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3/15/22

Immigration Politics Final Paper

In their respective pieces, *Dividing Lines: The Politics of Immigration Control in America* and "Why Liberal States Accept Unwanted Immigration," Daniel Tichenor and Christian Joppke attempt to answer the question: why does immigration policy rarely reflect the preferences of citizens? In his study, Joppke argues that liberal states cannot stop illegal immigration due to their self-limited sovereignty rather than any global constraints. He also argues that the legal process, especially in Europe, leads to more liberal immigration policies than the public would desire. He finds that "legal constraints in combination with moral obligations toward historically particular immigrant populations" accounts for continuing family migration.[1] In his chapter "Understanding the Rise and Fall of Policy Regimes," Daniel Tichenor argues that four interlocking processes explain patterns of immigration control: structural opportunities for politicians and social groups to gain power, policy outcomes as a result of changing coalitions of organized groups, professional expertise, and international pressures. He expands on Joppke's argument by describing how structural governmental forces influence the relative power of organized interest groups.

Joppke and Tichenor's answers to this question are still applicable to immigration policy today. When they were writing in the late 1990s and early 2000s, 173 million people lived outside of their countries of origin. Today, that number is closer to 281 million migrants.[2] The

[1] Joppke, *Why Liberal*, 282.

[2] United Nations Department for Economic and Social Affairs., *International Migration*.

number of people forced to leave their homes due to conflict or persecution reached a record high in 2021—with previous records being set in both 2019 and 2020.[3] The increase in global forced migration has altered the ways in which governments create immigration policy and, therefore, the reasons why these policies do not reflect citizen preferences. For example, since Tichenor and Joppke were writing, there has been a shift from US presidents working on comprehensive immigration reform to relying on executive orders. Since 2000, there has also been increasing unrest within the EU regarding immigration. In 2020, Poland, Hungary, and the Czech Republic—interior countries as defined by EU borders—refused to comply with mandatory quotas of asylum seekers. Greece also broke EU law due to the pressure imposed by refugee flows through its shared border with Turkey. Tichenor does not link large-scale migrations to alternate paths of policy formation and a breakdown in the effect of organized interest groups or government structures on policy. He argues that international crises alter "how US state actors, interest groups, and mass publics define the nation's relationship to the rest of the world, with potentially crucial implications for immigration policy."[4] Neither Tichenor nor Joppke account for humanitarian migrations and how they lead to an increase in alternate forms of policy formation which are mostly unaffected by the interlocking process of interest groups but similarly result in policy which does not reflect public opinion.

Tichenor's theory accurately describes multiple policies in the US. The Immigration Reform and Control Act (1986) created 350k temporary visas, established more generous amnesty, and added civil rights protections for immigrants despite its original goal of bipartisan immigration reform. After organized interest groups, influenced by structural forces, debated the

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[3] United Nations Department for Economic and Social Affairs., *International Migration*.

[4] Tichenor, *Dividing Lines*.

bill, the resulting bill was much more liberal than it was intended to be and did not reflect citizen preferences. Second, defensive asylum seekers have already been placed in the removal process but are able to appeal their case, leading to more immigrants than the public would prefer—as these candidates have already been deemed unfit for asylum in the US. More recently, the continued immigration flow from Mexico as well as humanitarian migrations from various countries including The Democratic Republic of the Congo, Syria, and Iraq, have led to policy that does not reflect public preferences. For example, Biden added Myanmar (Burma) and Venezuela to the list of countries whose citizens are eligible for temporary protected status; a president can grant TPS in the event of a natural disaster or conflict so that individuals from these countries can temporarily remain in the US and work. This goes against public preference with 43% of surveyed Americans saying it is 'very important' to reduce the number of people coming to the country to seek asylum and 31% saying it is 'somewhat important.'[5] This shows how humanitarian crises can reduce the importance of public opinion and grant more power to executives. Humanitarian flows to the US also lead to a reliance on executive orders such as President Trump's Travel ban in 2017. President Obama also used executive orders in his second term to develop immigration policy. He created the Task Force on New Americans which was charged with increasing access to US citizenship for LPRs by partially waiving the $680 cost of naturalization and allowing applicants to pay overtime. Obama's second term and Trump's presidency were plagued by polarization both in the country and within the legislative branch, making efforts to create comprehensive immigration reform nearly impossible and increasing their reliance on executive orders. Tichenor and Joppke did not consider how executive orders

[5] *Shifting Public*.

are generally immune from the effects of organized groups or structural forces but similarly lead to policy that does not reflect public preferences. Further, they did not connect humanitarian migrations to an increasing use of these paths of policy formation that take place outside of the legislative branch.

Joppke also argues that family migration granted through the courts explains why European states continue to accept unwanted immigrants. However, more recently, the stress put on the Greek government due to humanitarian migrations has outweighed the relevance of these arguments. For example, the Greek government went against a court ruling in 2018 which ordered Greece to end its "abusive policy of trapping asylum seekers on Greece's islands."[6] The President issued an administrative decision reinstating the 'containment' policy which lacks a sense of moral obligation toward refugees. Also, while Tichenor accurately predicts how the structures of the EU and Greek governments lead to immigration policy that does not reflect public preferences– as the EU is especially unaffected by public opinion—he did not predict that the Greek government would repeatedly enact policies that goes against EU law due to humanitarian migrations. For example, the containment policy is below EU minimum standards for the treatment of asylum seekers. Additionally, in order to handle the influx of refugees coming from Syria through the Turkey border, the government deployed military forces to the border and suspended asylum applications for a month; neither of these actions are permitted by EU law. Tichenor's argument fails to address how humanitarian migrations can lead to a breakdown in government structure. Additionally, the containment policy, created in response to a humanitarian migration, was enacted through administrative decision and does not have public

[6] Stevis-Gridneff, "Greece Suspends".

approval—like executive orders in the US. In a 2018 survey, 69% of Greek respondents said they would support taking in refugees from countries where people are fleeing violence and war. Additionally, over 80% of Greeks expressed agreement with the idea that someone fleeing violence or persecution should be able to seek refuge in another country. Also, 67% of respondents believed that "in light of the country's culture of solidarity and compassion, refugees should be welcomed in Greece."[7] This shows how a large influx of refugees led to a policy that was enacted outside of EU law and did not reflect public opinion.

As a third example, Chancellor Anegla Merkel enacted a highly unsupported policy as a result of a recent humanitarian migration from Syria. Although a sense of accountability and moral obligation towards immigrants, as described by Joppke, may partially explain Germany's recent open-door policy, the author did not connect a large influx of asylum seekers to the formation of the Chancellor's policy. Merkel announced an 'open-door policy' in response to the Syrian refugee crisis without the support of her party or public opinion. This is evident through the fact that far right parties emerged in Germany for the first time since WWII as a result of Germans feeling unheard by major parties and their leaders. Additionally, Tichenor would not have predicted this policy as it does not have the support of organized interest groups and represents a breakdown in the cooperation between the EU and German government; the other member states in the EU refused to share the burden of refugees. This once again exemplifies how large migration flows put pressure on leaders to enact policy that does not reflect changing coalitions of organized interest but similarly deviates from public preferences. Although Merkel reinstated controls on Germany's southern border in order to increase pressure on EU member

[7] *Attitudes Towards*.

states to accept some of the refugees, she still enacted policy without public or party approval when faced with a humanitarian migration. Immigration policy in Germany shows how both before, with courts playing a significant role in shaping immigration policy, and after the sudden inflow of refugees, Tichenor and Joppke are generally capable of explaining why policy does not reflect public preferences. It is only during a humanitarian migration that the authors do not predict how the influx of people will lead to a breakdown of government structures which also results in unsupported policy.

The Columbian President also implemented policy aimed at crisis-management due to the flow of Venezuelan refugees. Neither of the author's arguments can fully explain the motivation for the policy implementation in Columbia because the President, Ivan Duque, signed Decree 216 of 2021 which did not have the support of citizens or organized interest groups. President Duque can individually issue a decree on any government activity. This decree gives Venezuelan migrants living in Columbia on or before 2021 the right to apply for Temporary Protective Status for ten years. The lack of governmental and interest group support is evident through the lack of collaboration between the government, private sector, and civil society. After the Decree was signed, private and public organizations often rejected the temporary status so that these refugees could not work or access services.[8] Additionally, Columbia has a weak judicial system that does not lead to increased immigration as Joppke describes. The courts are generally unable to protect migrants from abuses such as xenophobia and human trafficking. The president stated that he wanted to regularize Venezuelans so they could work and productively contribute to society, but his policy led to widespread disapproval in the form of protests due to the strain that it put on the

[8] Buschschlüter, "We gave".

Columbia economy and public facilities.[9] The government also increased taxes in order to fund this policy. This shows how a humanitarian crisis caused the President to sign a decree that did not have public support and is not explained by Tichenor or Joppke.

Finally, immigration policy in South Africa deviates from the authors arguments due to the inflow of people from neighboring Southern African Development Communities. South Africa experienced a significant structural shift with the end of the apartheid and start of democracy in 1994. During the apartheid-era, government policies policed immigration and treated immigrants with suspicion. For example, The 1991 Aliens Control Act led to increased deportations and a fine on employers who hired undocumented laborers. With the start of democracy in 1994, immigrants started to be viewed as opportunities for social and economic development – not just temporary labor. This belief is visible in The Immigration Act of 2002 which promoted the migration of skilled labor. The structural change also allowed for different organized interest groups such as the Tripartite Alliance by the South African Communist Party (SACP) and the Confederation of South African Trade Unions to become more salient.[10] Tichenor accurately explains how this connection between the government and organized groups led to a policy that lacked public support. A 1999 South African Migration Project survey reported that 70% of South Africans felt that refugees should not have the right to freedom of speech or movement—in contrast to the increased liberties granted to migrants in the Immigration Act.[11] However, neither author explains how the influx of migrants from neighboring countries also led to significant policy shifts which will not have prolonged public

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[9] Buschschlüter, "We gave".

[10] Crush, "South Africa".

[11] Tessier, "The Challenge,".

support. South African leaders felt pressure to accept refugees from other members of the SADC and the humanitarian arena that accused South Africa's government of being responsible for the economic and political upheaval of the neighboring countries, so they passed The Refugee Act of 1998. However, with the increase in refugees, public opinion steadily shifted to view migrants as a threat to national security and criminals. Therefore, these humanitarian migration flows led to the radical Border Management Authority Act of 2020—which did not have the support of many government departments or interest groups because it undermines SADC authority by integrating border management in a single department. Neither of the authors predict this disconnect between policy and organized interest. Also, although the law did initially address public fears over increased immigration, implementation of the act is estimated to cost around 6.7 million dollars per year and is criticized as xenophobic.[12] Additionally, some estimates report it may take up to 15 years to establish functioning border control as envisioned by this act. As seen through the previous example countries, citizens will not want to pay for the implementation of this law and public opinion may change over the course of the 15 years to no longer be in favor of a restrictive law. Recent immigration policy in South Africa once again shows how neither author considered large immigration flows from other countries and how it leads to a breakdown of the cooperation between interest groups and the government. In this case, the resulting policy did have public support, but implementation of this law will likely deviate from citizens' preferences.

In conclusion, recent immigration policies in the United States, Greece, Germany, Columbia, and South Africa reveal how Joppke and Tichenor were unable to predict the global

[12] "South Africa".

increase in humanitarian migration which led executives to pursue paths of policy formation shielded from structural forces and organized interest groups. These alternate paths include decisions made by a single executive—like a directive or executive order—as well as breaking EU law or going against a court decision in order to implement a policy. Tichenor and Joppke's theories are mostly effective at explaining why immigration policy rarely reflects citizen preferences, but they failed to consider how humanitarian migrations can alter the relative salience of government structures and organized groups while still resulting in policy that does not reflect citizen preferences.

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