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**ABOUT SOME APPROACHES OF THE MIGRATORY POLITICS  
OF THE STATES IN INTERNATIONAL LAW**

**Abstract.** Presently migration became one their factors of all global problems standing before humanity. Development of the world system requires the change of priorities and going near understanding of migration, to migratory politics of the states, assisting an achievement and maintenance of balance of interests of international subjects participating in adjusting of migratory processes. In itself migration is the same phenomenon, as well as right for the states to regulate the movements of persons through the borders of the states and carry out border control. Migration through the borders of the states is an international problem, as the not alone state participates in this process. On this basis, international migration is regulated by both international and national norms. Coming forward in the past mainly in the forms of nomads, soldiery and colonization migrations, international migration of population with development of the system of economic relations between the states purchased new lines. There was a necessity for the enormous moving of people. Millions of people abandoned native edges and directed in other countries in search of material sufficiency and releasing from inequality. Strengthening of tendency to the increase of migratory processes in the modern world, the necessity of international-legal permission and adjusting of different forms of migration of population affects expansion of international cooperation of the states in this sphere.

**Key words:** migration, politics, international law, repatriation, migratory processes, institutional mechanisms, convention mechanisms, international obligations, freedom of movement, foreign citizens.

Academic and policy debates on migration and refugee “crises” across the world have yet to engage fully with the importance of cross border population mobility for states’ diplomatic strategies. This article sets forth the concept of “migration diplomacy” as an object of analysis for academics and practitioners alike, distinguishing it from other forms of migration-related policies and practices. It draws on realist approaches in international relations to identify how the interests and power of state actors are affected by their position in migration systems, namely the extent to which they are migration-sending, migration-receiving, or transit states. The article then discusses how migration issues connect with other areas of state interest and diplomacy, including security interests, economic interests and issues of identity, soft power, and public diplomacy. Finally, the article suggests the utility of applying a rationalist framework based on states’ interests in absolute versus relative gains as a means of examining the bargaining strategies used by states in instances of migration diplomacy [1, P.82].

We do so by first discussing the concept of migration diplomacy and its scope conditions, distinguishing it from other forms of migration-related research, such as research on citizenship, integration, or diasporas. Second, drawing heavily on realist approaches in international relations, we outline how the interests and power of state actors are affected by their position in migration systems according to whether they are migration-sending, migration-receiving, or transit states. Third, we discuss how migration issues connect with other areas of state interest and diplomacy, including security interests, economic interests and issues of identity, soft power, and public diplomacy. Finally, we suggest the utility of applying a rationalist framework based on state interests in absolute versus relative gains as a means of examining the bargaining strategies used by states in instances of migration diplomacy, before concluding with some thoughts regarding areas for further research.

Just as states engage with one another in areas relating to war and peace, trade, economics, culture, the environment, and human rights, migration is increasingly an important area of states' bilateral and multilateral diplomatic relations. Despite a growing range of work on the complex facets of modern diplomacy, migration has yet to feature in such analyses, even though it is prevalent in practitioners' strategies. Examples include intergovernmental agreements that aim to encourage, or limit-migratory flows; the extension of preferential treatment to certain foreign nationals; the creation of guest-worker or other temporary labor migration schemes; the expulsion or threat of expulsion of foreign nationals; and so on. This is not to say that there is an absence of work on the interplay between foreign policy and population mobility [2].

This article builds on this work and suggests the utility of the term migration diplomacy to describe states' use of diplomatic tools, processes, and procedures to manage cross-border population mobility. It is important to delineate the scope of migration diplomacy and to be clear about what it includes, but also what it excludes.

Not all attempts to manage migratory flows constitute migration diplomacy, nor should the whole gamut of issues related to migration and migrants' affairs fall under the scope of migration diplomacy. In addition, it should be noted that any state's ability to effectively use diplomatic tools and processes in relation to migration processes will be dependent on other factors, such as its overall power and available resources.

Three main scope conditions apply to our definition. Firstly, migration diplomacy refers to state actions and investigates how cross-border population mobility is linked to state diplomatic aims such as, it does not investigate the internal workings of international organizations, the media, or social actors, such as nongovernmental organizations, although it is possible to apply the framework to state-like international actors.

State's migration diplomacy is not synonymous with its overall migration policy-migration policies may range from completely restrictive to allowing free migration, but these are only relevant when states include them as part of their foreign relations and diplomacy. For example, standard elements of migration policy such as the issuing of visas, the control of borders, or a state's refugee and asylum policy are not in and of themselves elements of migration diplomacy. Diplomacy is often about negotiation, and migration diplomacy centers on how states employ cross-border population mobility management in their international relations, or how they use diplomatic means to obtain goals relating to migration. In other words, migration diplomacy can include both the strategic use of migration flows as a means to obtain other aims or the use of diplomatic methods to achieve goals related to migration [3].

Finally, migration diplomacy highlights the importance of the management of cross-border mobility as an international issue, thus, it needs to be analytically disassociated from a wealth of migration matters that, however political, do not have a direct impact upon interstate relations; internal displacement, the regulation of immigrants' citizenship status or access to rights, tariff rules determining which goods migrants are able to transport, diaspora politics, and the welfare of refugees are only relevant to migration diplomacy insofar as they impact on interstate interactions.

For instance, a state may in some cases institutionalize diaspora engagement policies, such as preferential investment conditions for diaspora members- largely for reasons of promoting domestic economic development. Internal displacement is a major global migration issue, with millions displaced annually due to conflict, violence, and natural disasters, yet it may often be wholly unrelated to issues of interstate diplomacy [4, P.260].

Migration diplomacy functions similarly to traditional diplomacy in that it is shaped by the interests of and existing power relationship between states. Just as important as military and economic indicators of a state's power and interests, however, is its position in the web of global migration flows. A migration diplomacy framework conceptualizes states as deriving their interests and bargaining position vis-à-vis other states based in part on whether they are migration-receiving, migration-sending, or transit states—in other words, whether their main concerns are with respect to immigration, emigration, or transit migration.

These, it should be clarified, are ideal types and a state may simultaneously hold the position of migration-receiving state in some bilateral relationships while holding the position of sending or transit state in others. Receiving states, as a type, are primarily concerned about the dynamics of immigration and typically manage inflows of people.

Beyond receiving states and immigration diplomacy, sending states constitute a second group of actors that engage in migration diplomacy. These states are primarily concerned with the dynamics of emigration, or the outflow of people. Emigration diplomacy can be identified in a number of sending states' policies, both currently and historically. Emigration diplomacy practices are often identified in states of the Global South. Finally, transit states are third countries that are neither countries of origin nor destination. These states are able to engage in transit migration diplomacy usually because of their geopolitical location as part of a migrant route. States can also engage in migration diplomacy with other states in order to expel, deport, or transfer individuals or groups citing internal security concerns, as occurred in some historical cases of population transfers. Many such practices, oftentimes sanctioned by international organizations or colonial powers, have been accompanied by grave human rights abuses. But states may equally use forms of migration diplomacy to achieve economic aims [5, P.96].

Migration diplomacy is a multifaceted process, both in terms of the actors involved and the strategies employed. As highlighted above, the identity of a sending, transit, or receiving state is neither singular nor static: some states may engage solely in emigration, immigration, or transit migration diplomacy policies, while others are able to employ multiple policies vis-à-vis a number of different actors at any one time. As states' interests evolve, or their position within the web of global migration flows changes, they may also revise their migration diplomacy accordingly, as the above example of changes over time in Turkey's strategy toward Europe illustrates.

Migration diplomacy also involves linkages with other areas of states interests, including national and domestic security concerns, economic interests, and interests in promoting public diplomacy or other forms of enhancing a state's soft power. In terms of strategies, migration diplomacy can be approached as a zero-sum game by pursuing relative gains or as a positive-sum game in order to reach mutually beneficial outcomes [6, P.61].

In this article we have presented a basic framework for thinking about the relationship between cross-border mobility, state power and interests, and interstate bargaining and diplomacy.

We have proposed a definition of and delineated the scope conditions for what constitutes migration diplomacy, as well as laying the groundwork for future theorizing and empirical study. As such, the interests, linkages, and strategies identified here are not meant to be exhaustive but rather illustrative.

Further research is needed to identify the universe of cases that could be characterized as instances of migration diplomacy and to map out the diverse actors, interests, and processes that are engaged in pursuing immigration, emigration, and transit migration diplomacy.

In this regard, a key area for future research would be the conditions under which the migration diplomacy strategies of states are more or less effective. Clearly, a number of factors, including the differential levels of power and resources available to state actors, are areas that merit further examination. Finally, an additional set of questions that merits further research concerns the different mechanisms at play in instances of migration diplomacy. How applicable is a two-level game theory approach, for instance, in understanding international agreements on migration flows, and to what extent do sending, transit, and receiving states differ with regard to the mechanisms they use? Under what conditions are states most likely to achieve their aims? And what are the determining factors that lead to zero-sum versus positive-sum approaches to interstate bargaining on migration issues? These are all important questions not just for theory, but also for formulating policies to address the migration issues that are increasingly at the forefront of the international political agenda.

The concept of migration diplomacy serves to highlight the multiple effects of cross-border population mobility, not merely on numerous aspects of domestic politics but also on states' international relations. There is a well-developed literature in political science and sociology on the domestic impacts of migration on states and on the evolution of state migration control and migrant integration policies. Yet, there is less understanding of the relationship between cross-border flows of people and the national interests and diplomatic strategies of states [7, P.49]. Given the likelihood that migration will only increase in its importance to states and their policymakers in the next decades, there is plenty of room for further research on the international politics of global migration and mobility.

Before setting out a model of migration, it is useful to briefly distinguish between the sorts of explanations most often invoked. Scholars divide theories of international migration into three main types, which are not mutually exclusive. Macro theories emphasize the structural, objective conditions which act



as “push” and “pull” factors for migration. In the case of economic migration, push factors would typically include economic conditions such as unemployment, low salaries or low per capita income relative to the country of destination. Pull factors would include migration legislation and the labor market situation in receiving countries. Involuntary displacement would be explained through factors such as state repression or fear of generalized violence or civil war.

In the case of forced displacement, macro factors are more dominant than meso ones. Analyses of refugee producing situations have found, not surprisingly, that levels of displacement usually correspond to the level of violence in the country of origin. However, it is difficult for external actors to intervene to address these proximate causes of displacement once state repression or violent conflict is occurring. It therefore makes sense to look at the root causes, or underlying conditions which make escalation to violence or extreme acts of state repression more likely. What follows is a very general account of the causal dynamics that often lead to violent conflict and state repression, which in turn trigger large-scale forced displacement. The account is kept general so that it can “fit” most major refugee producing situations. Clearly, each particular case needs a far more detailed and nuanced explanation. This scheme is therefore intended as a basis for categorizing levels and types of policy response, rather than a stand-alone explanation for any given conflict.

Migration is more likely to occur between countries within a migration system, comprising relatively close trade, historical, cultural, and linguistic or other links. Such links are often established with middle income countries with proximity to receiving countries, who are important trade partners or recipients of foreign direct investment, such as the countries of Central Europe and the EU, or Central America and the US. Alternatively, they may stem from a previous bilateral agreement for recruiting migrant labor, as in the case of 1950s and 1960s “guest worker” schemes between a number of European states and countries in southern Europe, Turkey and North Africa.

Economic opportunities in destination countries are also of crucial importance in influencing decisions to migrate and the direction of flows. Thus in addition to macro push factors and migration systems, there are a number of significant “pull” factors in receiving countries.

Such chain migration may continue despite legislation in receiving countries designed to restrict immigration. However, even this phenomenon of self-sustaining migration will decrease in due course. At some point a change in macro conditions will lead to a decline in the attractiveness of migration. There is no convincing general theory as to when this point is reached.

More generally, emigration is likely to decrease when industrial development produces expanded employment opportunities for potential emigrants and returning migrants. Under these conditions, there is also likely to be a demand for additional low-skilled labor, generating immigration from other countries. Thus in the former emigration countries of Southern Europe, and more recently in some Central European countries, a decline in emigration has been accompanied by an increase in immigration flows.

In all cases, the costs, risks and feasibility of illegal entry or overstay and irregular employment will be substantially affected by migration control mechanisms, especially in countries of destination. Border checks, internal controls on residents and employer sanctions obviously make immigration and irregular stay more difficult. Thus restrictive legislation and its enforcement through policing, border controls and sanctions can limit these enabling conditions for migration.

The migration hump also suggests the need to target development aid at job creation in industries and regions particularly disrupted by economic restructuring. In this context, it may be useful to compile a list of possible indicators of situations where such economic restructuring may induce migration [5, P.97].

As discussed above, economic restructuring can initially contribute to migration pressures, especially in the absence of internal reform or external development assistance to mitigate the disruptive impact of transition. Hence the need for well-targeted development to help offset these negative impacts. However, such measures will be unable to completely offset migratory pressures. This implies the need to accept some increase in migration in a transition period, with the expectation that development will eventually reduce migration.

Regarding policies to prevent the causes of voluntary economic migration, we saw that there may be some conflict between short-termism preventive approaches and longer term development goals. The migration hump implies that successful development could increase migration pressures in the short to medium term.

In the conclusion we would like to stress, that migration diplomacy is a multifaceted process, both in terms of the actors involved and the strategies employed. As highlighted above, the identity of a sending, transit, or receiving state is neither singular nor static: some states may engage solely in emigration, immigration, or transit migration diplomacy policies, while others are able to employ multiple policies vis-à-vis a number of different actors at any one time. As states' interests evolve, or their position within the web of global migration flows changes, they may also revise their migration diplomacy accordingly, as the above example of changes over time in Turkey's strategy toward Europe illustrates. Migration diplomacy also involves linkages with other areas of states interests, including national and domestic security concerns, economic interests, and interests in promoting public diplomacy or other forms of enhancing a state's soft power. In terms of strategies, migration diplomacy can be approached as a zero-sum game by pursuing relative gains or as a positive-sum game in order to reach mutually beneficial outcomes.

**З.К. Аюпова, Д.Ө. Құсайынов**

### **ХАЛЫҚАРАЛЫҚ ҚҰҚЫҚТАҒЫ МЕМЛЕКЕТТЕРДІҢ КӨШІ-ҚОН САЯСАТЫНЫҢ КЕЙБІР ҚЫРЛАРЫ**

**Аннотация.** Қазіргі заманда көші-қон процесстері ғаламдық мәселелердің басты факторына айналып адамзатты өзіне көңілін аудартты. Өлемдік жүйенің өзгеруі қазіргі көші-қон процесстерін түсінуге аса маңызды көңіл аударуды талап ете отырып, мемлекеттердің көші-қон саясатын жүйелі түрде өзгертуді алдыңғы қатарға қояды. Түп негізінде қарайтын болсақ, көші-қон процессі мемлекеттік құқық негізінде азаматтардың бір мемлекеттен екінші мемлекет шекарасынан өту мүмкіндіктерін жүзеге асырып, шекаралық тексерісті реттеу. Көші-қон процесін жүзеге асыру мемлекеттер арасындағы халықаралық мәселеге айналады, себебі бұл процессте бірнеше мемлекеттер қатысады. Осыларға байланысты халықаралық көші-қон халықаралық және ұлттық нормалар мен реттеледі. Ерте кездегі көшпенділік формасында, әскери және колонизаторлық көшу формаларында кездессе, қазір халықтардың халықаралық көші-қоны экономикалық жүйенің және мемлекет аралық экономикалық қатынастардың өзгеруіне байланысты мүлдем басқа түрге ие болды. Еңбек күштерінің көптеп орын ауыстыру қажеттіктері туды. Экономикалық теңсіздіктерден бас тартқан миллиондаған адамдар туған жерлерінен бас тартып басқа елдерге көшуге мәжбүр болды. Қазіргі замандағы көші-қон процесстерінің күшеюі, оны халықаралық құқықтық шешудің реттелуі, көші-қон формаларының көбеюі, осы бағыттағы мемлекеттердің халықаралық байланыстарының шекарасын кеңейтті.

**Түйін сөздері:** көші-қон, саясат, халықаралық құқық, репатриация, көші-қон процесстері, институционалды механизмдер, конвенционалды механизмдер, халықаралық жауапкершілік, қозғалыс еркіндігі, шетелдік азаматтар.

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### **О НЕКОТОРЫХ ПОДХОДАХ МИГРАЦИОННОЙ ПОЛИТИКИ ГОСУДАРСТВ В МЕЖДУНАРОДНОМ ПРАВЕ**

**Аннотация.** В настоящее время миграция стала одним из факторов всех глобальных проблем, стоящих перед человечеством. Развитие мировой системы требует изменения приоритетов и подходов к пониманию миграции, к миграционной политике государств, способствующей достижению и поддержанию баланса интересов международных субъектов, участвующих в регулировании миграционных процессов. Сама по себе миграция является таким же явлением, как и право государств регулировать передвижения лиц через границы государств и осуществлять пограничный контроль. Миграция через границы государств является международной проблемой, поскольку в этом процессе участвует не одно государство. Исходя из этого, международная миграция регулируется как международными, так и национальными нормами. Выступая в прошлом главным образом в формах кочевничества, военных и колонизационных переселений, международная миграция населения с развитием системы экономических отношений между государствами приобрела новые черты. Возникла необходимость в огромных перемещениях людей. Миллионы людей покинули родные края и устремились в другие страны в поисках материального достатка и избавления от неравенства.



Усиление тенденции к увеличению миграционных процессов в современном мире, необходимость международно-правового разрешения и регулирования различных форм миграции населения отражается на расширении международного сотрудничества государств в данной сфере.

**Ключевые слова:** миграция, политика, международное право, репатриация, миграционные процессы, институциональные механизмы, конвенционные механизмы, международные обязательства, свобода передвижения, иностранные граждане.

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