

Navigating Legal Challenges: Migrant Strategies and Temporalities in Kazakhstan

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Abstract

This research investigates the experiences of migrants in the Republic of Kazakhstan. Specifically, it explores the strategies migrants use when they find themselves in vulnerable situation. Within the field of conflict studies, migration is often research in the spatial context of movement. As a result, the temporal dimension regarding migration is often overlooked. The research is driven by a central question: How do migrants in RK develop strategies to navigate the legal system using Giddens' structuration theory and Griffiths' experiential temporalities? The study examines the experiences of migrants, particularly those whose asylum claims are likely to be refused, and their use of legal mechanisms to extend their stay. The findings reveal that migrants strategically utilize legal mechanisms, such as asylum applications, to prolong their legal stay, demonstrating agency within a restrictive environment. This study underscores the significance of time as a crucial factor influencing migrant decision-making and highlights the complex interplay between structure and agency in the context of RK's migration laws. This research contributes to the broader discourse on migration by providing insights into the lived experiences of migrants in RK, emphasizing the importance of understanding the socio-legal dynamics at play. It sheds light on the challenges migrants face and the innovative strategies they employ to navigate a legal system that is often unaccommodating.

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1. Introduction

Migration is a subject of considerable significance, occupying the attention of scholars, policymakers, and the public alike. The discourse surrounding migration is extensive, encompassing various topics ranging from policy-oriented research to economic implications. Within the broader field of migration studies, considerable attention has been devoted to examining the experiences of asylum seekers, refugees, and other migrants as they adapt to life in their host countries. In this context, the Republic of Kazakhstan (RK) emerges as a critical case study, providing a unique lens through which to explore the complexities of migration. Despite the growing interest in migration issues, relatively little research has focused on the strategies migrants employ in vulnerable circumstances within the RK, particularly how they navigate the intricate situations and institutional processes they encounter in this country.

The RK is Central Asia's largest country and the second most popular labour migration destination within the Commonwealth of Independent States (CIS), following Russia. Located at the crossroads of continents, between Europe and Asia, the RK has experienced significant migration flows and demographic shifts, particularly since gaining independence in 1991 (UNHCR 2021, 4). The RK has also been a place of refuge for many escaping war, conflict and human rights abuses, mainly from Afghanistan, Tajikistan, and the Caucasus. Moreover, it has become a destination for aspiring students from various places, many from Afghanistan, India, Pakistan, and more (Akhmetkali, 2024; Bulatkulova, 2023). As of 2024, the RK hosts 262 refugees and 473 asylum-seekers, mainly in Almaty and Shymkent ('UNHCR Trains Judges on Application of the Law "On Refugees" in Kazakhstan', n.d.). While it is not the primary destination asylum-seekers seek to arrive to, with most preferring Western countries, Kazakhstan serves as a transit route to Europe or Russia for migrants or refugees seeking better opportunities (Laruelle 2013, 2). Although migration in the region has been widely studied, there has been relatively limited focus on how migrants strategically employ legal mechanisms to navigate their circumstances. This may be due to the relatively low number of refugees and asylum-seekers.

The foundation of this research unexpectedly stemmed from a single interaction that occurred during my internship at the Kazakhstan International Bureau for Human Rights (KIBHR). My supervisor at the Bureau informed me that an Afghan migrant would be visiting our office to seek guidance on applying for asylum in the RK and asked me to sit in and potentially help with translations from Russian to English. The migrant, a young man about my age, entered nervously. After the introductory formalities, he explained that his visa was quickly nearing its expiration, but he could not return to his own country, Afghanistan, as his life was endangered there. The lawyers explained to him that he could choose to seek asylum here. Yet, the migrant revealed that he was simultaneously caught in the complexities of having an active asylum claim in the United States. The lawyers at the KIBHR informed him that even if that is the case, it is almost certain that his claim in the RK will be refused. Therefore, his claim in the US will not be affected if he seeks asylum here to extend his legal stay in the country.

This encounter, having left a lasting impression, prompted critical questions about the experiences of migrants in the RK. Firstly, there seems to be a common understanding that asylum claims are most likely refused. Secondly, the migrant's choice to seek asylum is a strategy to 'gain' legal time. Migrants across the globe face many challenges, and many are caught in an intersection of legal, social, and geopolitical pressures. Thus, the puzzle seeks to understand how individuals like this young man navigate such convoluted and contradictory situations. What strategies do they employ to manage the delicate balance between legality and survival, given the uncertainty of their future?

To this end my research poses the following question:

How do migrants in the Republic of Kazakhstan develop strategies to navigate the legal system and address challenges between 2022 and 2024, using Giddens' structuration theory and Griffiths' experiential temporalities?

This research question delves into the experiences of migrants in the RK who employ legal strategies to extend their legal stay, even when the likelihood of being granted refugee status is minimal. This phenomenon is at the centre of the project. The time frame is based on the periods in which the migrant informants arrived in Kazakhstan and until my research concluded. It seeks to explore the legal tools and mechanisms utilised by asylum seekers in navigating the legal system of the RK, as well as understanding the experience these vulnerable groups find themselves in.

This question invokes the discussion brought by Giddens (1984), focusing on the duality between structure and agency. It brings to light how migrants exercise their agency in the face of complex bureaucratic structures hindering their ability to obtain their goals. To understand the nuance in the debate within the broader theoretical framework of the structure-agency dichotomy, this research further employs the concepts of time and strategic legal mobilisation to address the socio-legal dynamics. The strategies migrants adopt are intricately linked to the legal framework governing migrants, asylum seekers, and refugees in the RK. The temporal dimension is particularly crucial in understanding the experiences of migrants as it not only significantly influences their decision-making processes but is also intertwined with power dynamics. Migrants, unlike their local counterparts, are distinctly marked by their limited time within a host country, as they are subject to regulations that impose time-based conditions on their stay (Cohen 1994). This temporal constraint becomes a defining element in their legal state and shapes how they navigate and respond to the institutional structures that govern them.

These concepts illuminate how the migrants under study actively exercise agency in navigating and potentially reshaping their decisions within the constraints of the institutional structures and opportunities they encounter. In doing so, they address the challenges posed by their expired visas and the complexities of remaining in the country legally. This analysis underscores the dynamic ways

migrants engage with and respond to the legal and bureaucratic frameworks that govern their lives, demonstrating their capacity to adapt and influence their circumstances despite significant obstacles. To articulate the central argument, this research introduces three guiding questions aimed at deconstructing the various components of the question:

1. *What opportunities and constraints do the institutional and legal frameworks available to migrants in Kazakhstan provide?*

This question is posed to specifically explore the structural system which manifest themselves in legal and institutional frameworks that migrants encounter upon arriving in Kazakhstan and particularly when found in vulnerable situations.

2. *How does the structure impact the migrants' decision-making?*

This question seeks to examine the dynamics of migrant agency and the structural constraints they encounter. It aims to look at the strategies they employ, which are shaped and necessitated by the existing structural frameworks. By investigating this duality, this question delves into how migrants navigate and respond to challenges imposed by these structures.

3. *How do migrants experience 'time' while navigating complex situations?*

Finally, this question explores the temporal dimension, emphasising the heightened vulnerabilities migrants experience, mainly due to limited time.

For this research, several vital clarifications must be made. First, I have chosen to categorise the individuals I interviewed under the broad term "migrants." According to the International Organization for Migration (IOM), the term "migrant" lacks a universal definition under international law. However, the IOM describes a migrant as 'a person who moves away from their place of usual residence, whether within a country or across an international border, temporarily or permanently, and for a variety of reasons' (IOM, 2019). In line with this definition, I use the term "migrant" to refer specifically to individuals who have relocated from their country of nationality. This study includes people residing in Kazakhstan who do not hold a Kazakh passport.

It is important to distinguish this group from those ethnically Kazakh, even though such distinctions may not be of primary concern to my informants. This differentiation is essential due to the complexities within migration studies. For example, there are ethnic Kazakhs residing in the Xinjiang region who are victims of China's repressive policies and also hold Chinese nationality (Amnesty International 2021). These nuances highlight the importance of precise terminology in capturing the diverse experiences of migrants and narrowing the scope to a specific group of migrants. Therefore, the

labels 'labour migrants', 'migrant students', or any such distinct terms are not going to be delved into, as the experience of migrants in Kazakhstan is broad and may impact various groups of migrants.

Additionally, I refrain from using the term refugees in this case as the individuals I discuss are not formally recognised as refugees, and some do not fit the criteria of being a refugee. As per the 1951 Refugee Convention, a refugee is "someone who is unable or unwilling to return to their country of origin owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group, or political opinion" (United Nations 1951). An asylum seeker is defined by the UNHCR as: 'someone who is seeking international protection. Their request for refugee status, or complementary protection status, has yet to be processed, or they may not yet have requested asylum, but they intend to do so' (UNHCR). While I do not neglect the importance of differentiating these groups of people, my research examines how certain legal tools are employed by migrants. These legal tools include the ability to seek asylum.

Therefore, this research aims to delve into these questions, exploring the nuanced realities faced by migrants in similar circumstances. Through this study, I seek to contribute to a deeper understanding of the lived experiences of migrants who, like the young Afghan man, are forced to make difficult decisions within complex and often unforgiving environments. Moreover, it contributes to the academic discussion on the experiences of migrants by offering an analysis of both the structure and the agency at play. Finally, it aims to shed light on the implications of this phenomenon for asylum seekers themselves, as well as for the legal and policy frameworks governing asylum and immigration in Kazakhstan.

2. Methodological Approach

This paper takes a case-centric approach, which "begins with a case that is somehow defined by a spatial, temporal or conceptual boundary (...) and must then discover the most significant variables and values to describe the case or commonalities between cases" (Curtis and Curtis, 2011, 7). The case is migrants in Kazakhstan attempting to elongate their legal stay in the country. To explore the case of migrants in Kazakhstan seeking to elongate their legal stays in the country, the research aims to uncover two topics and how they interact: (1) the asylum-seeking process in Kazakhstan and (2) the strategies used by migrants to obtain their goals. This research employs a multi-method strategy based on interpersonal methodological tools, seeking to establish an understanding of subjects' experiences and social practices, as well as the structure of institutions these individuals must face.

Aiming to uncover insights into the strategies used by migrants to navigate their vulnerable situations in the context of Kazakhstan, the research relies on a mixed-method approach by collecting data from both primary and secondary sources. This research will primarily rely on two methods. Firstly, an analysis of the historical development of refugees and the asylum process in Kazakhstan, and the political dynamics surrounding the process. Utilising primary and secondary sources will help ground and strengthen the data generated through the primary sources. In particular, the legal documents and news reports will be used to understand the rules and institutions in place that form Kazakhstan's refugee and asylum process. Notably, the UNHCR's "REFUGEES IN KAZAKHSTAN: AN ANALYSIS OF NATIONAL LEGISLATION AND PRACTICE" and Kazakhstan's "LAW ON REFUGEES", adopted in 2009. Additionally, a literature review will serve not only as a survey of academic scholarly knowledge on the theoretical understanding through which the analysis of the data will be based but also to provide an understanding of how migration law has changed in Kazakhstan and the different impacts it has had on individuals and groups today.

Secondly, (arguably the primary mode of data collection) interviews have been conducted, the aims of which are twofold. Two different groups have been interviewed for different purposes. A total of 7 interviews have been conducted, 4 with legal experts and 3 with migrants whose visas are soon to expire (each migrant was interviewed more than once). Each interview lasted between 40 minutes to 110 minutes (about 2 hours). The interviews were conducted following Galleta and Cross' approach, utilising segments to create a semi-structured interview format (45, 2013). The opening segment for each interview began with stating the goal of my research, ensuring consent, and asking introductory and broad questions relating to either the Kazakh legal system or the experiences of the migrants in Kazakhstan, depending on the interviewee (Ibid., 47). The middle segments shifted to more specific questions about (1) changes in the law and the exploration of legal nuances and decision-making regarding asylum-seekers and (2) probing questions to open up meaningful understandings of the motivations and strategies that migrants express as well as their experiences and interpretations of this process (Ibid.,50). Finally, the concluding segment focused on drawing back to and reflecting on the

previously established narratives from both groups, particularly looking to the future of the asylum process in Kazakhstan and the uncertainties the migrants continue to feel (Ibid, 52).

Legal experts have been interviewed to explore the discrepancies between the law (structure) and the legal instruments in practice. Three of the experts work at the Kazakhstan International Bureau for Human Rights; one is the deputy director who works alongside the UNHCR on the topic of migration, particularly political refugees; one is a lawyer who works directly with individuals who come to the KIBHR for consultations and in the case a human rights violation occurs; the third is not a legal expert but works as a translator for individuals that do not speak Russian. These interviews were all conducted in person at their workplace. The interviews were recorded using my cellphone and transcribed using a tool called TurboScribe. Since the interviews were conducted in Russian, I then translated the transcriptions into English. To ensure accuracy, I carefully reviewed the transcriptions provided by TurboScribe, correcting any errors. If I encountered sections that were unclear or difficult to understand, I noted them and consulted the experts to clarify the intended meaning. The fourth interview was conducted via email with the National Office of the UNHCR in Kazakhstan, per their request. The decision to interview legal experts stems from the objective of acquiring an insider's perspective on the institutional system, surpassing the constraints of existing sources by documenting the daily challenges and experiences encountered by these professionals. It is important to note that while the KIBHR provided me access to these experts, it also served as a source in itself through the use of participant observation and the news articles they published.

The second group of interviewees are individuals going through the asylum-seeking process to explore the motivations, strategies, and decision-making process they adopted while in vulnerable positions. The three interviewees were young men aged 21 and 22; two were from Afghanistan and one from Sudan. Their names have been anonymised to protect their privacy and ensure security. Although their motivations for coming to Kazakhstan varied, they all entered the country on student visas issued for their university education. None of them felt comfortable being recorded; a common justification was that their English was not good enough to be recorded. Thus, I opted to take handwritten notes instead.

Interviewees	Description
Informant 1 'Karim'	Afghan student. Arrived in Kazakhstan in 2022 to study medicine. Was expelled from university on April 8 th 2024 due to inability to continue paying tuition fees.
Informant 2 'Aadil'	Afghan man who was targeted by Taliban for previously working with foreign organization. Came to Kazakhstan in October 2023 on a student visa, while waiting for asylum claim in the US to be confirmed.

Informant 3 'Farid'	Sudanese student arrived in Kazakhstan in August 2022 on student visa granted on a scholarship to study at the university. He was expelled because he failed an exam and as a result his student visa was cancelled.
Expert 1	Deputy Director of KIBHR
Expert 2	Lawyer specialized in refugee law, works at KIBHR
Expert 3	Translator for individuals that do not speak Russian
Expert 4	UNCHR National Office of Kazakhstan

Concerning the sampling methodology of this research for the interviews, they were selected based on the access provided through my internship at the Kazakhstan International Bureau for Human Rights (KIBHR). Regarding the informants, I was initially tasked with helping with translation for a group of Afghani migrants seeking consultation on the asylum process from Russian to English; I was able to establish my own relationships with them and stated my research intentions from the beginning. It is important to note, however, that while there is a diverse range of actors that seek asylum or even consultation, my access was limited to those who came to the office while I was present and was further limited to those who did not speak Russian. Hence, I did not encounter individuals who speak Russian or Kazakh, nor political refugees, including Uyghurs or Karakalpaks, or other groups seeking asylum. Regarding the expert interviews, I could establish access since the workplace allowed me to approach them to speak on this subject.

Making sense of the data through analysis, I coded the interviews by hand, analysing common themes evoked through the interlocutors' speech. This allowed me to discern the visible patterns and differences between each interviewee. Thematic coding methods were employed for this research to identify topics relevant to the research questions and to comprehend the emotional context and impact of the participant's experience. Hence, a subjective yet reflexive data analysis was used to choose and identify relevant interview themes.

A further method of gathering data was participant observation. To this end, I accompanied the migrants to the migration office and immigration institution and met them whilst the KIBHR consulted them. The choice to adopt observational methods as part of my research lies in my epistemological position, which maintains that "knowledge of the social world can be generated by observing or participating...in 'real life' settings, interactive situations" (Mason 2002, 85). As my research explores how migrants exercise their agency in the Kazakh legal system, being an observer or translator, I contend that these settings and interactions 'reveal data' in ways that interviews or desk research could not provide adequately (Ibid). Employing participant observation has allowed me to witness parts of the process migrants must go through, the people they deal with, and the steps they must take when attempting to prolong their legal stay in Kazakhstan. A caveat of this method (or potential advantage) is that my

presence and role may have significantly influenced how migrants are treated at the migration office and other related institutions. I have introduced myself as a journalist conducting research and as a translator. While some may say that this renders my data 'inaccurate', I assert that even my presence allows for valuable data generation, as it varies from how some migrants would be treated otherwise, exhibiting an interesting comparison to be made. Additionally, as my presence generally has a more positive effect on the experience of the migrants, I believe it to be ethically sound to participate in the social world my informants are experiencing (Mason 2002, 87).

Given the multi-method strategy, this paper is founded on the ontological position of the constructivist paradigm, emphasising that individuals actively construct their notions of reality through their cognition. Resulting in the existence of multiple realities that are also relationally constructed through interactions. Moreover, deriving from Berger and Luckmann (1966), this paper adheres to the view that our understanding of the world is shaped by the social processes and institutions that create and sustain meaning. They introduced the idea that our understanding of the world is shaped by the social processes and institutions that create and sustain meaning. This study can also be described as an interpretative study whereby the approach "enables the researcher to an interpretive rendering of the studied phenomenon" (Boeije, 2010). Boeije asserts that data collection and analysis are a continuous process that allows for the development of new ideas, enabling more conceptual explanations of the research phenomenon. This interpretative aspect of this study lies in exploring the experience young migrants have when faced with visa difficulties and the Kazakh legal system.

When interviewing the legal experts, I was met with a willingness to speak openly about the topic and their experiences and understanding of the Kazakh legal system, facing few to no barriers in their willingness to share. This can partly be explained by the fact that two of the experts I have spoken to work at the KIBHR and have been interviewed several times. My lack of legal background, especially in Kazakhstan, coupled with the technical legal language employed by these experts, may have posed a limitation, primarily because two of the interviews were also conducted in Russian. Nonetheless, I have endeavoured to mitigate this gap by familiarising myself with the pertinent legal documents related to this subject. I had a translator by my side to aid with technicalities. Moreover, the interview was recorded, allowing the opportunity to listen back and carefully translate it as transcribed.

I posit that my background may have substantially influenced the interviews conducted with individuals from Afghanistan. My Tajik heritage offered the two Tajik Afghan interviewees a common cultural foundation. This shared cultural background and the closeness in age likely fostered a sense of comfort and willingness, facilitating a more open conversation and sharing of their stories.

Several challenges I faced when interviewing the migrants mostly relate to my positionality. The distinction between my role as an intern at KIBHR and a researcher conducting participant observation was frequently ambiguous. Migrants trusted me due to my association with KIBHR and the personal relationships I built with them. To address this, I consistently communicated the nature of my research and the data collection process, seeking verbal consent multiple times for specific instances of

interest. Furthermore, my positionality as a young European student often highlighted a power imbalance in our interactions. The proximity in age and the migrants' strong aspiration for education underscored the perception that my situation was considerably more desirable, given that I did not need to navigate the same arduous processes.

2.1 Structure Paper

The research paper is structured as follows. The first section included the introduction and methodological approach to the research, establishing the research puzzle, the question, and how the research was undertaken. The next section offers historical and theoretical considerations relevant to the topic, framing the case and introducing the theoretical foundations underpinning the research. This will involve a literature review of existing empirical research related to the case, followed by an examination of the theoretical frameworks that support this study. This section also aims to position the research within the academic discourse on migration. Subsequently, the data and analysis will be presented in four sections under 'Findings'. The first section will offer an overview of the significant changes and the operational dynamics of the asylum-seeking process in the RK based on data from both primary and secondary sources. This will be followed by a detailed presentation and data analysis from the interview. The structure of this follows outlined sub-questions in the introduction to address the main research question.

3 Historical and Theoretical Considerations

This section will be divided into two parts, with the first section examining the existing academic literature concerning migration and asylum-seeking in Kazakhstan, followed by an overview of the historical context in which the case at hand lies. This review will encompass empirically significant sources related to migration in Kazakhstan, starting with examining the evolution of migration patterns and the most prominent literature in this area. Subsequently, the second part seeks to connect this empirical analysis to relevant theoretical literature, particularly those addressing the structure-agency dynamic and the concept of time, to explore the strategies migrants can use in vulnerable situations. The aim is to examine the pertinent theoretical literature, integrate it with the empirical context of Kazakhstan, and identify the research gaps that this study intends to address. Finally, the analytical framework employed in this research will be delineated based on the reviewed theoretical literature.

3.1. Empirical Literature: on the case

Substantial literature has been written about migration in Kazakhstan, typically focusing on migration to and from Kazakhstan and looking at causes, trends, and factors. There is a common understanding that the collapse of the Soviet Union prompted mass migration to and from Kazakhstan (Akiner 2004; Tsypylma 2005; Mussina, Khusainova, and Vechkinzova 2020).

Akiner (2004) proposes a typology of diasporas in Kazakhstan, exploring its demographic history from the early Kazakh nation through the Soviet period to modern times. Her typology categorizes diasporas by type (ethnic, religious, penal), cause (voluntary, forced, administrative), and chronology, linking the movement of diasporic communities to the 'end of empire' following the Soviet Union's collapse and Kazakhstan's independence (Akiner 2004, 60). In 2020, Mussina, Khusainova, and Vechkinzova identified four push/pull factors in Kazakhstan: social factors tied to national identity, economic conditions, political factors like perceptions of freedom, and demographic factors influenced by an ageing population and high birth rates (2020, 63-63; Sadovskaya 2013). Zhalnina (2021) highlights the brain drain caused by international educational migration and its impact on Kazakhstan's economy, foreign policy, and social policy. Dietz, Gatskova, and Schimillen (2011) found that 90% of recent migrants in Kazakhstan were internal, with 70% identifying as ethnic Kazakhs (19-20).

While this academic literature is illuminating key migration trends in and out of Kazakhstan, delving into motivations and driving factors, little attention has been paid to the strategies migrants that come to the RK use while facing these challenges, particularly international migrants. Nor has much attention been paid to the state's role in these challenges. Akiner highlights a central debate on the movement of people in and out of Kazakhstan since independence, shaped by two opposing political views. One perspective argues that the emigration reflects a lack of trust in the government and criticizes

its policies, warning of potential social conflict that requires ongoing monitoring (Akiner 2004, 22). The other view emphasizes the positive aspects, focusing on the government's efforts to foster harmony among different ethnic groups and to build a diverse and stable society by welcoming migrants (Akiner 2004, 22). The significance of this debate is rooted in the politicisation of migrants and refugees, a frequently explored phenomenon. Azhigulova contributes to this debate in her article analysing CA states' compliance with international refugee and human rights law. She finds that CA nations have prioritised regional obligations to China over their international human rights obligations, resulting in inadequate protection for Chinese asylum seekers (2022, 267). A key work in line with this finding is Pron's (2021) work analysing the RK's approach to ethnic Kazakhs from China and living in the Xinjiang territory under President Tokayev. She elucidates and evaluates the foreign and domestic policy considerations underpinning Kazakhstan's approach to asylum seekers from China, particularly in Xinjiang, where not only Uyghurs are repressed but ethnic Kazakhs as well. According to Pron, in 2020, Kazakhstan's approach to ethnic Kazakhs, who are Chinese nationals seeking asylum from China, changed significantly. At least six ethnic Kazakh asylum seekers from Xinjiang were granted temporary one-year residency. This marked a major improvement, as previously, Kazakh courts consistently rejected similar cases. Utilising policy documents, a timeline of events, and semi-structured interviews, Pron argues that Kazakhstan's approach to the issue of Xinjiang is increasingly influenced by Sino-Kazakh relations (Pron 2021, 873). A similar finding is made regarding international law in general as an analysis of judicial practices in the Commonwealth of Independent States (CIS) countries shows that very few take constitutional clauses on international law seriously. These provisions appear largely irrelevant in CIS nations with neo-authoritarian tendencies, including in Kazakhstan (Danilenko 1999, 69).

Perhaps Davé (2014) touches most closely on strategies employed by migrants in Kazakhstan. He examines the challenges faced by migrants and the strategies they employ in the context of migratory regulation that is characterised by small quotas for foreign migrations and a lack of legal provisions for low-skilled temporary migrants, creating gaps that keep labour migration informal and unregulated. Davé researches several theoretical concepts, including migration theory, political economy, and legal anthropology. Hence, the research focuses on the challenges that specifically CA labour migrants experience due to the informal mobility and inadequacies of the legal-regulatory framework.

The aforementioned literature highlights key topics and research concerning migration in Kazakhstan, focusing on empirical studies pertinent to the case at hand. While this body of work is significant, addressing crucial aspects of migration and asylum-seeking in Kazakhstan, the most relevant discussions pertain to Kazakhstan's policy motivations and strategies towards migrants. However, a notable gap exists, as there is limited research on the experiences and strategies of migrants who are not necessarily illegal but find themselves in vulnerable situations.

3.2 Theoretical Considerations and Analytical framework

My research positions itself within the broader field of migration studies. The case study focuses on migrants in Kazakhstan. It touches upon the subjects of asylum seekers and migrants. As previously mentioned, given the untapped ground of this research and the diversity of data collected, selecting one sole theory for this study is a challenge. Therefore, several theories and concepts have been selected. The theoretical literature review thus outlines the structure-agency theory as posited by Giddens, forming the basis through which the data analysis will be conducted and justifies the chosen methodology. Next, the concepts of temporal experiences and the legal mobilisation of resources are outlined; these form the building blocks that help make abstract ideas observable.

3.2.1 Structure/Agency

Firstly, this study is grounded in theories of structure and agency and mainly employs Giddens's theory of structuration and discusses the concept of time in migration. This theory proposes a reconciliation in the still-existing debate between structure and agency. While the former emphasises that unique aspects of the social world are not explained merely by the actions of the sum of individuals present, the latter maintains that to understand social outcomes, individuals and human interactions must be studied (Chatterjee, Kunwar, & den Hond 2019, 62). A theoretical problem thus arises in social sciences when trying to find common ground in these opposing perspectives. Giddens thus proposes structuration theory, which signifies that human agents deal with a pre-existing, interpreted world and simultaneously constitute the world through the meanings they assign to it (Giddens 1976). Other scholars have departed from a macro-, micro- understanding, with the prior constituting the structure and the latter focusing on individual decisions and motivations (Stjernström 2004).

For Giddens, structure is understood as the medium for conduct and the outcome of conduct (thus forming a duality). Structuration thus refers to how social relations are structured across time through this duality (Giddens, 1984: 374–376). In this regard, he seeks to render structure and agency ontological equals rather than privileging one over the other. Agency is understood as "events of which an individual is the perpetrator, in the sense that the individual could, at any phase in a given sequence of conduct, have acted differently." (Giddens, 1984, p. 9). Importantly, in this model, rationality is based on the individual's knowledge of the world, and a human agent does not have perfect knowledge about the society or reality they live in but behaves according to the belief of their situation (Stjernström 2004). As elaborated by Jabri (1996), "there is an interplay between personal and bureaucratic preference" (68), reflecting that while an agent is purposeful, their perceptions of costs and benefits are influenced by normative expectations associated with his or her role in society (Demmers, 115). In essence, structuration theory follows that agents create structure, and structure enables agency. According to

Giddens, human beings are reflexive 'knowledgeable agents' because they are familiar with the rules of social life (Chatterjee, Kunwar, & den Hond 2019, 63).

Giddens (1979: 64) defines structures as 'rules and resources recursively implicated in the reproduction of social systems'. Within structure, power is a fundamental component of all social systems and operates through symbolic orders and codes of conduct. According to him, some agents have more resources—allocative (material control) and authoritative (control over people)—to achieve their goals (Ibid). He identifies three structures: signification, legitimation, and domination. In my research, the concept of authoritative resources, which refers to the power subject to subject relations, is more relevant, especially when analysing the employment of legal tools by migrants and the experience they have when confronting them (Ibid).

Critiques of structuration theory fall into two main categories: conceptual and epistemological/methodological. Conceptual critiques challenge the theory's duality of structure, arguing that Giddens overemphasises agency and neglects enduring structures that shape human action (Callinicos, 1985; Clegg, 1989). Others argue that the theory fails to clearly separate structure and agency, leading to confusion and an inadequate examination of their interaction (Archer, 1982; Clegg, 1989). Epistemological critiques focus on Giddens' lack of empirical examples and the theory's ambiguous methodological applications, which critics believe make it overly broad and unclear (Chatterjee, Kunwar, & den Hond, 2019, 66, 69-70).

Despite these critiques, the choice for applying this theory in this case study is deemed adequate due to its ability to offer "insight into the basic properties and dynamics of human action, interaction and organisation" (Turner 1986, 977). Furthermore, its comprehensive scope allows it to address a wide array of issues at the ontological level. When researching migrants in Almaty and their unique challenges, the diverse circumstances of each individual make it impractical for a narrowly focused theory to sufficiently examine and address the research questions.

Therefore, while most debates revolve around the extent to which structure or agency plays a role, that is not the aim of my research. Rather than focusing on the 'why' or explaining and rationalising the decisions of certain migrants, I will try to describe and outline the outcome and effects of decision-making processes in the context of the said structure by looking at agent reflexivity and authoritative resources provided in the structure. I will focus on the interaction between structure and agency in the context of migrants seeking asylum. More specifically, I will examine how individual decisions (agency) based on personal aspirations, networks, and perceptions of opportunity are taken and how these decisions are influenced by broader structural constraints, notably visa regulations, political considerations, and the asylum-seeking process.

3.2.2 On the subject of Time

In the search for understanding the abstraction of the duality of structure-agency, the observed concepts in the research form the context in which the data will be analysed. More specifically, these concepts elucidate how the migrants under study exercise agency. They navigate and potentially reshape their choices amidst the institutional structures and opportunities they encounter. This is particularly relevant as they address the challenges their expired visas pose and their efforts to remain in the country legally. Concerning my research, the experiences of migrants navigating these bureaucratic procedures often entail periods of turbulence, characterised by the need to gather documents and attend court proceedings, in stark contrast to the long waits for decisions. This temporal instability disrupts their ability to plan their lives, leaving them feeling "stuck" (Griffiths, Rogers, and Anderson 2013, 22). To this end, it is useful to consider the concept of time. This concept can be explored both as a motivation for the migrants and in terms of how the experience of time impacts them.

Time and migration have become fundamental themes in discussions about mobility and globalisation. However, the complexities of temporal dimensions have not often been the focus of scholarly research despite being crucial in understanding the experiences of migrants. In Flaherty's research, he suggests a universal pattern in the perceived passage of time-based on individual circumstances (408-9). The research specifically finds that those experiencing increased governmental and personal activity perceive time as passing quickly, while those enduring suffering and waiting perceive time as passing slowly (407-9). Although Flaherty's research focuses on examining the perception of time through public opinion during Argentina's political and economic crisis (2005, 402), the concept of temporal perception is highly relevant to the present study. It aligns with the notion that the experience of time is contingent upon specific circumstances.

Griffiths, has authored numerous research papers that delve into various aspects of the subject. In a review by Griffiths, Rogers, and Anderson (2013) examining the concepts of time, migration, and temporalities, an interesting theme they touch upon is the concept of 'tempo', referring to 'expectations, experiences and conflicts of speed' that are 'relevant at every stage of migration and are often felt to be in conflict' (18). Here, the authors discuss the contrasting experiences of time within bureaucratic processes, highlighting how such processes can be perceived as either 'too slow' or 'too fast' (Ibid., 19). Adopting a Foucauldian perspective, there is a clear link between power, the state, and time management (Griffiths, Rogers, and Anderson 2013, 30). Foucault (1991, p. 154) suggests that authority is directly connected to issues of time, positing that the efficient use of time is intertwined with self-disciplinary practices, referring directly to the discussion of structure and agency.

Furthermore, the varying time experiences—whether accelerated or decelerated—can be seen as disciplinary mechanisms that individuals must navigate to survive (Lilja, 2018, p. 424). Another key debate is the dissonance between chronological time (objective passing of time) and social time (the

subjective experience of time), whereby migrants may delay significant life events or are unable to fulfil their goals until they have secured legal permission to stay (Griffiths, Rogers, and Anderson 2013, 28). Cwerner (2001) calls for a more nuanced approach to migration studies, emphasising the importance of understanding various temporal dimensions of migration in shaping migrants' experiences and the responses of nation-states. He introduces a conceptual framework with eight distinct temporal perspectives: strange, heteronomous, asynchronous, remembered, collage, liminal, diasporic, and nomadic.

In a later work, building on Cwerner's approach, Griffiths (2014) develops a more comprehensive framework for understanding how asylum seekers and immigrants experience time. She maintains that time is 'central to the framing of social life and bureaucratic systems' (2014, 1991). She thus distinguishes between four temporalities (sticky, frenzied, suspended, and ruptured) experienced specifically by immigration detainees and asylum-seekers. The significance of examining the temporal variations experienced by migrants lies in how these variations highlight 'disjuncture' between individuals and contradictions within different aspects of their own lives. "Sticky time" refers to the prolonged and seemingly endless nature of waiting. In seeking asylum, the decision-making process is frequently slow and burdened with bureaucracy, court proceedings, and paperwork, creating a perception of too much time (Griffiths 2014, 1995-6). Drawing from Bourdieu's, the experience of being subjected to waiting is intertwined with power dynamics and is linked to bureaucratic domination (1997, 227). 'Suspended' time is experienced as 'directionless stasis' (1996). 'Frenzied' time applies to a moment when time feels like it is rushing out of control, whereby developments in the decision-making processes completely alter their reality. This creates a frantic panic among individuals, creating a sense of disempowerment and inability for others to provide support (2000). Finally, Griffiths identifies temporal ruptures as an experience relating to sudden movements of frenzied time, leading to tears in people's imagined time frames. In other words, it creates a sense of complete instability in situations individuals are unable to plan for, such as a ruling of deportation. For migrants, analysing the concept of time is crucial for understanding the structuring of social life and bureaucratic systems. It is particularly important to gain insights into the experiences of migrants who face uncertainties within the immigration system.

On another note, Roberts (1995) examines the significance of immigrants' expectations concerning the duration of their stay in the host society in the process of adaptation. Roberts contends that the perception of immigration as a temporary state generates a characteristic ambivalence, expressed in conflicts between keeping your ethnic identity and the pressure to assimilate (1995, 63). In a related discussion regarding the temporality experienced by migrants, legal and political practices and discourses surrounding migration establish categories of exclusion that are intrinsically linked to time. Cohen (1994) specifically argues that when the law differentiates between citizens and foreigners, a key criterion for the latter group is the duration for which they are legally allowed to remain in the country.

Once immigrants enter a host country, they are subject to regulations that impose time-based conditions for renewing permits, legal documentation, and seeking changes in their immigration status. In Kazakhstan, visas must be renewed, and if granted refugee status, this must be renewed annually (E-Gov of the Republic of Kazakhstan, n.d.). Hammar (1994) emphasises the importance of legal residency duration in determining immigrants' status. He describes three distinct stages, or "gates," through which the nation-state exercises control, ranging from border control to naturalisation policies. Cwerner further emphasises that, frequently, "illegality" arises from failing to adhere to these temporal regulations.

3.2.3 Mobilisation of legal resources

Amidst ongoing temporal disruptions understood by a dynamic between power and domination, migrants in uncertain situations can exercise their agency by leveraging available means within the system, including the strategic use of bureaucratic institutions to their advantage. The decision to mobilise or utilise the available resources provided by the state to avoid leaving the country is a key aspect of the research puzzle that initially drew my interest and is a central concept that supports the research within the theoretical framework. In the case at hand, legal mobilisation is employed in two primary ways: first, through applying for asylum, and second, by appealing the decision of a rejected asylum claim. Due to a lack of a better definition (which I will identify later), I define the latter as strategic litigation.

Literature and academic scholarship about legal mobilisation and strategic litigation are growing but only recently gaining more traction. Legal mobilisation has been studied in the context of social movements. For instance, Tilly and Tarrow (2007) develop a framework for contentious politics and collective mobilisation. While this is beyond the scope of the present research, they discuss Contentious Collective Action, which involves individuals collaborating to pursue common interests while also aiming to challenge existing social and political structures (Tilly & Tarrow 2008; Demmers 92). It is the challenge of existing social structures that relates to the decision to employ legal mobilisation, particularly for migrants facing uncertainties, who resort to the legal means they have access to. Lehoucq and Taylor (2019), in their article 'Conceptualising Legal Mobilization', define the concept as "the use of law in an explicit, self-conscious way through the invocation of a formal institutional mechanism" (3). This definition is broad, and it applies to the utilisation of any available legal instruments. As Zemans (1983) coins, it is understood as a situation "when a desire or want is translated into a demand as an assertion of one's rights" (700). More specifically, it is a 'form of political activity by which the citizenry uses public authority on its own behalf' (690). The link to the agency is clear here, as it elucidates a moment whereby individuals assume control and take action, albeit provided by the structure itself.

In a similar vein, strategic litigation falls within the umbrella of legal mobilisation. Van der Pas (2021) breaks down the concept into its two constituent parts, 'strategic', defined as the strategy being

an intended course of action and 'litigation' ' which denotes legal action undertaken through a judicial mechanism to obtain a judgment (S126). It differs from legal mobilisation in that strategic litigation is used as a means to an end, aiming to affect legal, political, or social change beyond the scope of the individual case or interest (ibid.). According to Van der Pas, these conditions must be met to be considered strategic litigation. What these two concepts have in common is the consciousness of decision-making, illustrating the exercise of agency. The difference is that strategic litigation falls within the broader umbrella of legal mobilisation, referring specifically to going to court with a goal greater than themselves and, importantly, as a means to an end.

This discussion on legal mobilisation and strategic litigation thus draws attention to the opportunity structures, particularly within authoritarian regimes. Kazakhstan exemplifies the characteristics of an authoritarian state. Thus, the question of whether legal mobilisation can even occur under authoritarianism arises (Gallo 2021). An increasing body of scholarship on legal mobilisation in authoritarian regimes indicates this phenomenon is possible. Chua (2019) asserts that legal mobilisation can occur under authoritarianism, either as a response to repressive conditions or due to internal tensions and a desire to change the conditions individuals find themselves in (356). There is an emphasis on the need to understand authoritarianism as a phenomenon pervasive in all societies, not simply as nation-states but within enclaves of a society, forming layers of authoritarianism. Authoritarianism for Chua is thus defined as 'the perpetuation of power over social relations and protection of accompanying privileges'; the broad definition expands the applicability and study of legal mobilisation. Chua expresses this exercise of power as social control, whereby the most blatant involve violence, repression, and coercion, while subtler ones adhere to the law and even use it as a weapon to gain social control (Rajah 2012, Chua 2019). The space for legal mobilisation within authoritarian regimes can be understood as certain forms of repression giving rise to a particular grievance, thereby creating opportunity structures give rise that enable individuals to exercise their agency. Xiao and Ding also focused on legal mobilisation under authoritarian regimes identify why some groups are likely to turn to legal mobilisation in pursuit of their goals. Their findings suggest that legal mobilisation in authoritarian regimes is field-specific. Hence, it depends on groups or individuals' capacity and political embeddedness (201).

3.3 Analytical Framework

Considering the above theoretical and empirical considerations of the case, my research seeks to draw from scholarly discussions to formulate an adequate analytical framework to make sense of the collected data. The research is situated within the broader field of migration studies, focusing on the experiences of vulnerable migrants navigating a restrictive and often corrupt system. This study requires a diverse theoretical approach due to the complexity and variety of the collected data. While existing

literature has yet to fully explore this area, my analysis draws from multiple theories and concepts, particularly Giddens' theory of structuration, which reconciles the ongoing debate between structure and agency; the contributions of Demmers, Jabri, and Chatterjee further enrich the theoretical framework. The concept of structure refers to the legal institutions, state mechanisms, rules, and regulatory frameworks that govern the Republic of Kazakhstan. These elements collectively constitute the institutional and systemic environment in which migrants operate. Conversely, the notion of agency pertains to the actions, decisions, and, in some cases, the inactions of the migrants themselves. This encompasses the strategies they employ, their choices, and how they navigate, resist, or adapt to the structural constraints imposed by the legal and bureaucratic systems in place.

In the structure-agency debate, time and legal mobilisation are crucial for understanding how migrants assert agency within restrictive legal environments and how their actions are shaped by, and can potentially influence, the structures around them. Interviews revealed migrants' insecurity and vulnerability, often expressed through their perceptions of time—either as rapid and frantic when facing visa cancellations or slow during the asylum process. Griffiths's framework on migrants' temporal experiences explores how these perceptions impact decision-making and interactions with legal systems, drawing on Foucault and Bourdieu's ideas of time as a power dynamic. Additionally, as discussed by Zemans, Lehoucq and Taylor, and Van der Pas, legal mobilisation and strategic litigation are seen as strategies migrants use to challenge existing structures and navigate authoritarian regimes.

The key here is the thread that links the theoretical structure-agency debate, the concepts of temporal experiences, and the mobilisation of legal institutions. In other words, this involves examining the interplay between the concepts of time and the mobilisation of legal and institutional mechanisms and how they interact and challenge each other within the broader understanding of structure and agency. This framework is essential for understanding how migrants exercise agency within institutional constraints, especially in contexts marked by temporal instability and the need to mobilise legal resources.

4. Findings and Analysis

This chapter presents the data collected during my research, organised into three sub-sections corresponding to the research sub-questions. The first section provides a contextual background on the current situation in the RK regarding how the asylum-seeking process works and introduces the migrants that informed the content of this research. The following section examines Kazakhstan's institutional and legal frameworks, focusing on the concept of 'structure.' This section draws from the interviews conducted with the experts and participant observation from my time interning at the KIBHR. The second section investigates the challenges migrants face in Kazakhstan, exploring the concept of 'agency', specifically when directly confronted with Kazakhstan's legal system. The final section analyses the temporal experiences of migrants in vulnerable situations to enhance the understanding of their decision-making and the deeper power relations embedded in the process.

4.1 Chapter 1: Background

4.1.1 Current Refugee Demographics and Historical Changes

Before delving into the study's research design, it is worth looking at the context of Kazakhstan as a country and the situation relating to migrants. This section will provide a contextual overview of migration and asylum-seeking in Kazakhstan and highlight main actors involved in this process. The Republic of Kazakhstan (RK) is a destination for many migrants, mostly labour migrants. Labour migrants from various places, including the Commonwealth of Independent States (CIS) countries and Afghanistan. Kazakhstan is also a destination for aspiring students, again coming from various places, many coming from Afghanistan, India, Pakistan, and more (Akhmetkali 2024; Bulatkulova 2023). As of 2024, Kazakhstan hosts 262 refugees and 473 asylum-seekers, mainly in Almaty and Shymkent ('UNHCR Trains Judges on Application of the Law "On Refugees" in Kazakhstan', n.d.).

In 1999, Kazakhstan acceded to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, whereby States exercise responsibility and solidarity among each other to commit to the protection of refugees by granting them access to their territory, providing basic human rights and committing to the principles of non-refoulement (UNHCR report, 2021). From accession to the early 2000s, most refugees mainly came from Afghanistan, and these were the bulk of cases that were being processed. As of 2009, Kazakhstan adopted a national Law, "On Refugees", to regulate the implementation of the convention obligations. Prior to this adoption, the majority of refugee cases were managed by the United Nations High Commissioner for Refugees (UNHCR), which was responsible for conducting Refugee Status Determination (RSD) under its mandate and issuing relevant documentation to refugees (UNHCR interview). The UNHCR was also responsible for providing refugees and asylum-seekers immediate relief and basic needs. The enactment of the National Law "On Refugees" aimed to establish a regulatory framework governing granting refugee status within the

Republic of Kazakhstan. As a result, from 2010 onwards, the Government of Kazakhstan assumed full responsibility for conducting RSD. Another shift occurred in 2022, the responsibility for processing migrants was moved from the Migration Services within the Ministry of Internal Affairs to the Ministry of Labour and Social Protections. This change had profound consequences for the application process, as discussed in more detail in Chapter 3.

To assess the structure through which migrants may seek asylum in the Republic of Kazakhstan, I will briefly outline the current process and procedure, which is notably complex and intricate. To seek asylum and obtain refugee status in the RK, one must submit a personal request through an authorised representative to the local subdivision of the authorised body. In this case, it is the Migration Services Department under the Police Department', which further falls under the Ministry of Internal Affairs (E-Gov of the Republic of Kazakhstan, 2022). This request must be submitted within five calendar days upon arriving at the RK or from the moment the individual discovers circumstances that give rise to fear of becoming a victim of persecution on the basis of 'race, nationality, religion, citizenship, belonging to a particular social group or political opinion' (Ibid.). The asylum process in Kazakhstan begins with an electronic record and a questionnaire survey within three days, followed by a background check within five days. Within 15 days, the applicant is interviewed and referred for a medical exam. The case is then sent to national security authorities, who respond within 30 days. After verifying the information, the case is prepared within ten days to be submitted to the Commission that decides on refugee status. During this time, individuals receive an asylum-seeker certificate valid for three months, providing them with legal status in the territory of the RK. The decision on an asylum application can take three months and one year. If the process extends beyond three months, a new asylum certificate is issued if the previous one has expired. If the asylum application has been accepted, the individual is granted refugee status, which entitles them to the same rights as other foreign nationals temporarily residing in the Republic of Kazakhstan. Refugee status is granted for one year and must be renewed annually. (E-Gov of the Republic of Kazakhstan, 2022).

However, if the asylum application is rejected, a written notification will be sent detailing the reasons for the rejection. If the migrant believes there was an error in the decision, they have the right to appeal it within three months (E-Gov of the Republic of Kazakhstan, 2022). The appeal process provides an opportunity to challenge the decision at a higher level within the authorised body, through a second instance, and/or via the court system, advancing through up to three potential stages. The ultimate decision is made by the Supreme Court, whose ruling is final and binding.

4.1.2 Individual Experiences: Three migrants in Kazakhstan

As I briefly described the individuals in the methodology, it is important to provide a more detailed account of the individuals involved to better understand the circumstances that have led them to their current situations.

Farid, the first migrant I encountered, is a Sudanese student who arrived in Kazakhstan in 2022 on a scholarship to pursue a Bachelor's degree in International Relations at Al-Farabi University in Almaty. Unfortunately, after a year in the program, he failed a course in the second semester. Consequently, he was required to take summer courses, which he had to pay for himself. Lacking the necessary funds, Farid was unable to pay for the courses and, as a result, could not renew his student visa, which must be renewed annually. His visa expired in September 2023, prompting him to apply for asylum in August 2023. By the time we met, his initial asylum claim had been submitted and subsequently rejected, and he was in the process of appealing the decision. Farid explained that he felt his expulsion was unjust and that returning to Sudan was too dangerous. Therefore, he chose to seek asylum as a strategic measure to gain some time while searching for other scholarship opportunities in Kazakhstan.

Aadil, from Afghanistan, arrived in Almaty, Kazakhstan, 2023 on a student visa, intending to escape the dangers he faced in his home country. Although he was enrolled in a preparatory university programme at a university, he did not attend, as his primary concern was not his education. Rather he works at a bazaar selling car parts and repairing cars. Aadil had genuine fears for his safety in Afghanistan. He had previously participated in American-funded university exchange programs and worked for an American organization, which will remain anonymous for privacy reasons. These experiences made him a target for the Taliban and pushed him to flee Afghanistan. Aadil had valid grounds to seek refugee status in Kazakhstan. However, Aadil's objective was not to obtain refugee status in Kazakhstan but to extend his legal stay in the country while awaiting the outcome of his asylum claim in the United States. Thus, he was advised to submit his claim, but to omit certain documents to ensure his rejection, while still providing him opportunities to appeal decisions. This was the only solution for Aadil as he was instructed by the authorities in the USA handling his asylum claim that he must leave Afghanistan to a 'third neutral country' and remain there for his claim to be processed adequately.

Finally, Karim, an Afghan student also enrolled at Al-Farabi University in September 2022 to study medicine, faced expulsion in April of 2024 due to his inability to pay tuition. Karim came to Kazakhstan with high ambitions to pursue his medical degree outside Afghanistan. He and his family of seven siblings, perceived that an education abroad would provide him with greater opportunities to excel in his career. Moreover, an international environment would open up more doors for him. Karim was not on a scholarship when he arrived, his family's income supported him. However, halfway through his education, he could no longer pay his tuition fees. This financial hardship arose from an unexpected change in his family's financial stability, who remained in Afghanistan. He explained that the situation deteriorated after the Taliban's takeover, which led to his sisters—who were also doctors—being unable to work, significantly reducing the family's income. The recent job loss of his brother further exacerbated the financial strain on his family.

Having outlined the functioning of the asylum-seeking system, detailed the recent changes within the RK, and provided a profile of the migrant informants, we are now equipped to engage more effectively with the research question. This foundational context sets the stage for a deeper understanding of how these structural and social dynamics intersect to shape the experiences of migrants within the RK. The subsequent chapter will delve into these findings, offering a critical examination of the data about the theoretical frameworks discussed earlier.

4.2 Chapter 2: Structure and Institutions

What opportunities and constraints do the institutional and legal frameworks present to migrants in Kazakhstan provide?

4.2.1 Politics

During my internship, as I was first introduced to the process of asylum-seekers, my supervisor explained how the system operates and then shared an unexpected revelation: "Well, either way, 99% of people will get rejected and won't receive refugee status." Surprised by this statement, I decided to conduct my research. According to the UNHCR, I discovered that "refugee recognition rates declined drastically: from close to 70% in 2013 to below 6% in 2020" (UNHCR 2021, 8). In addition, I was often told that migrants would most likely not receive refugee status. This was repeated in meetings with migrants in order to prepare them for what they should expect, which is mostly a long process that will likely include human rights violations and maltreatment but will extend their legal stay in the country.

Upon my enquiry, KIBHR experts explained that while the number of asylum applications had grown, most applicants do not fit the criteria to obtain asylum, and therefore, refugee recognition rates have declined (Deputy Director KIBHR, 2024). However, another reason cited among the experts is political motivation, particularly pertaining to asylum seekers that belong to groups including Uyghurs or Karakalpaks, from China and Uzbekistan, respectively. The argument posits that the RK is keen to maintain favourable diplomatic relations with said neighbours and is, therefore, reluctant to grant asylum to members of these groups, even though they are indeed being persecuted in their home countries. These findings are consistent with the research of Pron (2021) and Azhighulova (2022), which indicate that 98% of recognised refugees have been Afghan nationals, while officials in the Republic of Kazakhstan have rarely granted asylum to individuals from Chechnya, China, and Uzbekistan. This reluctance is attributed to concerns about the threat to diplomatic relations with the countries of origin of these applicants.

Regarding Afghan migrants, a KIBHR expert anticipates a decrease in the number of new refugees as the Republic of Kazakhstan gradually acknowledges the Taliban as a legitimate government. This shift is evidenced by the accreditation of Taliban envoys to Kazakhstan in 2023 and the removal of the Taliban from its list of terrorist organisations in June 2024 (Putz, 2023; Kumenov, 2023). The RK's general reluctance to accept asylum claims from groups that might affect their diplomatic relations is rooted in the premise that granting asylum-seeker or refugee status would implicitly acknowledge that human rights violations are going on in these countries (Azhighulova 2022; Deputy Director KIBHR 2024). It is important to note that while these groups typically do not receive refugee status, individuals facing extradition to their home countries while residing in Kazakhstan often apply for asylum to delay their deportation. According to experts, even the few migrants who are granted asylum-seeker or refugee

status may not be completely assured of their safety. There is no assurance that Kazakhstan will not covertly and unlawfully return these individuals to their persecuting countries (Deputy Dir 2024; Grishin 2024). It is something that has occurred before, particularly with Uyghurs or ethnic Kazakhs with Chinese ethnicities being unlawfully extradited to China (Sultanov 2022; Bergen 2011).

However, in some cases, when faced with public pressure from civil society, the RK may use delaying tactics to allow public pressure to subside. Instead of extraditing individuals or granting them official refugee status, the authorities may keep them in a detention centre, where they are in a state of limbo for approximately a year, during which they await a resolution. A common outcome is their eventual release without further processes. Experts from the KIBHR refer to these unique cases as the government 'quietly releasing them' (Deputy Dir. 2024; Grishin 2024). Resembling a news article by Putz, dubbing it as 'Astana's quiet diplomacy' (2018), to avoid large-scale attention on the matter.

Regarding power dynamics, this situation illustrates how Kazakhstan's asylum policies are heavily influenced by geopolitical considerations rather than purely humanitarian concerns. This perspective aligns with the views expressed by expert interviewees at the KIBHR, who characterised the asylum process in the RK as inherently political rather than humanitarian (Deputy Dir. KIBHR 2024; Expert Lawyer KIBHR 2024). In this way, it can be understood that the state's priorities are governed through greater structures of domination via the greater foreign policy demands (Giddens 1984). These demands, in turn, become embedded within and reinforce the structures of legitimacy that guide state actions. According to Giddens' structuration theory, the power relations in this context reveal how structural forces, such as international diplomacy, shape and constrain institutional practices. As Kazakhstan navigates its regional obligations and foreign policy demands, the asylum process becomes a tool of political manoeuvring rather than a mechanism of humanitarian protection.

Nonetheless, it is important to acknowledge that, despite the system's flaws, many individuals seeking asylum do not meet the established criteria. This results in a high volume of applications, which can strain and complicate the asylum process within the Republic of Kazakhstan. Consequently, the system facilitates procedural processes and creates opportunities for migrants to exercise their agency to strategically extend their stay and leverage available resources.

4.2.2 Bureaucratic Challenges

This section draws from the data collected from the experts in the field and participant observation. I have identified three most important challenges within the structure of the asylum process. The first of these I identify as a bureaucratic challenge, entailing a bureaucratic impasse. The second refers to inadequate training and a language barrier.

The issue of the state assuming responsibilities was a recurring topic of discussion among the experts from the KIBHR. Particularly the shift that occurred in 2022 from the responsibilities of the

Migration Services within the Ministry of Internal Affairs to the Ministry of Labour and Social Protections. The Deputy Director of the KIBHR explained that transferring responsibilities to the Ministry of Labour was made to create a more formal and less intimidating environment for refugees, instead of dealing with uniformed police officers, which could provoke fear among asylum seekers (2024). However, three experts from the NGO cited numerous issues with this change, notably the inexperience and unqualified staff of the Ministry of Labour in handling issues regarding migration (Deputy Dir. 2024; Expert Lawyer KIBHR 2024; Grishin 2024). Additionally, it has increased the institutions' decentralised nature and bureaucratic red tape.

Although the Ministry of Labour has experience with repatriating Kazakhs from abroad, it lacks expertise in addressing the specific vulnerabilities and circumstances of migrants and refugees. Furthermore, the Ministry of Labour primarily serves as a coordinating body, with the actual processes managed by the Akimat (city administrations). However, the Akimat often appears either unwilling or incapable of effectively handling these cases, frequently redirecting them to the Ministry of Labour, creating a bureaucratic impasse or a Catch-22.

As elaborated by the UNCHR in an interview (2024), the responsibility for Refugee Status Determination (RSD) is decentralised to city and regional Offices of Coordination of Employment (which fall under the Ministry of Labour and Social Protection). Decisions are made based on the "recommendations" of Commissions for the Granting, Extension, and Termination of Refugee Status, which include representatives from various local authorities, such as national security, internal affairs, and other sectors (UNHCR 2024). These commissions often lack specialised knowledge in asylum matters, and security concerns rather than humanitarian principles can influence decisions. Additionally, Kazakhstan's legislation does not allow NGOs to participate in the RSD process. The quality of decisions is further compromised by high staff turnover and insufficient training, with many staff members lacking expertise in international refugee law or the specific conditions of asylum seekers' countries of origin (UNHCR 2024). This leads to a problematic situation wherein complaints submitted by the KIBHR regarding human rights violations—such as the refusal to accept asylum applications—are forwarded to the Ministry of Labour and Social Protection. A refugee law expert, expressing frustration with the system, argued that involving the Akimat in this context lacks a clear rationale as it merely redirects the issue to a separate entity rather than addressing it within the institutional body responsible for overseeing the refugee process and where the human rights violation initially occurred (Expert Lawyer KIBHR 2024). Two experts I spoke to admitted that while the decision to move it to the Ministry of Labour and Social Protection had good intentions, it "turned out to be a mistake" and "makes our work more difficult" (Expert Lawyer KIBHR 2024). While their work has become more challenging, the KIBHR are still able to make complaints on behalf of the migrants, and the process continues with the involvement of the Akimat.

An example of challenges posed by bureaucratic inconsistencies pertains to the institutional misuse of information. In Karaganda, the capital of the Karaganda Region, the local KIBHR branch discovered that the state institution handling asylum claims had engaged in the unauthorised transfer of Afghan refugees' personal data to Afghan diplomatic missions within Kazakhstan (KIBHR 2024). This blatant personal data breach contravenes national legislation and international standards on refugee protection, particularly the non-disclosure of information that could put asylum applicants at risk. Such actions endanger these individuals' safety and undermine the credibility of the country's asylum system, whereby confidentiality and security are cornerstones of their protection.

Another challenge is regarding the occasional partiality of the institution. Both experts and migrants have expressed difficulty dealing with staff members of the asylum office (Grishin 2024; Expert Lawyer KIBHR 2024). One Afghan migrant, Karim, after receiving guidance from the KIBHR on the necessary steps to file an asylum claim, visited the Migration Service within the Ministry of Labour and Social Services. There, he encountered an unwelcoming environment, being made to wait four hours and subjected to rude treatment, including being told to 'return to his country' (as noted in the interview). My supervisor accompanied Karim on his next visit, and I joined them. Upon our arrival at the Migration Service, we introduced ourselves as journalists accompanying Karim; the atmosphere shifted dramatically. We were immediately greeted with smiles, and the staff attended to Karim's needs promptly and efficiently. The contrast in treatment was palpable. As we left, Karim expressed his gratitude, remarking how smoothly the process had been with our presence. Upon returning to the office, Andrei, my supervisor, recounted the experience to his colleagues with a touch of amusement, noting how unusually kind the staff had been to us. His coworkers, laughing, were not surprised by his cynical tone. When I inquired about this reaction, another coworker explained that such positive treatment is rare. Typically, the office receives a steady stream of complaints about the poor treatment migrants face at the Migration Service.

Finally, the language barrier presents a significant challenge within the structural system and for individual migrants. Although the law guarantees migrants access to a state-provided translator for court hearings, interviews, and other situations—whether translating between Russian and English or into their native languages (such as Dari or Arabic)—the availability of these translators is not immediate (Grishin 2024; E-Gov of the Republic of Kazakhstan). Translators must be requested in advance, which limits the migrants' opportunities and reduces the time available to them, as they must wait for a translator to be arranged. Furthermore, while the migrants I interviewed spoke English to varying degrees, none were fluent. Notably, Farid, a Sudanese migrant, preferred an English translator over an Arabic one, citing the poor quality of the state-provided Arabic translator. In Karim's case, he urgently required a translator from Russian to Dari. However, he was advised to secure one independently, as the state-provided translator was unavailable on the day he needed assistance. Consequently, he was compelled to hire a private translator, incurring an extremely high fee; this translator, may I add, was

recommended by the UNHCR. The language barrier presents an additional obstacle for migrants, as all court proceedings are conducted in Russian or Kazakh, and all documents must be submitted in either of these languages. Every stage of the process necessitates using Russian or Kazakh, and most staff members do not speak English or other languages. As a result, it becomes extremely challenging for migrants to navigate the system on their own.

This data reveals the challenge that the bureaucratic system, due to a combination of systemic and administrative factors, poses for migrants when looking to seek asylum. While these challenges are unfortunate, and one cannot deduce whether they were deliberately created to complicate the process, they point to a significant power imbalance between the migrants and the structure they confront. It illustrates how the structure exerts control over individuals through its authoritative resources. The bureaucratic system embodies a form of structural power that shapes and constrains the actions of migrants, reinforcing their vulnerability within a framework designed to maintain order and control. As outlined by Foucault, it is an example of biopolitics through which power is exerted through regulating people and governing the population's lifetion (Foucault 2008). This points to a power imbalance in the system, shaped by the need to regulate people, perpetuating these power relations (Ibid). As a result, an individual's ability to navigate and exercise their agency is constrained by the very structures that are infused with power relations (Giddens 1984). In this case, the concepts are applied to the convoluted bureaucratic structure of the asylum system, which systematically complicates access for migrants. The bureaucratic complexity serves as a exclusion mechanism, reinforcing barriers that hinder migrants from engaging with these institutions. This exclusion is further exacerbated by the violence of partiality—where biases and discriminatory practices within the system disadvantage certain groups—and by language barriers. This reflects the structural inequalities inherent in the system and the intersection of power, bureaucracy, and social exclusion in shaping the experiences of vulnerable populations.

Having explored the structural constraints and developed an understanding of how these structures are organised and function, we now focus on the concept of agency. This examination will analyse how migrants, within the context of the existing legal system and structural conditions, navigate and interact with these frameworks concerning their circumstances. This analysis aims to illuminate the dynamic interplay between structure and agency, highlighting how individuals operate within and respond to the broader institutional and social constraints that shape their experiences.

4.3 Chapter 3: Agency in Navigating Vulnerable Situations

This chapter draws on data collected during interviews with migrants in the RK. While they had varying motivations for desiring to obtain legal clearance to stay in the country, they were each in a situation that was time-sensitive as their visas were due to expire soon. Building upon the data gathered, this chapter focuses on how migrants exercise their agency. I analyse their decision-making processes and the strategies they employ.

How does the structure impact the migrants' decision-making?

4.3.1 Strategic Mobilisation

The primary method identified for migrants to extend their legal stay in the RK is to seek asylum. Typically, migrants first refer to the UNHCR for guidance, who then refer them to the KIBHR to obtain more information on the process. At the KIBHR, migrants are provided with a detailed outline of the necessary documents, the overall process they can expect to undergo, and the anticipated duration of the procedures. As outlined previously, the process can take up to a year, if not longer, providing additional time for migrants to find alternative pathways to achieve their goals.

Farid contacted the KIBHR to continue his studies and eventually obtain a job. He cannot achieve these goals in Sudan; thus, he resorts to the legal means available to achieve them. As per Lehoucq and Taylor (2019) and Zemans (1983), he does so in a self-conscious way that allows him to use public authority on his own behalf. Aadil similarly employs legal means as he seeks to extend his legal stay while his asylum claim in the US is processed.

Both Aadil and Farid sought assistance from the UNHCR and the KIBHR in response to the temporal constraints imposed by structural challenges, as their visas were soon to expire, but they could not leave the country. They utilised legal mechanisms to achieve their objectives during their visits to these institutions. From the outset, they were informed that the likelihood of being granted asylum was low. However, neither Aadil nor Farid wished to obtain refugee status in Kazakhstan. Farid was concerned that it would hinder his ability to continue his studies. At the same time, for Aadil, recognition as a refugee in Kazakhstan would jeopardise his asylum claim in the United States.

During his asylum claim, Farid mentioned:

"Now, I am searching for other scholarships to continue my studies. I want to find something somewhere. I am searching in other countries because I do not want to stay here. But they have many scholarships here, so I am trying to find one here too". (Farid 2024)

Indeed, Farid strategically uses legal time to search for alternative opportunities to continue his studies. Considering it an adoption of legal mobilisation, Farid employs the legal means available as a self-interested action. However, as per Lehoucq and Taylor (2019, 9), while initially a self-interested

act, it inevitably transforms into a political act through claim-making. Moreover, regardless of the outcome, the judiciary's involvement in deciding on this claim underscores the ability to use these legal means (Lehoucq and Taylor 2019, 9). This dynamic illustrates the transformation of one's circumstance into instrumentalising legal means, eventually making it political.

Aadil, having fled Afghanistan to Kazakhstan to continue his asylum claim in the US, is similarly constrained by his visa. His asylum claim in the US, taking more time than initially anticipated, requires him to remain in Kazakhstan. Stuck in a dilemma, Aadil also seeks aid from the UNHCR and the KIBHR, who recommend that he place an asylum claim in the RK to extend his legal stay.

Seeking assistance from the UNHCR and particularly the KIBHR can be interpreted as a strategic use of existing structures to confront and challenge the oppressive conditions they face. Combining the theory of structuration and concepts from strategic mobilisation, this action exemplifies a form of resistance through the exercise of agency within the confines of existing social structures. As the structures are both the medium and the outcome of social practices, the migrants navigate these structures to achieve their goals (Giddens 1984). Despite the KIBHR making it very clear that they do not address visa issues but only work with asylum-seekers and refugees, migrants are effectively mobilising the resources available within the institutional framework to resist and negotiate the terms of their vulnerable situations. The availability of opportunities in the environment of the migrants pushes them to take a chance at attaining their objectives through political action, in this case, legal mobilisation (Demmers 2016, 94). Moreover, it exemplifies how migrants can assert their agency and challenge their existing circumstances through 'claim-making' as described by Tilly and Tarrow (2007). Through their contention, they confront the structure from within, navigating the intersection of the political and legal spheres.

4.3.2 Strategic Litigation

The strategic mobilisation of resources is further observed in the use of strategic litigation. As outlined in the theoretical chapter, strategic litigation falls within the umbrella of strategic mobilisation. The involvement of the KIBHR when a human rights violation occurs is a significant aspect of strategic litigation. Unlike seeking asylum, which does not necessarily involve going to court, strategic litigation, as outlined by Pas (2021, S126), is aimed to effect political, legal, and social change beyond the individual case.

Through participant observation and interviews with both experts and migrants, it was revealed that it is a common occurrence for some errors to be committed by the authorities that are considered human rights violations. As previously discussed, the institutions' partiality, as Karim experienced, resulted in his inability to obtain the necessary information. Andrei and I had to accompany him to

receive proper treatment. While this did not prompt a formal objection on the grounds of a human rights violation, it highlights the frequent occurrence of such issues. Both Aadil and Farid also reported instances of discrimination by the institutional staff.

Farid, whose student visa expired in September, sought asylum in August, just before his visa's expiration. However, Farid expressed:

'Every time I go to the migration office, they cause problems for me. Every time, they tell me to come back another day. Because of them, I submitted my claim after the visa expired. The lawyer told me it is not good, but they will help me.' (Farid 2024)

This repeated delay forced him to submit his asylum claim after his student visa had expired, rendering him undocumented for several days. Subsequently, his asylum claim was rejected, and he was denied refugee status on the grounds that he was in the country illegally and had applied late. At this point, the KIBHR lawyers became involved. Although proving that the staff deliberately delayed his application is challenging, they decided to pursue legal action, seeking a judicial ruling that the staff acted unprofessionally and that his case must be reconsidered. This situation exemplifies strategic mobilisation and, more specifically, strategic litigation, as the KIBHR's involvement extends beyond defending an individual migrant (Pas 2021). Their objective is to contest and prevent unjust treatment by exposing institutional misconduct. This misconduct reflects repressive institutional measures, illustrating the perpetuation of power, as discussed by Chua (2019). The migration office's systematic delays exemplify this exercise of power, culminating in the rejection of Farid's case due to non-compliance with legal procedures. In doing so, the institutional structure asserts its power to maintain social control, reinforcing the dynamics of authority described by Chua (2019).

The decision to pursue strategic litigation in Farid's case was two-fold: firstly, because the ruling was fundamentally unjust, and secondly, it allowed him to gain additional time. This reflects how migrants and institutions embedded within the broader structure, such as the KIBHR, actively resist the injustices they encounter by strategically leveraging the opportunity structures available within the system (Demmers). This can be understood theoretically through the lens of agency within structural constraints. Migrants and supportive institutions navigate and exploit the inherent loopholes within legal and institutional frameworks, transforming these potential obstacles into avenues for resistance and advocacy. This underscores the interplay between agency and structure, where individuals and institutions not only react to their socio-political environments by strategically mobilising available resources to challenge and resist systemic injustices (Giddens 1984; Chatterjee et al. 2019, 74). Although it cannot be asserted that the socio-political environment is being actively reshaped, particularly given certain authoritarian characteristics of the Republic of Kazakhstan, strategic litigation remains viable. The legal opportunity structures still permit such actions, enabling individuals to pursue and potentially achieve their objectives within the existing system (Xiao and Ding).

4.3.3 Discrimination leading to inaction

The partiality and discrimination that migrants may encounter from Kazakh officials may contribute to feelings of isolation and a sense of being unwelcome in the country, fostering resentment toward those who treat them in such a manner. Farid expressed to me,

"They are not kind here. They treat you badly, and none of them understand what is happening in Sudan. When I try to explain it to them, they think I am lying. They think I am just trying to stay in their country." (Farid 2024)

This account highlights the discrimination migrants endure when dealing with legal institutions, untrained staff, and even their peers. Recognizing that these individuals are all in their early twenties is important. While some have managed to find support systems, others are forced to make decisions independently and away from their families—choices that could have long-term consequences. These experiences of isolation significantly influence how they exercise their agency. Aadil, for instance, is awaiting the outcome of his claim in the U.S. and does not wish to remain in Kazakhstan. While attempting to remain respectful, Aadil hesitated when I asked about his treatment in Kazakhstan, ultimately stating, "I am satisfied." This response puzzled me and led to further inquiry, after which he revealed that he spends little time with locals and instead spends his time in an Afghan community. He actively avoids situations that might cause problems.

Perhaps Karim's experience best illustrates the effects of discrimination on an individual's agency, particularly in how it influences their decision-making process. As mentioned in the previous chapter, I met him for the first time when accompanying him to the Migration Services after he was made to wait for four hours when he went alone. While at the Migration Service Department, Andrei explained Karim's situation to the migration officers, highlighting that Karim is looking to apply for asylum after being expelled from university, which resulted in the cancellation of his visa. Upon reviewing his passport, the officers noted that his visa appeared valid until September 2024 as it had not yet been officially cancelled by receiving a stamp from the visa office. They informed Karim that he must first visit the visa office to obtain a cancellation stamp for his passport to submit an asylum claim. This stamp would initiate 10 days when he must leave the country or formally apply for asylum. Karim was concerned about receiving this cancellation stamp on his passport and visa. He said, 'But this stamp is like deportation!' He believed that obtaining the stamp might lead to his deportation. However, after he expressed his concerns several times, Andrei clarified that it was merely a procedural step required to proceed with the asylum application. A week later, I met with Karim, and he informed me that he chose not to seek asylum and not to obtain the cancellation stamp.

"I did not get the stamp in my visa because it is like deportation. They told me that if I get a stamp in my visa, it means I am deported. Then I cannot receive a scholarship." (Karim 2024)

Instead, he opted to keep his visa in his passport unchanged, under the mistaken belief that without the stamp, his visa would remain valid until September 2024. However, this assumption was incorrect, as the authorities had already deemed his visa null and void within the system. He would not discover the ramifications of his inactions until over a month later at the airport when he attempted to leave the country for Iran. The security guard at the airport would not let him through because his visa had expired over two months ago.

Karim's strategy in navigating an expulsion whilst alone in a foreign country and avoiding a return to Afghanistan, as his parents suggested, was a sort of avoidance. Believing that his visa would remain valid if he chose not to seek asylum, he exercised his agency by avoiding the structure that had previously subjected him to discriminatory treatment. In a separate meeting, when he revealed to me that he chose not to get his visa cancelled because he feared it would lead to deportation, I inquired where he heard this information from, as the KIBHR had informed him several times that it wasn't equivalent to deportation nor would lead to it. He shared that an Afghan woman, a translator he met while seeking guidance at the UNHCR, advised him against having his visa annulled. She cautioned him that if the visa in his passport were stamped, it would be tantamount to meaning that he had been deported from the RK. He confided that he trusted her advice and that she was kind to him.

Part of Karim's decision-making process was influenced by the comfort and trust he found in someone who spoke his native language and also Afghan. As he chose to trust the translator over legal professionals, he inadvertently assumed the role of an undocumented migrant. This decision was influenced by the translator's advice and his fear of deportation and its potential impact on his future. Although Karim recognized that his presence in Kazakhstan was unwelcome—repeatedly expressing, "I know they do not want me here. They want me to leave their country" (Karim 2024)—he initially believed that his visa was still valid, giving him time to recover and explore alternatives. Nonetheless, he reported attempting to remain under the radar and avoid contact with authorities. The contradiction in his behaviours, as he chooses to avoid the authorities but believes his visa is still valid, underscores how he exercises his agency within a framework of fear and mistrust. While his choice of action was avoidance, from his perspective, he was also utilizing the legal pathways he believed would provide him with additional time. This approach represents a subtle resistance to the expected course of action. As Bourdieu (2000, p. 229) outlines, the shift in expectations imposed on Karim cultivated a docile disposition, rendering his form of 'resistance' relatively subdued, as more assertive alternatives would incur greater costs (231). For instance, the risk of deportation. Karim's reliance on someone with a common identity reflects a strategic adaptation to his circumstances. It exhibits how migrants navigate their decision-making in response to both structural constraints imposed by the host country and their personal experiences.

These three cases illuminate the various ways in which migrants, when placed in vulnerable situations, exercise their agency to obtain their goals. All three migrants chose to seek guidance from institutions to understand what legal pathways they could employ to obtain their goals. All these actions were aimed at securing additional legal time, a crucial aspect of their experience that significantly influenced how they navigated their circumstances. This 'time' objective was not only central to their goals but also profoundly affected their overall experience.

4.4 Chapter 4: Temporal Dimensions

How do migrants experience 'time' while navigating complex situations?

Time often came up, especially when discussing feelings of vulnerability. As time is a crucial aspect and characteristic of migration and asylum-seeking, it is valuable to explore the temporal dimensions experienced by migrants to get an idea of their experiences. Not only does time affect the vulnerabilities migrants experience, but it also affects their decision-making and interactions with legal systems, whether perceived as slow or rapid. This section draws on Griffiths (2014) framework on various experiences of time.

4.4.1 'Sticky' time

The slowness of time passing is not as often discussed in contrast to the ever-quick passing of time in our modern capitalist society. However, slowness is a frequent complaint of migrants and asylum seekers, who experience frustrations at the ever-lengthening bureaucratic red tape they must endure (Griffiths 2014, 1995). 'Sticky' time has manifested itself in the migrants as feelings of deep insecurity, fear, and frustration.

Aadil spoke of feeling extremely stressed. When he arrived in Kazakhstan in November of 2023 with a visa, he expected the process with his U.S. asylum claim would happen quickly. However, he did not have his first (out of three) interview with the U.S. authorities until six months after his arrival. After enduring this prolonged wait, he inquired about the duration of the process and was informed that "there is no time limit." The uncertainty experienced by Aadil's U.S. asylum claim, coupled with the fact that he had been waiting for nine months for it to progress, ultimately led to him waiting until his visa neared expiration. Faced with this prolonged waiting period, he needed to find a way to extend his stay in Kazakhstan to allow his U.S. asylum claim to proceed. To do so, he utilised the available legal avenues by submitting an asylum claim in Kazakhstan, extending his legal status there. At this stage, after his asylum claim in Kazakhstan was accepted for processing, Aadil had up to three months before the Kazakh authorities would decide on his application. Simultaneously, he was still awaiting news on his U.S. asylum claim. Aadil disclosed that he felt like time had reached a standstill during this period. He was anxious about the outcome of his U.S. asylum claim, which represented his dream and primary aim of even coming to Kazakhstan.

Waiting, or 'sticky time', has placed him in a situation wherein a glimmer of hope exists for his asylum claim in the U.S. and the possibility that his asylum claim in Kazakhstan holds up long enough for the former to be accepted. It exemplifies a technique of control that perpetuates marginality and compliance. As Lilja outlines of Foucault's work, "through controlling people's time, their bodies were kept in control to produce certain subjectivities" (2018, 423; Foucault 1991, 151). The precarious hope

sustains their marginality but also coerces them into adhering to the system's demands, reinforcing their dependence on unpredictable outcomes (Griffiths 2014, 1996).

In another sense, Farid and Aadil have both encountered the insecurity of a 'sticky' time during their asylum processes. Upon acceptance of their claim and during their asylum applications, migrants receive an asylum certificate, which ostensibly legitimises their presence in Kazakhstan for the duration of the decision-making process by the authorities. However, Farid and Aadil have expressed that this has not always granted them security. When interacting with authorities or police, the presence of this document often arouses suspicion, leading to increased scrutiny and questioning. Consequently, they adopt strategies to minimise these interactions and strive to remain inconspicuous.

Moreover, Farid revealed that his peers around him were unaware of what he was going through. He only disclosed the precarity of his situation to one trusted friend. Inquiring why, he shared that he felt ashamed and didn't want them to know. Similarly, Karim also did not tell anyone about his situation:

'It is not good to tell people. They will start to think and have ideas about you. I don't want them to think badly of me just because I cannot pay my university.' (Karim 2024)

This points to a sense of shame individuals feel when in a state of waiting. Lack of social progress and not being part of society around them further result in feelings of isolation, which are further exacerbated by the fact that their trusted close ones and family are not in the same country as them. Farid also revealed another mishap by the Ministry of Labour and Social Protection. While his asylum claim was being processed and his visa had already expired, he experienced a delay of over a week in receiving his asylum certificate, which would affirm his legal status. Farid sought assistance from the KIBHR to address the issue, which submitted a formal complaint on his behalf. During this period, Farid had no choice but to wait, and he became extremely cautious, minimising his movements and staying in his dormitory as much as possible to avoid contact with others. Throughout this time, he described feeling trapped and fearful. Though he eventually did receive his asylum certificate, it caused him significant distress.

These cases illustrate the power and domination inherent in the bureaucratic processes and the impact of bureaucratic errors. Bureaucratic institutions engage in social control by exerting their disciplinary power over agents, a power that is intricately tied to the regulation of time (Foucault 1991, 160). Through the enforcement of temporal structures, these institutions shape and constrain the behaviours of individuals, effectively disciplining them within the framework of institutional norms. This is also relevant to the capacity of bureaucratic institutions to make errors without being held accountable, as their power persists while individuals bear the resulting consequences. It compels migrants to endure instability and exist in a liminal space between legal categories, with no other options but to wait. This ties in with Bourdieu's (1997) and Foucault's (1991) understandings, which posit that being made to wait is a tool of domination and compliance through self-disciplinary measures. The

behaviour of these migrants, who avoid certain actions—such as leaving their dormitories or, in Aadil's case, interacting with locals—demonstrates how the mechanism of control operates, shaping their conduct and reinforcing their marginalisation.

4.4.2 'Suspended' Time

Suspended time, similar to 'sticky time', refers to a state of slow time and waiting. It contrasts with 'sticky' time in that it almost denotes entrapment, where they live in a state of limbo whereby "pointless and halted time entrenches alterity" (Griffiths 2014, 1998).

Karim's experience of time was marked by a sense of slowness, particularly after he decided not to seek asylum. Believing he had found a loophole that allowed him to remain legally in the country, he felt like time was moving slowly. Unlike others who faced bureaucratic delays and uncertainties around asylum claims, Karim was focused on finding an alternative place or path to follow. He understood that he needed to leave the country and wanted to, yet he felt no immediate pressure to act, nor did he have anything to look forward to. This created a state of suspended time, where he found himself in a "directionless stasis." In this suspended state, Karim felt stuck. He couldn't pursue his primary ambition of studying, he couldn't work because he was trying to avoid drawing attention to himself, and he couldn't return to Afghanistan because of his parents' suggestions. His situation illustrates a form of temporal paralysis, where the absence of urgency and opportunity left him in a prolonged period of inactivity and uncertainty. Although this changed once Karim's dad decided to seek out opportunities in Iran, there was a moment whereby Karim was not rushed to navigate bureaucratic processes in a limited timeframe. However, neither was he experiencing a 'sticky time' where he was made to wait for a decision.

Karim's experience pertains to a situation where he significantly differed from his environment and peers. His experience was fundamentally different from everyone around him, as they continued living their busy lives and his peers attended university courses. Karim existed in a liminal space between legality and temporality. The liminality underscored a temporal and legal ambiguity whereby he experienced time in a non-linear way. It points to the way structural constraints and his precarity shape his lived experience.

4.4.3 'Frenzied' time

The asylum process, constrained by strict time limits and providing a narrow window for action before being classified as illegal, creates a sense of urgency for migrants in these situations, whether it be visas expiring soon or their asylum applications being rejected. When faced with such circumstances, their perception of time changes, requiring them to act swiftly before falling under the label of 'illegal'. Consequently, time appears to accelerate, and days feel shorter and rushed as they go through the necessary steps. Anchored in Cohen's understanding, a key factor distinguishing a foreigner from a

citizen is the duration in which one is legally allowed to stay in the country. The same is applied to a foreigner and an undocumented migrant, as their label hinges on their ability to either leave the country or extend their legal stay (Cwerner).

Farid spoke about an instance when awaiting a decision from the asylum authorities, which was expected on a Friday evening. That day at 12h, Farid went to the Mosque for prayer; however, he received a call informing him that the decision would be announced earlier, at 14h o'clock. In a rush, Farid struggled to find a location with a stable internet connection, as the court proceedings were conducted online. Consequently, he was forced to experience the verdict, which was a rejection, as expected, on his phone. The rejection triggered a 10-day period during which he had to either leave the country legally or appeal the decision. After the hearing, Farid quickly sought support from the KIBHR to navigate these matters appropriately.

The rapid pace of the asylum process can be overwhelming, disempowering individuals and compelling them to make hasty decisions as institutions dictate the timing of events and decisions. In this context, the dominance of institutions over the experiences of migrants becomes starkly evident, leaving them in a state of vulnerability. The frantic state in which migrants often find themselves can be understood as a manifestation of how the 'structure' exerts control over its inhabitants. This dynamic forces individuals to suspend their lives, making hurried decisions under pressure to avoid the threat of deportation.

4.4.4 Temporal Ruptures

Temporal ruptures, similar to 'frenzied' time, occur when a dramatic movement of temporal expectations happens (Griffiths 2014). This rupture in an individual is also experienced as disempowerment, shock, and complete helplessness. A temporal rupture manifested itself for Karim when he attempted to leave the country for Iran. Despite his family's financial difficulties, they borrowed money from relatives in Afghanistan to help him book a flight and apply for a visa, demonstrating their considerable efforts to secure a future for him outside of Afghanistan. However, upon reaching passport control at the airport, authorities discovered that his visa had been expired for over two months. As a result, he was denied boarding and was told that he needed to go through a court process to judge his illegality in the country. They provided an address to go to the following day and informed him that he risked deportation; the one thing he had been afraid of all along. The realization that he had spent money on a flight he was unable to board, coupled with the sudden awareness that deportation had become a very real possibility, created a temporal rupture that profoundly altered both his present and, more importantly, his future.

As Griffiths (2014) highlights, the power of deportation, or even the threat of it, not only forces potential deportees into a state of waiting for something unattainable or acting frantically but also thrusts them into a situation where their future becomes entirely unknown (2000). Karim opened up:

"If I had known it would be this way, I would never have come to this country. I tried to do my best, but I thought I shouldn't get a stamp on my visa. I didn't know it would be like this. I just want to be a student and become a doctor. I want to help people; it is my dream." (Karim 2024)

The deep sense of regret and almost perceived injustice Karim experienced intensified his vulnerability, as it was an outcome he had not anticipated nor even considered a possibility.

In summary, these diverse temporal experiences underscore that uncertainty and instability are fundamental characteristics of asylum-seekers and migrants. Whether they experience time to pass slowly or rapidly. Their temporal circumstances significantly shape their emotions, actions, and decisions, often in direct response to the institutional frameworks. It highlights that time is not a neutral backdrop, but a dimension of power that influences the agency of individuals, dictating the pace and direction of their actions within the imposed institutional structures. It is also interesting to note that there has been a mistrust of structural time, resulting both from institutional mishaps, and changing the times of certain processes that necessitates migrants to always be available. This underscores the urgent need to address the role of institutional structures in shaping migrants' experiences.

5. Conclusion

In response to the main research question, *"How do migrants in the Republic of Kazakhstan develop strategies to navigate the legal system and address challenges between 2022 and 2024, using Giddens' structuration theory and Griffiths' experiential temporalities?"* It is suggested that the duality of structure and agency results in a situation whereby migrants are pushed to take matters into their own hands while facing challenges in a foreign country where they are alone to obtain their goals. Notably, an expiring visa and no ability to return to their home country. The convoluted nature of the structure and difficulty in understanding how to navigate it, in combination with the clear power imbalance of the situation, result in migrants having to act to the best of their knowledge to achieve their goals. The agency they exercise is done in an environment where they feel they have nowhere else to turn. Thus, they strategically employ legal mechanisms to extend their stay for their motivations.

This study demonstrates how migrants in the Republic of Kazakhstan between 2022 and 2024 navigate the legal system by employing strategies that reflect their agency within the constraints of institutional structures. Using Giddens' structuration theory and Griffiths' experiential temporalities, the research highlights the impact of time as a dimension of power, shaping the experiences, decisions, and actions of migrants. The interplay between agency and structure is evident as migrants confront bureaucratic challenges, systemic power imbalances, and the pressures of time imposed by institutions.

The research sheds light on the ability of migrants to leverage available legal and institutional resources to resist and negotiate the terms of their circumstances. This illustrates both the constraints they face and their impressive ability to exercise agency within these limitations. The study also reveals how bureaucratic structures, influenced by geopolitical considerations, often serve to reinforce the vulnerability of migrants, complicating their access to asylum and perpetuating power imbalances. Despite these challenges, the strategies employed by migrants, including strategic litigation and seeking institutional support, underscore their resilience and adaptability in navigating a system designed to control and regulate their presence. Ultimately, this research underscores the importance of understanding the intricate relationship between structure and agency in shaping the experiences of migrants.

5.1 Suggestions and Reflection

This research was conducted using the tools and resources present during writing. However, few academic discussions have explored this topic. It is crucial to note that the intent of this research is not to criticise migrants for the strategies they employ to navigate their circumstances nor to argue for stricter asylum processes or migration policies. While I acknowledge that using asylum claims to buy time may contribute to system backlogs and, in some cases, overwhelm the system, my primary aim is to shed light on individuals' broader systemic challenges. This research argues that while migrants utilise the legal system to their advantage, they are driven to do so because of the unequal structure.

Consequently, I offer several recommendations. Although these suggestions cannot rectify the broader socio-political and economic systems of the Republic of Kazakhstan or address the specific situations of each individual migrant, they are crucial for at least improving the system that migrants encounter.

This research sheds light on the strategies utilised by migrants, yet there remains a notable gap in the academic literature on this subject. Although the Republic of Kazakhstan is not a primary destination for many asylum seekers, the findings of this study have broader applicability to other contexts. Consequently, this thesis aims to encourage further scholarly inquiry into this area. As research on this topic expands, it is possible that other theoretical frameworks may emerge as more effective in exploring the strategies migrants use when faced with legal challenges.

Regarding practical recommendations, as suggested by both KIBHR and UNHCR, the asylum process should be simplified, with clear information on decision-making authorities, consistent points of contact, and reliable translators for those involved. This would facilitate a better understanding for migrants and staff, ensuring a more transparent and efficient process. Additionally, comprehensive staff training is essential to reducing discriminatory practices. There is also a pressing need for a more equitable and transparent asylum system that prioritises humanitarian considerations over political ones, enabling migrants to assert their rights and secure protection within a fair and just framework.

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