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THE IMAGE AND IMAGE-MAKING OF IMMIGRATION CONTROL

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This paper looks at various ways the state works to uphold its image of migration control. It suggests that rhetoric, the passing of laws, and the use of statistics or official data are important ways in which the state sends messages to the public about immigration control. Moving away from a Weberian perspective, this work engages the theories of the state from Migdal to demonstrate that contradictions between the practices of the state and the image it strives to project does not necessarily create a picture of a state with limited capacity or coordination. Rather it opens up analysis for a nuanced and multifaceted picture of the state.

Key words: immigration, state, legitimacy.

Introduction. Immigration control is a state project. On some level, this statement seems quite obvious. Control over borders, and over the people crossing those borders is a process that is inherent in the modern state system. Immigration control is also a question of policy, which is the primary activity of states within their borders. Yet to say that immigration control is a state project also provokes a number of questions about the nature of control and the nature of the state. What must control look like in order to be deemed effective? Who must be satisfied with the results of said control?

Recent debates over immigration control in the United States in which the President promises to build a wall on the Mexican border demonstrate that border control is not an objective reality, but rather a political construction. The refugee crisis in Europe demonstrated that immigration control was complicated by borders that are not a fixed marker of state sovereignty. Immigration policy in Russia is primarily focused not on border control but rather internal mechanisms governing access to the labor market. Political realities in these major migration destinations illustrate how the state's role in immigration control may be more of a contingent and nuanced process rather than a straightforward question of policy design and implementation. If in each of these contexts we focus on the failure of the state to accomplish its stated goals, we are left with a state that is weak because it can't do what it say (i.e. a state with low capacity) or a state that does not have the autonomy to make or follow its own decisions, either because of domestic or international pressures.

Most social scientists begin with a Weberian definition of the state as an organization that maintains a monopoly of violence over a given territory [1]. A commitment to Weberian definitions produces the view of a modern state managed by a professional elite cadre that is meritocratically selected and acts in their official capacity as rational agents and are not influenced by their social embed-

dedness. Weberian logic works in a relatively straightforward manner in contexts where laws on paper are more or less upheld in practice. In these cases, state capacity can simply be a measure of whether the state achieves what it says it will do. In other words, state capacity is measured by policy effectiveness.

Many states do not in fact operate in such a straightforward way. Migdal's definition of the state moves beyond the rigid confines of Weber [2]. Migdal argues that there are two sides of the state: image and practices. Image is how people perceive the state as a territorially defined entity that is sovereign and elevated above society. Practices are the "routine performance of state actors and agencies" which are not particularly cohesive (as the image tries to represent) because they are constantly arbitrating between different sets of laws and codes, both formal and informal [Ibid. P. 22, 152]. Whereas Foucault's concept of governmentality focuses on ways in which the actions of the state uphold its image, Migdal insists that it is equally important to include in our analysis the many and varied ways that state practices contradict the image of the state as a cohesive and bounded entity. Migdal goes as far as to say that "theories that do not incorporate the two sides of the paradoxical state end up either overidealizing its ability to turn rhetoric into effective policy or dismissing it as a grab-bag of every-man-out-for-himself, corrupt officials" [Ibid. P. 22–23].

Using Migdal's perspective as a point of departure, we can allow for the idea that the image and practice of immigration control are at times serving different, though equally essential, purposes. The image of the state is often upheld through rhetoric and other attempts of the state to legitimize itself, such as by enacting laws or through the production of official statistics. Practices refer to how immigration control is enacted, or more generally through how the state interacts with migrants (in particular, foreign citizens). Image and practices of immigration control are often contradictory, as Migdal allows for in his theory of the

state. In this paper, I elaborate the image side of the immigration control in Russia and suggest that producing a coherent image is an important stabilizing factor and allows practices to remain contradictory.

Upholding the image: legitimacy. The perception of the state as a bounded and cohesive entity is inherently tied up with notions of legitimacy. Whereas Migdal's concept of the image focuses on how the state is seen, the concept of legitimacy is bound up in whether society deems that which is seen as acceptable and worthy of setting apart as an elevated entity above society. Legitimacy is Weberian concept, but it remains central in Migdal's analysis of the state, though as a more contingent and multi-directional process. Weber's view of legitimacy is a unidirectional, top-down concept in which what the state does determines whether society (or "the dominated") will obey. Legitimacy is made up of inner justification and external means. The inner justification elicits voluntary obedience based in part on the state's projection of its authority and in part on society's belief in those who hold political power. These inner justifications are the now-familiar images the state as a traditional, charismatic, or rational-legal entity [3]. When appeals to legitimacy fall short, a state uses external means, or coercion (including violence, of which it possesses a monopoly of) to ensure society's compliance.

Where Weber falls short in helping us to understand the relationship between state and society is that his concept of legitimacy does not question ways in which "society" might have different and varying demands that might not be satisfied by a singularly projected image of the state. While society is certainly influenced by the image of the state, individual citizens are also aware of practices of the state as they interact with state agents at the micro level. In this sense, legitimacy is not necessarily a unidirectional, focused status that the public assigns a state as a cohesive or singular beneficiary. As Migdal argues, "even a word such as 'legitimate' diverts attention from contending forms of authority or disgruntlement with dominant forms of authority" [2. P. 14]. Therefore, a more nuanced understanding of legitimacy should be seen as more than simply obedience, but also as a sort of moral credibility people assign the state *and* the idea that the state's actions (or practices) are seen as acceptable.

The legitimacy of the state in the migration sphere rests on producing an image of immigration control. This image is made up of promises to the public from leaders (rhetoric), control-oriented policies (law), the production of certain official statistics (bureaucratic effort), and other visible (though often selective) displays of state capacity. These efforts of the state are not altogether different from what Guriev and Triesmann see as the attempts of "informational autocrats" to convince the public of its competence through a variety of means [4]. Though in the field of immigration control this is not an explanation that should be reserved for non-democratic regimes (as in Guriev and Triesmann's theory), this framing of policy and power does emphasize the idea that states must not only be seen as competent and

legitimate, but they must be seen as such on the basis of its actions as a rational and calculating entity. As such, it is not only the rhetoric of state officials that is important, but it is also the activities of producing law and data that support this view of the legitimate state. In many ways, rhetoric, law, and the production of official data are all practices of the state. The image of the state depends on the public acceptance of these practices as legitimate. This paper does not attempt to tackle the state-society nexus by conceptualizing or measuring how the public demonstrates its acceptance of state practices. Rather it looks at various ways the state works to uphold its image of migration control. It suggests that rhetoric, the passing of laws, and the use of statistics or official data are important ways in which the state sends messages to the public about immigration control.

Rhetoric: signaling control. There is a variety of ways that state officials use rhetoric to signal immigration control. First, state officials can make overt promises verbally in the public discourse, either through speeches, in meetings, or through the mass media. When Vladimir Putin makes reference to immigration control in settings such as the public call in show Live Line or in his annual address to the Federal Assembly, he often indicates that certain things should be done rather than making overt promises: "we need to streamline the employment of foreign citizens," [5] "Exams in Russian Language... should be made compulsory," [6], etc. Though these statements aren't the direct promises that typify populist leaders, they do carry a directive to lawmakers about how priorities should be set.

Second, state actors can focus on more attractive categories of migrants, such as highly skilled workers, compatriots, or refugees. For example, when war broke out in Eastern Ukraine, Russian officials welcomed refugees and migrants from Ukraine and used these flows as an opportunity to revitalize the compatriot program [7]. In the migration concept signed by Presidential Decree in October 2018, there was a major emphasis on compatriots. While the beginning of the concept makes statements about making Russia a more attractive country of immigration and preserving openness to migrants, the emphasis in the rest of the document on compatriots demonstrates what types of migrants will be most welcome.

Third, officials can engage in what could be called the anti-migrant social contract [8], where officials throughout the system must make a populist connection with the public in order to manage migration moods and ensure that the public doesn't mobilize around migration issues. This involves sometimes increasing anti-migrant messaging, and sometimes decreasing it. An example comes from the Moscow mayoral elections in 2013 and 2018. In 2013, Sobyenin (who had previously been fairly mild in his language against migrants) frequently talked about migration-related crime and efforts to crack down on illegal migrants. His strategy was necessary because of similar anti-migrant rhetoric used by Navalny, and because the 2013 election was more competitive than in 2018. In 2018, despite Putin's spring-time admonition to Sobyenin to get migra-

tion (and traffic) under control, Sobyenin did not play the migration card in the elections. Rather he focused on public works projects in his campaign appeals to the public. In this case, because it wasn't a very competitive election (i.e. there were no robust alternatives to Sobyenin on the ballot) he didn't need to mobilize anti-migrant sentiment.

Law: putting promises on paper. Beyond rhetoric, the state encodes immigration control through law and policy documents. This is also an important part of constructing an image of immigration control, even if laws aren't working in practice. In Russia the gap between rhetoric and law is smaller than in some countries, in large part because there is greater coordination (and control) between the executive and legislative branches. Compare this, for example, to Donald Trump's promises to build a wall, which are delayed at many steps of budget allocation and implementation by the legislature and other state bodies.

Not all promises made by state officials are enacted into law. Some appear in policy documents like the Migration Concept mentioned above, which does not have the force of law, but rather lays out goals for future law to work towards. The 2018 concept set clear priorities for attracting compatriots over and above simplifying procedures for labor migrants and refugees. It also made a much greater emphasis than the 2012 concept on control mechanisms such as entry bans and criminal liability for certain migration-related violations that had been increasingly used in the prior few years. In this sense, it the 2018 concept validated previous legal developments.

There are a variety of mechanisms within Russian law that can be used to enact immigration control. From presidential decrees, to government orders and federal laws, each has different nuances. For example, the compatriot program was adopted by presidential decree, whereas labor migration is regulated by federal law and a number of government orders. Assessing the depth and breadth of legal mechanisms used to address a particular aspect of immigration control can indicate the state's level of commitment [7]. For example, a ban on Turkish workers passed by presidential decree in 2015 remained mostly symbolic, whereas efforts to accommodate Ukrainian refugees were much more robust, using a more comprehensive set of legal mechanisms including amendments to federal laws and a set of entirely new government and ministerial orders. Migdal argues that law should not be seen primarily as a method of social control, but rather is a way that states profess their ideology in a way that is legitimacy seeking [2, P. 153]. In this sense, the symbolic function of the law is important in and of itself in terms of how it promises to control immigration.

Statistics: producing proof of control. There are many ways the bureaucracy contributes to the image of immigration control as administrative personnel are on the front lines (or street-level) of implementing and regulating immigration policy. But here I would like to focus on the work of bureaucratic office and actors in their role as data producers, as official statistics often form the basis of how

immigration control is presented to the public as a rational exercise. Bureaucratic data production starts with the massive effort it takes to collect, fill out, and process the documents that become the basis for statistics. In the sphere of migration, each application form from a migrant for a patent, each registration document, each residence permit that is issued represents an interaction between the state and a migrant, an effort to systematically record those interactions as a quantified element of work into a database, and the transmission of these data to the federal center (usually through layers of municipal and regional offices) for inclusion in Rosstat figures. This effort is especially interesting when it must respond to political directives from above. Elsewhere I have documented how the entire administrative system across Russia responded to political cues from Putin when setting migrant work permit quotas and issuing work permits from 2007-2014 [8].

The second way bureaucracies produce the image of immigration control is by selectively presenting data. In this way, they can create further dependence on the available data by withholding or not collecting data in certain categories. In recent years, the data on labor migration made available from Russia's Ministry of Internal Affairs consists of numbers of foreigners registered, and work permits and patents issued. Tracing over time the short tables made available monthly from the migration services (Сведения по миграционной ситуации в Российской Федерации) shows how certain categories of data come and go, which may suggest a certain emphasis that wants to be portrayed about the image of immigration control. At certain times the numbers of deported foreigners, those placed on blacklists (закрывает въезд), total amount of fines levied, money brought in from the sale of patents, etc. have been reported, and at other times they are not reported, making it difficult to track these trends over time on the basis of publicly available data. Yet some categories of data have never been reported, for example the number of migrants working in the framework of the Eurasian Economic Union, i.e. those who do not need a work permit or patent, but only need to submit their labor contract to the migration services. Are migration offices collecting this data and simply not sharing it? The fact that some regional migration offices cite data on the number of foreign workers working in the framework of the EAEU in their yearly reports suggests that the data is indeed being collected. It is simply not being aggregated at the Federal level or being made public in the summary statistics of the GUVM MVD. The important implication of this omission is that Kyrgyz workers, who prior to 2015 were recorded in the statistics on work permits and patents, have fallen out of the labor migration statistics. This produces a situation where state officials could credibly say that in 2017 there were 1.7 million labor migrants in Russia (based on the number of patents issued). While this may contribute to the official rhetoric that immigration numbers are declining, it omits migrants from a major source country in its calculations.

A related, and third, way data is important for the image of immigration control is because it can be presented by

officials in various ways. Data never speaks for itself. It cannot speak for itself. Data must be interpreted. The case of “labor migrants” above is a case in point. Official statistics may say that 1.7 million patents were issued in 2017, but when this is presented as “labor migrants” it is an interpretation. Nevertheless, the use of official data by state actors gives them credibility and allows them to present themselves as rational, competent, capable agents of a capable state. Therefore, it reinforces the image of the state as one who exercises immigration control.

Conclusion. The state thus projects a certain image of immigration control using rhetoric, written documents such as laws and other policy documents, and through the production of official data. Other ways state actors build and reinforce the image of immigration control in Russia are through visible activities such as migration raids or the creation of

state migration centers where many migrants are served (and money from fees is collected). The importance of these activities is primarily symbolic rather than in their ability to actually reduce illegal immigration or change migrant flows [8]. While the image of control may or may not be realized into actual migration control, scholars find that the *promise* to control migration is essential. Chris Wright in a study on Australia calls these promises “control signals” which can be accompanied by “distortion techniques”, or ways that states divert the public’s attention from lapses in migration control, both of which are efforts to manage legitimacy [9]. Drawing on the perspective of Migdal, contradictions between the practices of the state and the image it strives to project does not necessarily create a picture of a state with limited capacity or coordination. Rather it opens up analysis for a nuanced and multifaceted picture of the state.

REFERENCES

1. Weber, M. (1978) *Economy and Society: An Outline of Interpretive Sociology*. Berkley, CA: University of California Press.
2. Migdal, J.S. (2001) *State in Society: Studying How States and Societies Transform and Constitute One Another*. New York: Cambridge University Press.
3. Weber, M. (1919) *Politics as a Vocation*. Munich: Duncker & Humblot.
4. Guriev, S.M. & Treisman, D. (2018) *Informational Autocracy: Theory and Empirics of Modern Authoritarianism*. (June 8, 2018). [Online] Available from: <https://ssrn.com/abstract=2571905>. DOI: 10.2139/ssrn.2571905
5. Putin, V. (2013) *Poslanie Prezidenta Federal'nomu Sobraniyu* [President's Address to the Federal Assembly]. December 12. [Online] Available from: <http://kremlin.ru/events/president/transcripts/messages/19825>. (Accessed: 16th July, 2016).
6. Putin, V. (2012) On the National Question. *Nezavisimaya Gazeta*. 23rd January. [Online] Available from: http://www.ng.ru/politics/2012-01-23/1_national.html. (Accessed: 30th September, 2016).
7. Schenk, C. (2016) Assessing Foreign Policy Commitment Through Migration Policy in Russia. *Demokratizatsiya: The Journal of Post-Soviet Democratization*. 24(4). pp. 475–499.
8. Schenk, C. (2018) *Why Control Immigration: Strategic Uses of Migration Management in Russia*. Toronto: University of Toronto Press.
9. Wright, Ch.F. (2014) How Do States Implement Liberal Immigration Policies? Control Signals and Skilled Immigration Reform in Australia. *Governance*. 27(3). pp. 397–421. DOI: 10.1111/gove.12043

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ИМИДЖ И ФОРМИРОВАНИЕ ИМИДЖА ИММИГРАЦИОННОГО КОНТРОЛЯ

Ключевые слова: иммиграция; государство; законность.

Целью данного исследования является пересмотр подхода к изучению миграционного контроля в литературе по миграции. Это преимущественно теоретическая работа, направленная на анализ вопросов миграции в контексте определений государства Максом Вебером и Джоелем Мигдалом. Данное исследование задает новый курс размышления о роли государства и его деятельности в сфере миграционного контроля, опираясь на примеры из российского опыта, основанного на полевых исследованиях в нескольких регионах России и анализе политических и правовых событий в сфере миграции. Статья характеризует политику и практику государства, которые кажутся противоречивыми, как процесс балансирования между разными требованиями. После обсуждения определений государства, данная статья указывает на существование противоречий между действиями государства и имиджем, который оно стремится создать. Имидж миграционного контроля показан через интервью государственных служащих, законодательство и индикаторы, которые можно измерить и собрать через администрацию. Практика в сфере иммиграционного контроля не всегда соответствует имиджу. Тем не менее автор утверждает, что создание видимости последовательного миграционного контроля является важным стабилизирующим фактором, хотя позволяет практике (реализации на местах) оставаться противоречащей закону. В статье анализируется политическая риторика, внедряемые правовые механизмы и официальная статистика с целью определения конкретных способов, которыми государственные служащие и агентства пытаются добиться признания легитимности в сфере миграции. Государство создает имидж миграционного контроля, используя риторику, нормативные акты, публикации официальных данных. К другим методам, к которым прибегают государственные службы для усиления имиджа миграционного контроля в России, являются миграционные рейды и организация государственных иммиграционных центров, в которые могут обращаться мигранты и где можно платить пошлины. Эти мероприятия носят символический характер и не могут действительно сократить число нелегальных мигрантов или изменить поток мигрантов. Но даже если цели иммиграционного контроля не реализованы, ученые полагают, что намерения контролировать иммиграцию очень важны. По мнению Мигдала, противоречие между практикой и провозглашенными целями не значит, что государство в целом не дееспособно. Скорее, это открывает возможности для анализа более тонкой и многогранной картины государства.