kindness as well as abuse, but migrants are often personally dependent on employers. Unregulated and unmonitored control over accommodation, food and water mean that employers can control migrants' access to the basic necessities of life. A migrant who loses their job does not just stop working, but risks losing their housing, food and water.

Dependence on individual employers was compounded by some state officials who intervened on the part of employers:

The master's son constantly demanded from girls sexual services. He always threatened that if they would not be tender with him, he would report them to the police and the girls would be imprisoned because they did not have any papers. The girls tried to resist but once he brought two militiamen and gave girls to them. The militiamen put them into their car, took them out of the village and raped. They tortured the girls as they wanted; finally they beat them up and threatened that if they tried to complain, the militia men would come and kill them and nobody would look for the girls, because nobody needed them here. At night the girls were taken back to the master and given to his son.

Case study 24

More generally the legal requirements of legalising immigration and employment status compounded dependence. For example, the fact that two thirds of migrants surveyed live in employer provided accommodation means that they must rely on employers for registration at their place of residence, and

those who are living at the workplace are significantly more likely to be *unregistered* than others, (40 per cent of those living at the workplace as compared with 18 per cent of those living with friends or relatives for example). The main reasons for this group remaining unregistered were firstly not having the time to register, and secondly the landlord/employer not wanting to register them – both of these factors are clearly within the employers' control. Most respondents felt that the absence of registration made them more vulnerable. Registration was believed to help migrants avoid fines from police on the street, to facilitate access to medical care and to increase calm/self confidence. Importantly it was also believed to facilitate getting a job. Thus migrants may become doubly dependent on their employers: for accommodation and for registration, and thereby for employment as their lack of registration impedes searching for a different employer.

Qualitative data suggest that interviewees were often very isolated from the wider community – and it should be remembered that since they were possible to interview they are likely to be in somewhat more contact than others. Some interviewees clearly feared or had experienced violence from the community in which they lived – *“the people from the village were wicked”* (Case study 19).

One interviewee claimed to have been picked up by law enforcement officials as an illegal worker following an immigration check and put to work at a construction site owned by a “big boss”. In case of any conflicts police were brought in, and after the work was completed all workers were taken to a station and deported as illegal immigrants without payment. It is of note that of the 402 people who claimed that they had had to pay some kind of official fine, 69 per cent had paid “unofficially”.

Conclusion

Following a period of net out-migration during the 1990s, Kazakhstan's economic growth between 2000 and 2007 attracted large numbers of migrants. In the absence of effective arrangements for migrants' employment, many are employed informally and, according to reports of the Kazakh media, often in abusive conditions. This paper has considered whether there are grounds for concern about the living and working conditions of migrants, drawing on data from a unique study of migrants from CIS countries working in Kazakhstan. It appears that while some of the abuses reported in the research seem to be linked directly to immigration status, others may be in fact common for a broader group of persons employed in the informal sector. Moreover, some interviewees clearly feared or had experienced violence from the community in which they lived, including abuse from state authorities.

There is reason to suspect that the difficulties faced by migrants have increased since the research was conducted in 2005. Kazakhstan has proved highly vulnerable to the global financial crisis. Capital inflows have slowed dramatically forcing Kazakhstan's banks to stop providing loans and to require their debtors to pay back their previous loans. The consequence of contraction in sectors like construction is bad news for those labour migrants from neighbouring countries who cannot find any work at home. They are likely to continue to seek employment in Kazakhstan where the quota for work permits for foreign workers has been decreased. In the new situation they will be yet more vulnerable to substandard labour conditions and exploitation.

The lack of commonly applicable standards of “exploitation”, together with ambiguity in the terminology mean that the trafficking framework is not particularly helpful in analysing the situation of migrant workers in Kazakhstan. The choice set of many migrants in Central Asia is extremely limited and make them more likely to accept work in conditions in breach of national minimum standards. Rather than ignoring these measurable minimum standards however, it seems that labour standards as set out, for example, in the Labour Code set an important benchmark against which the position of migrants can be gauged.

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Notes

- (1) personal interviews with staff of the Slovak Embassy in Astana and the Czech Embassy in Almaty, July 2007.
- (2) We have used the term “respondent” to refer to those answering the survey, and “interviewee” for those who gave in depth interviews.
- (3) This does not include the 70 cases (4.7 per cent) where migrants said it was “hard to say” whether or not they had a migration card.

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