

**The Role of Non-State Actors in the Movement of People:
Promoting Travel and Controlling Migration in the European Union**

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Abstract: This paper investigates ways that the liberal states of the EU (with comparative references to the US) reconcile efforts to control the movement of people with those to promote free borders, open markets and liberal standards. It identifies the proliferation and diversification of 'non-state actors', defined as a diverse group of collective actors who have the economic and/or political resources to facilitate or curtail travel, migration and return. The paper particularly focuses on the role of airline and travel carriers as private actors who serve as agents of the state – an extension of "remote control immigration policy." The implications of these non-state actors for theories of state sovereignty and regional integration are assessed.

Introduction

The movement of people across borders sits at a critical juncture in thinking about globalization and its impact on state sovereignty—an on-going debate in international relations and comparative politics. The confluence of globalization and population movements means that the forces which facilitate travel and communication may also threaten traditional concepts of sovereignty and national hegemony. Failure to conceptualize globalization processes in a more pluralistic way, and to consider integration in diverse sectors, more specifically 'the movement of peoples' has undermined the diversification and expansion of state functions in certain arenas. This has been most evident in European integration studies, as they examine issues of citizenship, migration, and identity, which are seen to pose a critical challenge to the last bastions of sovereignty (Lahav, forthcoming). A less linear view of globalization allows IR scholars and regional integration theorists to identify the diverse levels and instruments that states have been able to deploy to protect traditional interests (Checkel, 1995; Lahav, 1998; Guiraudon and Lahav, 2000). Liberal states have increasingly reinvented traditional modes of control over migration, through a variety of diffusing strategies, designed to shift the liability and capacity for effective migration regulation.

This paper first identifies the role of ‘non-state’ actors¹ in migration regulation, and places them in theoretical context. It specifically analyzes the role of travel carriers and agencies in policy implementation, one of the least considered aspects of immigration regulation. In tracing the delegation of state policy functions to private actors, defined as independent authorities that rely on market forces, the paper explores an important development in immigration regulation. This privatization of immigration control is consistent with trends evident in other policy areas, namely to shift the externalities of policy-making outside of the central government. Privatization, loosely defined as the shift of a function from the public sector to the private sector, involves a dependence on market forces for the pursuit of social goods, and may turn local actors or contractors into regulators (Feigenbaum and Henig, 1995).

I argue that the incorporation of airline carriers represent a shift in liability from the state to private actors who face certain constraints and incentives. The neo-institutional analysis adopted here considers the interest-matrix that inspires these exchanges. It provides a disaggregated view of the state, seen as the principal who delegates its authority to private agents, who are more capable and likely to meet policy goals (Pollack, 1997; Guiraudon, 1998; Guiraudon and Lahav, 2000).² This view captures a broader trend towards privatization, a reinvention of state control. The state thus reaps the rewards of a more effective migration control system, while enlisting more technical support to defuse the political and economic costs of regulating migration. The private actors whose help is enlisted are neither the primary authors nor beneficiaries of the misconduct they police, yet their enforcement assistance can valuably supplement state efforts at direct monitoring of wrongdoing (Kraakman, 1986: 53; Gilboy, 1998: 135-36). The implications for state sovereignty are considered in light of the changes in political spaces, actors, and the ‘rules of the game’.

¹ ‘Non-state actors’ are defined as a diverse group of collective actors who have the economic and/or political resources to facilitate or curtail travel, migration and return.

II. Conceptual Framework: The Globalization, Regional Integration, and Migration Nexus

A major polemic in the international migration field today centers on how liberal states reconcile their competing interests to open their borders to free trade while controlling them for the movement of peoples (see Lahav, 1997; 1998; forthcoming). Globalization theses have posed a world where the lines between international and domestic policy arenas have become blurred, and states are bound by international constraints (Keohane and Milner, 1996; Evans, 1998; Goldstein and Keohane, 1993; Katzenstein, 1996). In this view, global population movements are seen as problem areas for national welfare beyond domestic jurisdiction, and emanating from the international environment (Miller and Papademetriou, 1983). These accounts have generated all types of scholarly propositions about lost state control and the erosion of national sovereignty (Cornelius, Martin, and Hollifield, 1994; Sassen, 1996; 1997; Soysal, 1994; Jacobson, 1996). Many of these perspectives envisage irrevocable liberal outcomes, which run contrary to the more state-centric, realist view of states protecting their traditional 'national interests'. The question there is why have states not created regimes for migration as they have for the movement of capital, trade, and finance?

While the debate remains unresolved, it is important to consider the nuances posed by migration that help us to more systematically measure and unpack the 'globalization' impact. Saskia Sassen in her 1997 Columbia lectures, published under the title of 'Lost Control?' suggests the formation of two very distinct "epistemic communities." Opposing trends—one deals with the movement of capital and information; the other with people—represent the competing "combination of drives to create border-free economic spaces yet intensify border control to keep immigrants and refugees out" (1997: 86). Sassen further suggests that the coexistence of the two is not perceived as an issue in the US, but is very much so in the European Union. The existence of two very different regimes poses problems that cannot be solved through old rules of the game.

² For some interesting discussion of principal-agent theory in migration policy, see Guiraudon, 1998.

Thus, for example, the circulation of highly skilled service workers (i.e., managers, etc.) has been uncoupled from any notion of migration, even though they involve a version of temporary labor migration.

While that observation is an important start to unraveling the competing interests involved in European integration, it becomes more complicated in considering the 'movement of persons' more generally. A critical case in point is the notion of 'travel' which has been greatly facilitated by globalization's technological revolution. Straddling the two regimes, the movement of people involves tourism and business travel, governed by the "capital and information epistemic community" while inherently 'violating' the rules of the "movement of people" regime. These competing interests hide the degree to which liberal states have managed to reconcile them, through all sorts of 'remote control' policies and diffusion strategies.

The role of airlines in regulating travel exposes a portrait of state sovereignty that consists of expanded and reinvented kinds of state police power. Given these reinvented forms of control and the growing perception by domestic constituencies of immigration as a threat emanating from the international environment, what is interesting is not that the enforcement is increasing, but that patterns of regulation and enforcement are conforming to public policy models which are converging in the world. These include a complex web of actors incorporated by the state, and the transfer of state functions to international, transnational, private and local jurisdictions. Together they reflect an enlarged 'migration playing field' which define the framework of selective immigration regimes. Through these types of diffusion strategies, liberal states are increasingly delegating policy elaboration and implementation to private actors, as a means to increase policy effectiveness and diminish political fall-out at the national level.

The following traces privatization processes, focusing on one type of private actor, the airlines. It describes the development of a public-private relationship within which the resources of private actors are implemented to the benefit of the state, and cooperation is secured through

sanctions and penalties. It assesses the nature and efficacy of a state-private actor relationship, an area rarely applied to migration research. While the shift in the locus of responsibility from state to private actors may be perceived to support a decline in the power of the state over immigration control, the data presented here suggests that it represents a growth in sovereign state capacity to regulate migration, and to adapt to the 'rules of the game', predicated by globalization and migration pressures.

III. The Airline Case in 'Remote Control': Promoting Travel and Restricting Migration

The vast traffic of people moving across borders in the 20th century is epitomized by the US case, one of the great Western frontiers, where most detailed information exists. Over 300 million aliens and almost 200 million citizens cross into the US annually through ports of entry (INS, 1996). According to INS data, more than 22 million nonimmigrants came to the United States in 1996, mainly as tourists and for business. In Europe, data collection is hampered by difficulties in differentiation between internal, intra-EC and extra-EC traffic. However, according to the Commission of the EC (1990), the data for passenger traffic (both capital and tourist) in EU's 19 busiest airports include 296 million in 1988 (see, Cole and Cole, 1995, 188).³ As globalization is making the crossing of borders commonplace, air travel has become the main 'gateway' of ordinary movement, and airlines the 'gatekeepers' of border crossings. This poses a major dilemma for the state which must reconcile the interests driven by the economics of tourism and travel with those motivated by the politics of migration in an era of restrictive public sentiment.

States have responded to the challenge to sovereignty by reinventing their modes of immigration regulation (Lahav, 1998). This has included the shifting of liability functions to

³ These cities include London, Paris, Frankfurt, Amsterdam, Rome, Madrid, Palma (Spain), Copenhagen, Athens, Dusseldorf, Milan, Manchester, Munich, Barcelona, Brussels, Las Palmas (Spain), Hamburg, Tenerife (Spain), Malaga, Nice, Dublin, Lisbon, Luxembourg, Cologne. (Commission of the EC, 1990).

private third-party actors, such as airlines and other travel carriers, who provide services and resources otherwise unavailable to central government officials (Gilboy, 1992; Lahav, forthcoming). The development of a public-private relationship captures a global era marked by both a political desire to control movement in order to satisfy public opinion, and revalorize national identity *and* agents willing and able to play on the link between migration-crime-security.

Private actors, or independent authorities who rely on market forces, have become crucial immigration agents in extending the area of what has been referred to by Ari Zolberg, as 'remote control' immigration policy (1998). Before World War I, low level of movements and modest welfare entitlement facilitated international movement, free of passports and an elaborate system of controls (Torpey, 1998). Since the 1920s, an elaborate system of documentation has developed, including visas for entry, work permits, and residence permits.

This visa regime has meant that the initial migrant appeal to the host country typically occurs in the country of origin at embassies or consulates, through visa bureaucrats. To a significant degree, visas have been a means of extending the barriers of control into the sending country, where facts about applicants can be verified in ways impossible at receiving country ports of entry.⁴ This model has laid the groundwork for the increasingly developed, complex, and diversified 'remote control' policy framework states use for migration regulation in the 1990s.

A major thrust of recent policy efforts in many countries is interdiction, defined broadly as activity directed towards preventing the movement of people at the source (UN Monitoring, 1997). Interdiction initiatives take various forms, including information campaigns to deter potential migrants, visa requirements, carrier sanctions, airline training, liaison with foreign control

Note that of the 20 busiest cities for passenger air traffic in the CU, 16 are in the top 2- also for freight (Cole and Cole, 1995: 186).

⁴ The U.S., for example, calls its consulates in a place like the Dominican Republic, the largest source of immigration to New York City, "the front line in the struggle against illegal immigration". In the 12-month period ending September 30, 1996, the consulate in Santo Domingo processed 52,410 requests for

authorities, as well as the actual interception of persons traveling on fraudulent documents. According to its proponents, interdiction is more cost effective, humane and efficient than enforcement action taken after the migrant has arrived in a receiving country.

A core actor in the enlarged control system at the entry level is the transport or carrier companies. This is not a new phenomenon. The devolution of inter-state regulation to expert or independent bodies can be traced back to the US government's adoption of the Interstate Commerce Act of 1887, when the federal government regulated railways and created a regulatory body, the Interstate Commerce Commission. In doing so, Congress delegated power to regulate an important part of interstate commerce, namely railway traffic to an agency designed especially for the purpose. This was an important institutional innovation at the federal level (Majone, 1996: 16). It represented the transfer of activities of state interests to private actors. In this way, market activities may be generally regulated in areas which are considered important, and in need of protection as well as control.

To be sure, the role of private actors in implementing immigration regulation has significant historical continuity, with noteworthy implications for state sovereignty. From innkeepers in Adam Smith's Europe to shipping companies in the turn of the century America, private actors have long been involved in some form of migration regulation (Neuman, Olivas, 1994; Zolberg, 1998; Gilboy, 1997; 1998; Lahav and Guiraudon, 1999).

The practice of sanctioning carriers does not, in itself represent a precedent in legislation governing the rules of entry. Sanctions against ships have been in force since the Passenger Act of 1902 in Ellis Island days. These initiatives were reinforced by the Paris Conference of 1919 which addressed the issue of international air transportation and established an integral precedent. This declaration reaffirmed by the Chicago Convention in 1944, declared that "unlike the free and

immigrant visas (more than 40 per cent were rejected) and 110,000 applications for nonimmigrant visas (NY Times, 19 February 1997).

unrestricted access of steamships to ports around the world, commercial air service [was] to be carried on only by consent of the governments involved.”⁵ Hence, these international instruments granted states enormous power over such private actors (Straszheim, 1969). Thus, air space – the domain through which airlines must travel—came under sovereign control, and airlines were subject to any and all national restrictions. In other words, by virtue of owning airspace, airlines became subject to national restrictions, and dependent on state actors for market operation.

Carriers have long been obliged, at their own expense to transport inadmissible passengers back to their countries of departure. Sanctions against ships have been in force since the Passenger Act of 1902. In accordance with guidelines established by the 1944 Convention on International Civil Aviation (ICAO) transport companies have been forced to assume the role of international immigration officers imposed on them by states. Standards 3.35 to 3.38 of the ICAO established the responsibility of the airline to ensure that passengers have the necessary travel documents. Nonetheless, whereas the burden of assuming expenses at one time amounted to the costs of retransport, increasingly countries have introduced laws to raise the responsibilities of carriers to pay fines. In 1994, all EU countries, with the exception of Spain, Ireland and Luxembourg passed laws increasing the responsibilities of carriers.⁶ In the US too, the Immigration and Nationality Act (8 U.S.C) penalizes international air carriers with a \$3,000 assessment for each infraction, and the cost for removal for each inadmissible individual (U.S.C., se. 1323).⁷

⁵ The Convention Relating to the Regulation of Aerial Navigation: the ‘Paris Convention’, 13 October 1919; The Convention on International Civil Aviation: the Chicago Convention, 7 December 1944.

⁶In Spain, an interministerial working group has been established to examine the feasibility of following the example of the other Member States of the Schengen Group. For obvious reasons, Luxembourg has not been confronted by the problem of inadmissible passengers by air, but under a new Bill drawn up with the aim of bring its Aliens Law in line with the Schengen Convention, there is a provision on carriers' liability (Cruz, 1994: 7).

⁷ The Immigration and Nationality Act (8 U.S.C.) declares that “It shall be unlawful for any person, including any transportation company...to bring to the United States from any place outside thereof...any alien who does not have a valid passport and an unexpired visa...” with a penalty of \$3,000 assessed for

While the contents, interpretation and application of laws on carriers' liabilities vary among European member-states (Cruz, 1994), they represent an effort by states to extend the burden of implementation *away* from the central government and *to* the sources of control, thereby increasing national efficacy and decreasing the costs in the process. It is noteworthy that in all the laws on carriers' liability, there is a striking absence of any provision to fine railways. A possible reason is that most railways are state-owned, and the treatment of railways as airlines (i.e. charged with fines unless providing convincing evidence discharging them of negligence) could cause embarrassing problems between European states (Cruz, 1994: 25).

Although there are distinctions that emanate from different levels of state intervention in capital markets, there has been convergence among the member-states of the European Union and the US that conflate elements of traditional state intervention with more deregulation in the US. Thus, whereas most US airlines have been privately-owned, traditionally, the dominant carriers in Europe have been state-owned flag carriers. However, after global deregulation, generated by changing markets, the structure and performance of the airline industry in Europe and its relationship to migration liabilities has become more similar to the US case (Kassim 1998: 5).

While there clearly exists a historical precedent for state regulation of transportation, present state-private actor relationships exhibit newly emergent elements which differentiate them from any historical examples. In the 1990s, technological advances and communication revolutions spurred by globalization, have increasingly rested on mobility. It is not surprising that air travel has come to replace any other form of international movement as a source. Each year, millions of people—travelers, migrant workers, immigrants—employ the services of airlines to move from one state to another. In our data on one airline, US Airways, 57,989,595 passengers

each infraction, and the responsibility and cost for the removal of the inadmissible individual (Sections, 1181, 1225-127, 1321, 1323: 1994).

were reported to board in 1998 alone (Sylvester,1999) This number, while not limited to international travelers represents a small portion of the individuals who engage in air travel.

The international transportation industry occupies a unique role in the late 20th century, not only because air travel has increased dramatically (in contrast to railroads and ships), but also because the industry provides a critical service in the movement of people from one national jurisdiction to another. The nature of its service places the international air transportation industry in a powerful position, which may be seen as potentially threatening to state sovereignty. As Janet Gilboy captured in her account of a steamship representative at a legislative hearing, airlines today are in a similar position to “steamship companies, hungry for business, scoured the byways of Europe for prospective passengers and took aboard anyone who could accumulate enough money for steerage passage” while often neglecting minimum government standards for admission to the United States (Gilboy, 1992; 17). Air carriers today represent a resource of personnel, services and access to migrants which, if successfully exploited by the state—may significantly ease the burden of border control on national governments.

States have incorporated these actors through the use of sanctions and penalties, with very little cost to the state. This has essentially been secured since the Paris Conference in 1919, which in effect made airspace, the domain through which airlines must travel, under sovereign control. This shift in the locus of responsibility represents the development of a public-private relationship within which the resources of private actors are implemented to the benefit of the state and cooperation is secured through sanctions and penalties. The implications for the international airline industry have been great as the reality that to continue to operate, airlines would be forced to conform to and cooperate with national policy and policymakers. In turn, these actors provide the state with the technological and resourceful means to effectively differentiate between the ‘legal’ passages for travelers or economic tourists and would-be-overstayers or migrants (Weber, 1998). In this way, EU states are able to respond to Walter Hallstein, the EC Commission’s first

president who noted that European transport was paradoxical in nature, having the potential to be a motor of integration through increasing the mobility of European citizens but at the same time, proving to be a major obstacle to greater unity, due to its politicized nationalist persona (see Sochor, 1991: 187-88).

The response of the state is to find a natural ally in the airlines, and to enlist them as third-party agents in a type of migration control. By bringing in other actors, the state itself may be said to reverse Wilson's interest model of diffuse costs (for the general public) versus concentrated benefits (for interest groups, local and private actors) which Gary Freeman applies to immigration regulation (Freeman, 1995; Wilson, 1980). Thus, as suggested by the analysis here, by delegating monitoring functions to private agents, the state may reverse the process closer to its favor and diffuse the costs of immigration—more specifically, that of a hostile anti-immigrant public opinion, the difficulty and costs of differentiating migrants from tourists and other economic 'desirables'.

A comparative institutional analysis reveals the constellation of incentives and constraints that keep these processes in motion. These mutual bargaining exchanges put the state in the ultimate beneficiary and authoritative position. The role of international air carriers as private third-party actors in immigration control is secured through the imposition of governmental sanctions and penalties. The responsibilities placed on airlines by the state are many, and represent a large burden in cost and effort to the airline industry (Hinke, 1999). With minimum training investment, airlines are able to partake in an enlarged migration control system as agents of the state. These private actors benefit from business opportunities or face economic constraints, such as the avoidance of fines. That is, since airspace is sovereign, carriers avoid state restrictions on operation. Although often these actors are compelled to partake through negative incentives (i.e., avoiding penalties), more recently, there have been some positive incentives established for compliance. In the U.S, for example, the Immigration and Nationality Technical Corrections Act of 1994 mitigated fines for "good performance" of airlines—in other words a reward for efficacy,

if an air carrier can show that it has appropriately screened all passengers in accordance with regulations (O'Keefe, 1997).

In the cost-benefit equation favoring the state matrix, one must consider that airline carriers have been forced to shoulder the burden of liabilities for enforcement of immigration regulation at little cost to the state. States have effectively extended their control of immigration to the private sector, circumventing constraints which may be present at the national or international level by judicial and civil rights groups. Transnational spaces such as international airports which constitute "no man's land zones" limit the role of lawyers and humanitarian groups, thereby allowing states to circumvent even the most liberal national and international laws (Guiraudon and Lahav, forthcoming). In this vein, the airlines cooperation on matters of same-day removals of inadmissible foreigners is critical. Though airlines have some latitude in determining the "carrier's next regularly scheduled departure," cooperation allows the state to avoid the costs of detention which also include the prevention of access to advocates that one night's detention may present. Such a costly exclusion process could be avoided by same-day removal, and airlines are key facilitators here (Gilboy, 1994). In all of these ways, the political will of states to control migration may be compatible with the private actors' economic interests.

In gauging the impact of private actors on state sovereignty, we must consider who has been setting the agenda, who is delegating, and who is the agency (see Pollack, 1997). It is important to understand that the impetus for these rules of the game has come from states themselves. Private actors face ever more numerable restrictions, either from central governments, or from international agreements, including common legislation of the EU. The abolition of internal borders critical to European integration is essentially mitigated by the flurry of legislation and implementation of the carriers' liability to check passengers. Indeed, more stringent security checks at airports--of identity cards, tickets, boarding passes, baggage, and so on--have made the absence of passport controls virtually irrelevant. International instruments have supported and enhanced

the role of carriers in border control. European Union member-states refer to their obligations to Article 26 of the 1990 Supplementation Agreement of the Schengen Convention in relying on carriers to serve as immigration officers.

It is particularly noteworthy that as negotiations in the European Union continue to focus on how to suppress checks at internal borders, checks which had been suppressed since the 1960s, are now reappearing. For example, faced with strong pressure from the German Government, and with threats of fines on their ferry companies, Denmark has reintroduced passport checks on some ferry passengers arriving, in particular from Sweden (Cruz, 1994: 26). Such checks were suppressed more than 30 years ago as a result of the Nordic Passport Agreement. Likewise, checks at the border between Belgium and the Netherlands have been reintroduced by the Netherlands. Thus, where the movement towards free movement of persons has become critical to full European integration, the abolition of checks at internal borders has become essentially offset by the flurry of legislation and implementation of the carrier's liability to check passengers. Indeed, more stringent security checks at airports--of identity cards, tickets, boarding passes, baggage, and so on--have made the absence of passport controls virtually irrelevant.

While these phenomena are not new, there are a number of features that make the use of private actors historically unprecedented. These stem from the contemporary epoch of globalization, and include the number of levels (venue-shopping) available for cooperation, and the pervasiveness of private actors. As Janet Gilboy notes, states have traditionally used a variety of private parties and contexts as de facto "cops on the beat" (Gilboy, 1996; 1997; Kraakman, 1986). Nonetheless, she notes that while these third-party liability systems in part are decades old, they have become strikingly popular for law enforcement use (1998).

The question then is why have non-state actors become so pervasive in immigration control? Much of the explanation lies in the contextual framework of the late 20th century and complex interdependence. More particularly, the contradictions that pit economic and political

interests of regional integration and globalization also give new meaning to the reinvented forms of migration control. It reminds us that globalization is not a unilinear concept of increasing openness, but that in certain sectors it may yield more political will and capacity to regulate more efficiently, and less costly.

Despite cross-cultural and structural variations, historical patterns are indicative of regulatory modes based on selective restrictivism, through 'remote control' mechanisms. They give meaning and credence to the arguments that under conditions of globalization, the weight of the enforcement apparatus of the state grows as state functions shift from socioeconomic redistribution to *inter alia*, police power (Cerny, 1990). Although for most of the 20th century, liberal capitalist states have only enforced laws arbitrarily according to their national 'interests', the contradictions prompted by globalization have led to some inversion of the rules of the game, whereby as economic regimes in areas such as trade, money and finance act to *promote* free trade and *inhibit protectionism*, international cooperation on migration matters becomes less 'liberal' (Lahav, 1997). In practice, states have been able to re-envisage control over migrants by harnessing certain actors, to act essentially as 'agents' of the state. Changes in enforcement of implementation rules, are indicative of the adaptation of states to deploy private actors.

IV. Conclusions: The New Spaces for Migration Control: Air Control over Air: The Immigration Space Case of Airlines and Space

Two patterns emerge from the empirical developments described above. First, the immigration 'playing field' is increasingly defined by the proliferation of private actors as immigration officers. Second, this shift from central state to private actors in migration regulation coincides with a cost-benefit logic that favors the state, and constrains private actors. Based on historical and neo-institutional analysis, the data point to more, not less state control over migration.

These strategies to incorporate private actors in migration control are not new. While there are differences between the US and European cases that stem from cultural norms regarding state intervention in the economy, the cost-benefit logic of this exchange is similar. Airlines, shipping and travel services may provide unique resources of personnel, services and access to migrants, while states by virtue of owning airspace (according to the Paris Conference of 1919), the domain through which airlines must travel, and thus subject to any and all national restrictions. Thus, with little training investment, these private actors may be enlisted in an enlarged control system, providing the state with the technological and resourceful means to effectively differentiate between the 'legal' passages for travelers or economic tourists and would-be-overstayers or migrants (Weber, 1998). At the same time, states are able to circumvent constraints which may be present at the national or international level by judicial and civil rights groups, since transnational spaces such as international airports constitute "no man's land" zones, where lawyers and humanitarian groups are notably absent.

Although the effectiveness of this public-private relationship still needs to be systematically measured, data collection problems are suggestive of the sensitivities involved. The fact that airlines have become agents of the state in implementing policy through penalties and sanctions exposes the existing tensions between airlines and the state that may emerge. As long as incentives to cooperation are primarily linked to penalties for a failure to perform, the question of airlines' "commitment to enforcement" is continuously raised (Gilboy, 1994: 3). As a result, airline representatives tend to be reticent their discussion of airline performance as regulators of immigration. That conclusions need to be extrapolated to a large degree is indicative of the need for future research in the field. There exists a distinct element of tension between the state and the private third-party actors it enlists in controlling immigration. While it is clear that private resources represent an effective and cost-efficient extensive of state control, national policy makers would do well to consider the implications of a relationship in which there exist few incentives for

the private actors, and cooperation is ensure through the implementation of sanctions and penalties. But then again, states' political will to revive and enforce old rules is reflective of national interests.

The impact of private actors for state sovereignty may be understood in historical context and via an analysis of the public - private relationship. Depending on security and economic interests, states have reigned in private actors during times of exigency (Lahav and Guiraudon, 1999). The logic of that dynamic has been persistent, but its implications involve a more complex world of globalization, and changing rules of the game, that emanate from the complex interdependence. In face of global and international pressures, states in the post-Cold War system may rely on an older repertoire of strategies they employ when seeking more effective immigration control. As the historical analysis here has reinforced, it is thus important to interpret these developments, not as changes in state functions, but as shifts in modes of regulation (Lahav, 1998). In practice, liberal democracies can deploy a considerable battery of policy actors (at different levels) to regulate migration.

While in all cases, these strategies represent the revival of old approaches towards immigration regulation, their adoption in the 1990s reflect a formalization and institutionalization which rely on such third party actors, as industries, services, companies, local governments, and particularly other states—as extensions of state borders. The proliferation and diversification of agents available to states as they face new global and migration pressures in the late 20th century allows central governments to shop for allies in order to strengthen their capacity to control migration. Although these actors have been historically precedented, what is new is the context of globalization, and the increasing linkage between migration-security-crime and the specificity of economic demands – byproducts of global markets and public anxiety over national-state loss of control. The proliferation, institutionalization and formalization of private actors role in migration regulation is further enhanced by cooperation, and is sanctioned by international and regional

instruments. In these ways, the public-private alliance gives the notion of 'state sovereignty a new look. They represent reinvented state forms of power and governance in a world of increasing interdependence and changing boundaries. The calculus involved is that the cost of relinquishing some of its autonomy over policy will be compensated by the benefits entailed: more efficacy in stemming unwanted migration, less judicial oversight, the defraying of costs, and depoliticizing the immigration issue by removing it from the central state.

There are theoretical and practical implications involved in these dynamics. First, these inverse trends in 'epistemic communities' suggest not only a decline in immigration visas, but also a decrease in tourist visas. In the US, this has been most dramatic among Asian groups, who constitute 27 percent of all Americans born abroad (INS, 1997), because US consular officials often suspect these visitors will stay illegally in the U.S. (Washington Post Foreign Service, February 1, 1999; INS, Census Bureau, 1996). The collaboration of security agencies, police forces, inspectors and state agents, with airline employers also has implications for human rights, that stem from the use of computerized systems. Laws in the US established by the Federation Aviation Administration instituting a computerized "profiling" to identify suspect passengers have been vigorously contested by the American Civil Liberties Union and Arab-American groups who fear that the system and untrained professional will discriminate by making decisions using factors like a passenger's religion, race or national origin (New York Times, Jan. 1, 1998: 13). In the human rights domain, cases of stowaways thrown abroad to avert heavy carrier fines, reversals of due process of law, human right violations, corruption and abuse need to be considered here as well.

To a large degree, this study provides a corrective to the unilinear conceptualizations of globalization which have failed to consider that globalization assumes diverse patterns in different economic sectors, depending on the respective asset specificity structures of those sectors (Cerny, 1999). In other words, as labor is a specific asset (especially workers as people, as partially

distinct from more abstract processes), states retain, and even extend their capability to intervene. In many cases, liberal states even find their political will to do so increasing as labor issues, and other transaction costs become more politicized as part of a backlash against globalization in other sectors. Failure to consider new actors beyond transnational migrants neglect the possibility that international regimes and actors may be less than liberal. This view serves to revise the image of the role of liberal norms and rights-based politics in shaping immigration policy in a post-liberal global epoch. What is interesting is not necessarily that enforcement is increasing, but that patterns of regulation are increasingly conforming to public policy models which are converging in the world. Often compelled by international and regional agreements, non-state actors are either incorporated by liberal states, or 'privatized' in the sense that their functions have evolved from contractors into regulators; from the public to the private sphere. These patterns include state delegation of policy implementation to agents, and the more general transfer of state functions to international, transnational, local and private jurisdictions.

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