

УДК 325
JEL: J01, J08, J6, E02, F22

THE MULTI-LEVEL GOVERNANCE OF INTERNATIONAL MIGRATION

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Received: 02/20/2015

Approved: 06/01/2015

Abstract

The article provides the history of legal framework of regulating migration processes on the global level. The author analyzes the dual nature of migration policy on the regional, national and global levels, which occurs when interests of different parties involved in international relations do not coincide. Recommendations are given on ways to improve the regulation of migration processes.

Keywords: globalization, governance, international migration of population, forecast, migration policy, duality of the migration policy.

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Reference: Aleshkovskii I. A. The Multi-level Governance of International Migration. M.I.R. (Modern International Innovation Research), 2015, vol. 6, no. 2, part 2, pp. 8–16.

Globalization processes in a combination with sweeping changes in global political and economic systems have contributed to a drastic intensification of interstate territorial movements of population in the second half of the XX century, and have led to formation of an essentially new migratory situation in the world. For example, for the last half century, the total number of "classical" international migrants in the world increased more than three times (from 75.46 million people in 1950 to 232 million in 2013). If we add other categories of migrants (migrant workers together with members of their families, illegal migrants, pendulum migrants, seasonal and border workers, forced migrants and "economic tourists"-migrants who are involved in the business connected with crossing of a border using a tourist visa), then the total number of inhabitants of the globe participating in international migration presently exceeds 1.2 billion people. Thus, international migration became one of the global phenomena having an impact on all aspects of the world community life.

Accordingly, the logical question has occurred whether this phenomenon can be managed? To answer this question, it is necessary to identify what management of this or that social phenomenon is. From our point of view, this term can be expressed by an easy formula: "forecast plus policy". And in reality to manage effectively this or that social phenomenon or process, it is necessary to understand clearly not only present development trends of this process, but also to conceive its outlook. The last also allows to forecast migratory processes which are often linked with a demographic forecasting, especially when we talk about the analysis of the world population, its certain regions and countries.

In this context, speaking about forward-looking of international migration, it is possible to note that, according to estimates of the UN experts, by the year 2050 the world population will amount to, according to the median forecast, 9.6 billion people in comparison with 7.2 billion in 2014 (33% growth). During the same period of time, the number of classical migrants in the world will doubled exceeded 450 million people. If we speak about all categories of migrants, then their number, by our estimates, will, approximately, treble, having exceeded 3 billion.

Transformation of migratory streams into a global phenomenon contributed a significant interest of scientists, officials, politicians, international public organizations and public to the questions of international migration. In its turn, a need emerged for improvement of migratory processes management tools at national and regional levels, formation of migration policy at the global level which represents a system of international treaties, agreements and other bilateral and multilateral normative legal acts on regulation of interstate territorial movements of population, and which pursues social, economic, demographic, geopolitical purposes, etc.

The results of our analysis showed that one of the established measures system characteristics in the field of interstate territorial movements of population management became its dual character.

At the present phase, the dual character of migration policy is distinctly noticeable at three levels:

- the global (international) level as a result of contradictions between interests of various actors of international relations system (developed and developing countries, international organizations and certain states);
- the regional level (level of integration associations) as an existence of counteracting trends for liberalization of migration regime inside integration associations and simultaneous toughening of migration policy in relation to citizens of third countries;
- the national level (level of certain states) as a contradiction between social and demographic and economic interests, on the one hand, and reasons of national security, on the other hand.

At the same time, contradiction between migrants and adopting states, businessmen and society in general gets a special meaning. It is especially important to keep this fact in mind because, in recent years, a policy of migrants integration in developed countries can be implemented both at the regional and national levels.

Global (international) level of migration policy

The foundation of a regulatory base concerning management of migratory processes at interstate level is comprised by international treaties, agreements, recommendations and other regulating legal acts which are being adopted at various meetings and conferences held under the auspices of leading international organizations. First of all, the United Nations and its divisions (the United Nations Population Fund (UNFPA), the United Nations Conference on Trade and Development (UNCTAD), the United Nations High Commissioner for Refugees (UNHCR), the United Nations Development Program

(UNDP), the International Organization for Migration (IOM) and International Labor Organization (ILO)). At the same time, it should be noted that now days there is no universal migration regime at the global level.

Among global conferences, a special place belongs to the UN World Conferences having an intergovernmental status. Concerning questions of population, three such Conferences were held (in Bucharest in 1974, in Mexico City in 1984, and in Cairo in 1994) at which two fundamental documents were adopted concerning conceptual approaches to the international migration processes management: the World Population Plan of Action (1974) and the Population and Development Program of Action (1994).

The World Population Plan of Action specifies, in particular, that "for some countries international migration may be in certain circumstances, an instrument of population policy ... at least two types of international migration are of considerable concern to many countries in the world: the movement of migrant workers with limited skills, and the movement of skilled workers and professionals" (UN, 1975).

In the World Population Plan of Action, among significant recommendations in the field of international migration management, it is possible to single out the following (UN, 1975):

- governments and international organizations generally facilitate voluntary international movement;
- governments are urged to conduct bilateral or multilateral consultations, with the aim to harmonize their policies in the field of international migration management;
- countries accepting migrants have to provide appropriate medical care and social security services for migrants and members of their families, have to guarantee their physical safety;
- in the treatment of migrant workers, governments should work to prevent discrimination in the labor market and in society, to protect their human rights, to combat prejudice against them and to eliminate obstacles to the reunion of their families;
- governments should bear in mind humanitarian considerations in the treatment of aliens who remain in a country illegally;
- it is necessary to take measures to formulate national and international policy to avoid the "brain drain" process.

At the International Conference on Population in 1984, intermediate ten-year results were analyzed, and new recommendations about further implementation of the World Population Plan of Action in the field of international migration were offered.

Among others, the following recommendations were offered (UN, 1984):

- accepting migrants countries should realize measures for protection of fundamental human rights of all migrants in their territory, ensure respect for their cultural identity;
- measures have to be taken for the purpose of assistance of a mutual integration of immigrants and population of accepting countries;
- governments of accepting migrants countries should take into account not only economic and social interests of their own countries, but also questions of wellbeing of migrants and their families, and also demographic consequences of migration;
- governments of accepting migrants countries are offered to consider a question of taking measures to assist normalization of family life of registered migrant workers in receiving countries through reunion of their families;
- while developing laws and regulations directed at restriction of illegal migration, measures containing in them should extend not only over illegal migrants, but also over those persons who stimulate and promote illegal migration;
- governments and international organizations have to strive to find long-term problem resolutions, connected with refugees and movement of refugees, and to work in the direction of elimination of reasons for these problems.

In the Population and Development Program of Action adopted in 1994 and intended for the next twenty years, a separate chapter is devoted to international migration - Chapter X. In particular, it specifies that an effective policy in the field of international migration should be built taking into account limited economic opportunities of a receiving country, influence of migration on a receiving society, and its influence on countries of departure.

Among recommendations in the field of migration policy, the following were offered, in particular, in the Population and Development Program of Action of 1994:

- governments of receiving countries are advised to consider possible use of certain forms of temporary migration... for professional development of citizens of countries of departure, especially of those from developing countries and countries with transitional economies;

- governments are recommended to share the information about their policy in the field of international migration and rules regulating entrance and stay of migrants in their territory;
- governments are advised to consider possibility of ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families¹;
- governments of receiving countries are recommended to consider a possibility for registered migrants and members of their families to be given an identical treatment, in comparison with their own citizens, with respect of implementation of fundamental human rights, to take appropriate measures to avoid any forms of discrimination against migrants;
- governments of accepting migrants countries should provide protection of migrants and their families members;
- governments of both receiving countries and countries of origin should apply effective sanctions against persons organizing unregistered migration, exporting unregistered migrants or who are engaged in trafficking in unregistered migrants;
- governments of countries of origins and accepting migrants countries should strive to find satisfactory and long-term resolution of problems generated by unregistered migration, by conducting bilateral or multilateral negotiations, including concerning a conclusion of agreements on a readmission;
- governments are urged to respect rules of the international law in relation to refugees.

Thus, recommendations offered at the World Conferences on Population reflect the fact that international migration can promote a new international economic order, and it is being recognized that an effective migration policy is a prerequisite for realization of a positive migration contribution into development.

Recommendations for improvement of international migration management are also contained in the resolutions of other World Conferences and Summits, including the UN World Conferences on Environment and Development (Rio de Janeiro, 1992; Johannesburg, 2002); the International Conference on human rights (Vienna, 1993); the World Summit on Social Development (Copenhagen, 1995); the IV International Conference on Women (Beijing, 1995); the World Conference against Racism, Racial

¹ The Convention adopted by the United Nations General Assembly in 1990 established, for the first time, an international definition of various categories of migrant workers and represented an important step towards fixing of responsibility of receiving countries in recognition of the rights of migrants and ensuring their protection. It came into force starting from 2003.

Discrimination, Xenophobia and Related Intolerance (Durban, 2001); the World Summit (New York, 2005).

The Berne Initiative became another important intergovernmental event which was presented by Switzerland in 2001 and which was directed towards consolidation of cooperation between states for the purpose of the migration management improvement at the national, regional and global levels. Development of the International Agenda for Migration Governance which contains a number of general recommendations for creation balanced and comprehensive approach to migratory processes management became the most important result of the Berne Initiative.

The “Compendium of Recommendations on International Migration and Development” published by the Department of Economic and Social Affairs of United Nations Secretariat in 2006 describes the capability of the documents adopted at the International Conferences and Summit to serve as a reference point for governments from the point of view of assistance to development of joint initiatives in the field of international migration management (UN, 2006).

In September, 2006, in New York, the first High-level Dialogue on international migration and development took place during which multidimensional aspects of international migration and development were considered, including exchange of experience and information about advanced practice concerning possible ways of a maximum increase of benefits connected with international migration and reduction of its negative consequences. Following the results of the Dialogue, a resolution was adopted to continue international migration problems global discussions and to create the Global Forum on Migration and Development as a place of problems systematic and comprehensive discussion connected with international migration and development. In the period of 2007–2013 seven meetings took place in the Global Forum frame in which representatives more than 160 UN member states and more than 45 international organizations took part.

Events of the Global Forum allow to provide an informal discussion by experts and those who responsible for decision making of topical migration policy improvement issues in the interests of development; exchange of the best practices in this area; to reveal existing problems in regulation of migratory processes at the national, regional and international levels; to discuss opportunities for establishment of partnership and cooperation between countries, international organizations and diasporas on migration and development.

In October 2013 the second High-level Dialogue on Migration and Development took place in New York.

In particular, in the Declaration adopted following the results of the second Dialogue, it was pointed out that representatives of states (UN, 2013):

- make a decision to act in the direction of development of an effective and all-embracing agenda concerning international migration by improving activity of existing institutions and structures, and also by increasing efficiency of partner ties on the regional and global levels;
- recognize a necessity of such international cooperation which would allow to completely and in a comprehensive way solve problems of unorganized migration for ensuring a safe, orderly and organized migration in full compliance with the human rights;
- recognize the efforts made by the international community on settlement of corresponding international migration aspects and development on the basis of various initiatives both within the United Nations system and within the framework of other processes;
- confirm the need of an effective encouragement of observance and human rights protection and fundamental freedoms for all migrants, especially women and children, irrespective of their migratory status, and of problem resolution of international migration on the basis of international, regional and bilateral cooperation and dialogue;
- note in this regard the need of taking appropriate measures of female migrant workers protection in all sectors, including female migrants working as household maids;
- emphasize the need of observance and encouragement of relevant international labor standards and observance of the rights of migrants at work;
- recommend to member states to cooperate in the development of mobility programs promoting a safe, orderly and organized migration, including the labor force mobility.

Thus, the conducted analysis showed that resulting documents of conferences and summits contain various recommendations for improvement of migration policy. At the same time, a duality of approaches at the global level to migratory processes governance can already be seen there. The duality at the global level, first of all, is based on various actors' interests of the international relations system which are often in conflict with each other. For example, there are contradictions between the main countries of emigration and countries of immigration. As a result, many documents and agreements signed at international conferences, owing to the fact that they were ratified by an insignificant number of countries, remain for many years non-consummated or are applied in a limited number of countries.

A typical example of that is the situation with ratification of international conventions dealing with migrant workers and affecting economic interests of receiving states. For example, the 1949 Convention №97 "Convention concerning Migration for Employment" of the ILO has been ratified up to present time by only 26% of the countries, and the 1975 Convention № 143 "Convention concerning

Migrations in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers" of the ILO has been ratified by 12% of the countries. In its turn, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families was adopted in 1990, came into force only in 2003, and has been ratified so far by only 24% of the countries (see Table 1).

Table 1

Situation with ratification of international legal documents dealing with international migration

Agreement	Year of coming into force	Participants of agreements as of 19.04.2006		Participants of agreements as of 01.12.2013	
		Number of countries	Percentage of countries	Number of countries	Percentage of countries
The 1949 Convention No. 97 of the ILO on migrant workers	1952	45	23	49	26
The 1975 Convention No. 143 of the ILO concerning Migrations in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers	1978	19	10	23	12
The 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families	2003	34	17	47	24
The 2000 Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children	2003	119	50	157	81
The 2000 Protocol against the smuggling of migrants by land, sea and air	2004	89	46	137	71
The 1951 Convention on the status of refugees	1954	143	73	144	75

Source: data of the UN (UN, 2006, 2013).

Concluding our examination of migration policy at the global level, we will emphasize an important feature of relation of the world community towards this problem: international migration is considered as a function of changing political, economic and social conditions and an integral element of development.

At the same time, three key problems are visible in all the discussions concerning migration: 1) lack of reliable and complete statistical data on migration; 2) complex nature of international migration and absence of a comprehensive theory of migration; 3) difficult interrelation between migration and development, incomplete understanding of totality of interrelations between migration and various factors (demographic, economic, political, ecological, etc.).

Search of an answer to these problems is necessary for development of a well-grounded migration policy, decision making on all actual aspects of interrelation of migration and development, realization of potential of international migration as a factor of development of countries of departure, transit and destination.

Regional level of migration policy

Regional cooperation in the sphere of international migration management is conducted via official mechanisms operating within regional integration associations (in particular, by liberalization of mobility of population as a component part of integration processes), and regional interstate agreements (by realization of a uniform migration policy), and also via less formal mechanisms (for example, regional advisory councils)¹.

The most striking example of international migration management within a regional integration association is the procedure of a free movement of citizens and labor force within the European Union. Presently, citizens of the EU member states can freely move through internal interstate borders of the EU for various purposes (including for employment, or organization of a business activity) without a limitation of duration of stay in the territory of another EU member state. The European Union also pursues uniform policy in relation to immigration and granting asylum to

¹ As a rule, interstate agreements in the field of migratory processes management are concluded between countries of one region. However, there are also interregional interstate agreements. For example, there is an agreement between the EU and the USA according to which citizens of the EU and the USA can move across the territory, respectively, of the USA and of the EU without a visa for no more than three months within half a year.

citizens of third countries, strengthens partnership with the main countries of departure of migrants, develops and takes measures for ensuring an equal treatment of citizens of third countries living in the EU member states. It should be noted that the all-European normative legal acts adopted so far generally deal with rules of granting asylum and prevention of illegal immigration, and only some of them deal with questions of legal immigration, including questions of reunion of families, attracting students, researchers and highly skilled migrant workers.

Various mechanisms of international migration regulation are also in operation within other regional integration associations, including the North American Free Trade Agreement (NAFTA), Association of Southeast Asian Nations (ASEAN), the Common Market of the South (MERCOSUR), the Commonwealth of Independent States (CIS), the Economic Community of West African States (ECOWAS), the Central African Economic and Monetary Community (CEMAC), the Eurasian economic union, etc.

Regional interstate agreements represent official interstate cooperation agreements in the field of migratory processes management. According to an examination conducted in 2005 by the ILO, interstate agreements generally deal with programs of invitation of labor migrants; admission of trained or young specialists; seasonal migration; questions of coordination of substantive laws and payments in the field of social security; re-admissions of illegal immigrants; questions of ensuring safe and timely money transfers by migrant workers. For example, in the Agreement of the CIS member countries on cooperation in labor migration and social protection of migrant workers (1994), it is pointed out that "the parties undertake necessary measures for the purpose of prevention of employment of migrant workers by intermediaries who do not have corresponding permissions of competent authorities of the Party of departure for implementation of such an activity. Any person promoting a secret or unlawful immigration bears a responsibility according to the current legislation of the Party of employment". In the Cooperation agreement of the CIS states on fight against unlawful migration (1998), it is pointed out that "governments of party states of the agreement consider cooperation in fight against unlawful migration as one of important directions of migratory processes regulation". Within the framework of formation of the Customs union and the Eurasian Economic Union on the post-Soviet space, two important documents regulating labor migration were adopted in 2010: the Agreement on legal status of migrant workers and members of their families and the Cooperation agreement on counteraction against illegal labor migration from third states.

It should be noted that the bilateral approach allows governments to work more flexibly, as compared with general agreements within integration associations because conditions of each agreement can be formulated taking into account a situation in respective countries. However, from the point of view of migratory streams regulation, tracking of a course of implementation of numerous agreements containing various provisions increases an administrative burden.

Regional advisory councils (RAC), the number of which repeatedly increased since the beginning of the 1990s, became a new form of regional cooperation. Intergovernmental consultation on policy issues in the field of asylum, refugees and migration policy in Europe, North America and Australia, which began to be held since 1985 for discussion of questions of granting asylum, became one of the first RAC's. According to the IUN, several of such advisory councils, including the Budapest Process, the Söderköping Process, the Pan-European Dialogue on Migration Management, etc. work presently in Europe. As a rule, regional advisory councils have an informal character and their decisions, despite of the fact that they get an approval of participating parties, are not obligatory. At the same time, they promote dialogue and exchange of information, allow to gather official representatives of countries of departure, transit and destination of migrants, promote coordination and concurrence of actions not only at the international, but also at the national level.

The analysis conducted by us revealed that the dual character of migration policy at the regional level is expressed in two aspects. The first is comprised of the fact that in the modern world, under the conditions of actively developing integration processes, on the one hand, a liberalization of migration policy is taking place, there are "transparent borders" within regional associations, freedom of movement of population and labor force of citizens of member countries through internal frontiers of these unions. On the other hand, there is a unification of legislation in the field of international migration regulation within integration associations, and also more and more drastic measures are adopted concerning immigrants from "third countries" which is conditioned by various aspects of the national security (including fight against threats of international terrorism, protection of the national labor market). The second aspect is comprised of the fact that the interests and problems of integration association in general cannot coincide or can even contradict the interests of its separate member states. For example, the position of Great Britain from the very beginning of its accession into the EU (1973) had a somewhat special limiting character which, afterwards, found its reflection in that it refused to sign the Schengen agreement.

Now, the government of Great Britain considers a possibility of introduction of limiting measures in relation to migrants from other countries of the European Union, and also restrictions on their use of social services and system of social protection of Great Britain. In the North American free trade zone (NAFTA) between the USA, Canada and Mexico, the freedom of travel of citizens, including migrant workers, is ensured between the USA and Canada while possibilities of labor migration of the Mexican citizens to these countries are significantly limited.

National level of migration policy

During different historical stages in migration policy of a state, this or that its component (emigratory or immigration) prevails which defines in general its essence during this period.

The special periodical of the UN on population policy, the World Population Policies Database, contains a separate information section on views of national governments on migration and state policy in the field of international migration.

As it can be seen from Table 2 and Table 3, only 13% of sovereign states (most part of which is located in Africa) do not presently regulate an immigration level.

Whereas policy for emigration is not pursued by 45% of the states (generally, countries of Africa, Europe and North America). At the same time, all developed countries realize measures in the field of immigration regulation whereas emigrations are regulated by only 20% of them.

Thus, under the modern conditions in the majority of countries of the world, an immigration policy becomes prevailing within which governments show a great interest to what immigrants are, and impose on those entering a country various requirements concerning an education level, profession, qualification, financial position, age, marital status, etc. Special attention is paid to the last characteristics both taking into account a situation in the national labor market and goals of a population policy and taking into account aspects of the national security.

It should be noted that the greatest changes which happened in national migration policy since the end of the 1950s, are connected with exactly its immigration component. For states which traditionally pursue immigration policy, the essence of changes consists in that the adopted laws were directed, first, at encouragement of immigration of highly qualified specialists, secondly, at a fight against illegal migration.

Table 2

Views of national governments in relation to immigration policy, 2011

Region	Policy in the field of immigration level			
	To reduce	To maintain	To raise	Without intervention
World in general	16%	60%	11%	13%
Europe	11%	64%	25%	—
Africa	19%	38%	2%	41%
Asia	30%	55%	12%	2%
Latin America and Caribbean Region	12%	79%	3%	6%
North America	—	100%	—	—
Australia and Oceania	—	94%	6%	—

Table 3

Views of national governments in relation to emigratory policy, 2011

Region	Policy in the field of immigration level			
	To reduce	To maintain	To raise	Without intervention
World in general	24%	22%	9%	45%
Europe	18%	14%	—	68%
Africa	25%	15%	2%	58%
Asia	21%	29%	29%	21%
Latin America and Caribbean Region	33%	36%	—	30%
North America	—	—	—	100%
Australia and Oceania	31%	19%	31%	19%

Source: *International Migration Policies 2013*. New York: United Nations, 2013.

An analysis of laws adopted in the last years and directed at counteraction against illegal migration demonstrates a duality of policy of receiving states: on the one hand, policy for newly arriving migrants becomes more and more restrictive, on the other hand, policy of legalization is pursued in relation to those who entered a country earlier and found a job illegally. In developed countries from 1980 to 2014, over 30 migration amnesties were held and over 10 million illegal immigrants were amnestied. Thus, it is not actually about eradication of illegal immigration, but about legalization of those who entered a country earlier and found a job illegally. For example, in 2014, the US President B. Obama signed an executive order reforming the immigration system of the USA which provided for legalization over 5 million illegal migrants. It should be noted that a number of experts speak against implementation of such campaigns as the last, in their opinion, only increase potential scales of illegal immigration.

The duality of migration policy at the national level also reveals itself in contradictions of economic, demographic and geopolitical character. For example, in the interests of a demographic and economic development, it often seems necessary to hold a liberalization of migration policy while interests of the national security quite often insist on its toughening. The last contradiction especially clearly revealed itself after the events of September 11, 2001.

As for migration policy of Russia, then, on the one hand, certain legislative base in the field of regulation of migratory processes has been created during the modern period of its development (1991–2014), and, on the other hand, there is still no strategic vision of migration as a positive phenomenon in Russia. The duality of migration policy of Russia reveals itself in that at the highest national level (in particular, in the Concept of the state migration policy of the Russian Federation, President of Russia's Addresses to the Federal Assembly of the Russian Federation) the thesis about a need of conducting an intelligent immigration policy, involvement of our compatriots from abroad and qualified legal manpower is being proclaimed, whereas at the "executive" level, the relation of the state to migratory processes management remains, in many respects, of a police-officer type, and migration itself is considered, first of all, as a process threatening the national security of Russia. Preservation of such a situation contradicts the interests of the economic and demographic development of Russia. The last conditions the need of a further improvement of the migration policy of Russia.

In summary, we will note that, in our opinion, overcoming of the dual character of migration policy and the use of the potential of international migration as a resource of development can be reached only by means of realization of a reasonable and

strategically adjusted approach to international migration management.

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МИР (Модернизация. Инновации. Развитие)
ISSN 2411-796X (Online)
ISSN 2079-4665 (Print)

МОДЕРНИЗАЦИЯ

ФОРМИРОВАНИЕ СИСТЕМЫ МНОГООУРОВНЕВОГО УПРАВЛЕНИЯ МЕЖДУНАРОДНОЙ МИГРАЦИЕЙ

Иван Андреевич Алешковский

Аннотация

В статье рассматривается история становления и развития управления международной миграции на глобальном уровне. Проанализирован феномен двойственного характера миграционной политики на глобальном, региональном и национальном уровнях, обусловленный несовпадением интересов различных акторов системы международных отношений. Приводятся рекомендации по совершенствованию управления миграционными процессами.

Ключевые слова: глобализация, управление, международная миграция населения, прогнозирование, миграционная политика, двойственный характер миграционной политики.

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Для ссылки: Алешковский И. А. Формирование системы многоуровневого управления международной миграцией // МИР (Модернизация. Инновации. Развитие). 2015. Т. 6. № 2. Часть 2. С. 8–16.