

Informality, Migrant Undocumentedness, and Legal Adaptation in Hybrid Political Regimes

In the last two decades, Russia has emerged as one of the key immigration hubs worldwide, witnessing a massive inflow of migrants with low qualifications, no legal right to work or stay, or simply lacking the skills to quickly integrate into the local labor market. The arrival of millions of migrant workers from Central Asia, the Caucasus, and other post-Soviet republics carried significant implications for social transformation, contributing to the emergence of new informal practices and tendencies in contemporary Russian society. These new informal practices, stimulated by migratory flows, overlapped with, reshaped, and reconstituted Russia's socioeconomic tissue fed by an already existing large-scale shadow economy.

Nordstrom (2000) argues that shadow economic activities and networks are not haphazard collections of people in ad hoc groupings. Instead, they are complex chains of transactions highly coordinated and routinized, with hierarchies of deferential power, and are governed by the rules of exchanges and codes of conduct. Viewed in this light, the large shadow economy in Russia predicated on a migrant labor force is not an exception or abnormal phenomenon; rather, it is an institutionalized and routinized system with its own economy and legal infrastructure. Hence, while walking the streets and public places in contemporary Moscow, a careful observer may spot many intermediaries (with a migrant background) openly advertising and selling various fake and "clean fake" immigration documents and offering "legalization" services. It is possible to buy all types of documents from these intermediaries: residence registrations, work permits, migration cards, exit-entry border stamps, temporary and permanent residence permits, and even the much-desired Russian passport. Many underground (hidden) printing houses operate in Moscow, particularly at the Kazansky railway station, where such documents are produced. Even in authoritarian regimes,

such as Uzbekistan, from whence my informants originated, it is highly unlikely to see someone openly selling fake documents on the street. It is quite obvious that the majority of these intermediaries one encounters on the streets of Moscow operate under the protection (*kryshevanie*) of Russian law-enforcement officials. Otherwise, they would not be able to operate so freely in public. True, occasionally, the Russian Federal Security Service (FSB) carries out raids and special operations to capture such intermediaries. But, the primary aim of these operations is not to eradicate the illegal document market but to gather material for a TV show on “how FSB officials worked hard” and captured a group of “radicalized Central Asian migrants who create fake documents and recruit migrants for *jiḥād* in Syria.” These strategies satisfy the widespread antimigrant sentiments and provide the illusion to ordinary people that Russian law-enforcement bodies are working very hard to catch and punish illegal migrants. In reality, document intermediaries continue to operate under the protection of law-enforcement bodies.

A similar logic driving migrants into the realm of informality can also be observed in the interpretation and implementation of immigration laws. Whereas immigration laws in Western countries developed gradually, in the Russian context, immigration laws are often adopted at high speed, without actually considering the everyday realities of implementation. Russian authorities often enact various immigration laws and policies with the (declared) objective of reducing the number of undocumented migrants (as shown in chapter 2). But many of these legislative interventions produced contradictory outcomes given that so many laws remain ambiguous (written in general terms), far from an empirical reality, and are often accompanied by the introduction of corrections and additions that undermine the spirit of the law. As a result, state institutions and officials gain wide discretionary power to interpret and implement these laws. Typically, an institution or body responsible for implementing the laws issues an internal decree or instruction (*podzakonnyi akt*) suitable for its own interests. This internal decree often remains inside the corridors of that institution. The lack of information then creates fertile ground for corruption, allowing state officials to interpret and implement laws as they wish. A migrant who wants to go “legal” often remains unaware of these internal decrees and consequently fails to comply with the laws. Thus, Russian immigration officials are more interested in producing additional undocumented migrants than in facilitating migrants to leave the shadow economy. For example, between March 24 and April 24, 2017, President Putin announced an amnesty period for undocumented migrants from Tajikistan, which would allow them to legalize their status in Russia; however, the amnesty was verbally announced with no written legislative document to accompany the announcement. Thus, the General Administration for Migration Issues of the Russian Ministry of the Interior (GUVM) was tasked with producing a formal legislative act. GUVM was also responsible for announcing the amnesty program as widely as possible in the media so that all undocumented Tajik migrants could

receive information and regularize their status. But only a few news agencies announced it, and many Tajik migrants did not receive any information about the amnesty period. This likely stems from the fact that immigration officials generate no revenue from regularizing undocumented migrants. Rather, such actions would create more work for already overburdened immigration officials. If they genuinely wanted more migrants to become “legal,” or if they had an alternative opportunity to generate some informal income, they would have announced it everywhere.

Accordingly, varied interpretations of laws, arbitrary enforcement, and discretionary administrative practices led to the emergence of an informal migration governance system in Russia that significantly differs from that prescribed in official immigration laws and policies. Given these circumstances, it is nearly impossible for migrants to become fully “legal” in practice. In this sense Russia seems to follow global trends in terms of producing insecure and legally ambiguous migration statuses through inconsistent and arbitrary law enforcement (Kubal 2016a), which serve to keep migrant workers submissive (Reeves 2015). Within the migration studies literature, the dominant understanding suggests that undocumentedness leads to the most subordinated, subjugated, and rightless form of existence in the host society (Holmes 2007; Peutz 2007; Rosenthal 2007; Willen 2007b; Menjivar and Abrego 2012). Susan Coutin (2003a, 30), in her study of undocumented migrants in the United States, regards undocumentedness as “a space of forced invisibility, exclusion, subjugation, and repression.”

The above perspectives describing undocumentedness as a “dead end” are not surprising given the fact that the literature written in English on “migrant illegality” largely focuses on undocumented migration in Western-style democracies (Bloch and Chimienti 2011). In such contexts migrants “cannot bend the laws and produce [an] informal governance and legal order” because of the strong rule-of-law culture. But in the Russian context undocumentedness is a conscious adaptation strategy rather than a dead end. Unlike Western-style democracies, where the rule of law is embedded in the national culture, in hybrid regime contexts such as Russia migrants do not deal with the rule of law but experience the corrupt legal environment that enables them to produce various informal strategies and tactics to maneuver around legal uncertainties and arbitrary law enforcement. Thus, one of the distinctive features of the Russian migration regime rendering it different from Western migration regimes is the rampant corruption and the dependence of law-enforcement officials (e.g., immigration officials, police officers, and border guards) on informal payments generated from migrant workers. This, in turn, creates a discrepancy between formal (legal) decisions and informal (illegal) practices (Rahmonova-Schwarz 2006; Light 2010, 2016; Reeves 2015; Schenk 2018). Under these conditions, being “legal” or “illegal” becomes contingent on migrants’ individual skills and contextual factors.

Given the Russian sociolegal context described above, as well as the ethnographic material presented in chapters 4, 5, 6, and 7, how should we study, understand, and theorize the legal adaptation of migrant workers in Russia? Should it be explained solely from the legal centralistic perspective (based on Western-centric literature), which emphasizes migrants' legal status (Gleeson 2010), compliance with the formal legal system of the host country (Coutin 2003b), their knowledge of immigration laws (Abrego 2011), their ability to engage in claims-making in courts (Beger and Hein 2001), or their capacity to find legal employment (Rivera-Batiz 1999)? In the context of Western-style democracies, legal adaptation is understood with reference to migrants' legal status and their ability to comply with the legal system of the host country. If we analyze the sociolegal situation of migrant workers in Russia from the perspective of the dominant immigrant (legal) adaptation and integration frameworks, millions of migrants seem "legally nonexistent" in Russia. Although I acknowledge the importance of these explanations, I suggest that we need to move beyond (Western-centric) conventional explanations and employ ethnographically embedded and legally pluralistic perspectives to understand migrant legal adaptation in Russia. Thus, in the Russian context, where even migrants with perfectly clean documents cannot be fully legal, the question is not about whether migrants comply with laws. The question, instead, revolves around how familiar migrants are with street law, informal norms, and practices, crucial factors guiding their behavior when they come into contact with police officers and immigration officials who determine who is legal and who is not depending on how migrants behave themselves.

Drawing from my ethnographic study, I have argued that it is insufficient to look at the role of the legal environment as the lens through which to understand migrant legal adaptation, since migrants experience a different legal environment in Russia. The dominant adaptation and integration frameworks might fit the context of Western-style democracies, but their application in hybrid regime contexts requires a careful recontextualization, as well as the application of a legally pluralistic framework that accounts for the informal avenues of adaptation. Hence, by using a legally pluralistic framework and accounting for the hybrid regime characteristics, we arrive at a rather different conclusion whereby migrants in Russia are active and resilient actors capable of inventing various informal strategies to adapt to the restrictive legal environment and organize their working life and tackle uncertainties and risks by producing informal legal orders. Therefore, legal adaptation in hybrid regime contexts cannot be satisfactorily explained by solely referring to the institutional and legal structures. In line with Heyman and Smart (1999), I argue that migrants' informal and illegal adaptation strategies should not be seen as deviant, subversive, or the subculture of a migrant community but rather as an option or resource migrants can use under the conditions of legal uncertainty and arbitrary enforcement.

I should stress, however, that this book is not an attempt to romanticize the role of informal norms and practices as optimal adaptation strategies. Reckoning with the advice of Ledeneva (2009), I am aware that informality plays an ambiguous role and carries both supportive and subversive functions. On the one hand, informality enables migrants to navigate around the restrictive legal environment and access many job opportunities limited to migrants with a legal status; on the other hand, that same informality produces unequal power relations between migrants and Russian employers and state actors. Many of the most exciting stories and experiences I observed during my fieldwork stemmed from legal uncertainty and complicated work permit and residence registration rules, which compelled migrants to navigate the system and invent various informal practices. The immigration laws and policies in Russia remain highly restrictive with potentially severe consequences for migrants' livelihoods. Recent studies describe migrants in Russia as victims of exploitation, corruption, and xenophobia, arguing that "the scale of the issues migrants face in the unbounded city make it extremely difficult for them to develop meaningful forms of resilience and/or resistance. Russia is an extreme example of the human rights abuses that migrants face" (Round and Kuznetsova 2016, 1030). Furthermore, Russia "may be one of the most inhospitable and even dangerous places for migrants in Europe" (Dave 2014a, 2). Yet the treatment of migrants as victims and passive actors may inhibit our looking at their actual navigational skills and experiences, an issue that motivated me to explore migrants' agency and their alternative legal adaptation strategies.

Another key contribution of this book lies in my attempt to create a new framework for understanding migrant legal adaptation in hybrid political regimes, a typology of countries characterized by a weak rule of law, corruption, a large shadow economy, widespread human rights abuses, and a state-controlled civil society. In international comparisons Russia is often portrayed as a hybrid political regime (Goode 2010a, Petrov, Lipman, and Hale 2014), with a weak rule of law (Gel'man 2004), rampant corruption and dysfunctional public administration (Ledeneva 2009), a highly controlled and weak civil society (Hale 2002), and a haphazard system of official and unofficial control (Light 2010). In this regard the empirical examples presented in this book should not be viewed as an attempt to present Russia as a deviant, exceptional migration regime or as another illustration of "how Russia really works" (Ledeneva 2006). Rather, by employing the phrase "hybrid political regime" throughout this book, I emphasize that migrant legal adaptation patterns described within the Russian context can also be identified in other hybrid political regimes.

A brief survey of the relevant literature proves rather illuminating in this respect. In Turkey, a hybrid political regime and one of the largest recipients of migrants worldwide, informality characterizes migrant workers' everyday lives (İçduygu 2006; Akalin 2007; Tolay 2012; Eder 2015; İçduygu and Millet 2016; Şenses 2016). This results from the complicated legalization requirements and arbitrariness and

uncertainty in administrative practices, forcing many migrants to resort to an informal economy where they can find jobs without documents and have more flexibility and a certain degree of control over their lives (Eder 2015). A similar situation can be observed in Kazakhstan, where a weak rule-of-law environment and a large shadow economy allow many migrants to work without documents and develop multiple informal and illegal practices in order to protect their legal status, employment, and earnings (Anderson and Hancilová 2011; Dave 2014b). The Malaysian migrant labor market serves as yet another relevant example of how undocumented status actually enables migrants to escape the restraints and subordination created by state-sanctioned migrant labor arrangements (Mascarenhas 2001; Killias 2010). Olivia Killias (2010), through the narrative of Arum, an Indonesian undocumented migrant worker in Malaysia, shows how working legally leads to more subordination and exploitation, whereby migration through illegal channels represented a strategic choice and enabled Arun to circumvent the “legal,” state-sanctioned migration scheme. Examples from the Gulf countries, nondemocratic contexts, also demonstrate how an undocumented status does not necessarily lead to exploitation and subordination (Fargues 2011; Pessoa, Harkness, and Gardner 2014; Fargues and Shah 2017). Fargues and Shah, in their edited volume *Skillful Survivals: Irregular Migration to the Gulf* (2017), show that for many migrants working in the Gulf countries undocumentedness is the preferred option, even though such migrants understand that it may lead to arrest, a jail term, and deportation. They do so because undocumented migrants enjoy more freedom over their working lives and can make independent choices, whereas migrants working legally are usually tied down to one specific employer for a fixed sum of money and cannot move between jobs. These examples describing different hybrid regimes and nondemocratic contexts strengthen my argument that my framework developed within the Russian context may also apply to understanding migrant legal adaptation processes in other hybrid political regimes. Thus, the book highlights the need for further research in this field to develop a deeper and more nuanced understanding of migrant legal adaptation in hybrid political regimes.

These findings from the Russian context may also have relevance for understanding the informal migrant labor market in Western-style democracies. Because the governments of Western countries continuously enhance immigration control and introduce rigid laws, additional migrant workers may resort to the informal economy. As a result, irregular migration represents a global phenomenon and has become commonplace in both developed and developing countries (Bloch and Chimienti 2011). A growing body of literature shows that migrants working in Western-style democracies may also develop various informal and illegal strategies when confronted with an increasingly restrictive and punitive immigration regime (Bean, Edmonston, and Passel 1990; Calavita 1990; Freeman 1992; Mahler 1995; Bloch, Sigona, and Zetter 2011). Bloch, Sigona, and Zetter (2011), in their study of young undocumented migrants in England, explored how young

undocumented migrants moved in and out of different legal statuses through various formal and informal practices, such as regularizing their status through the asylum system or buying forged identity documents and national insurance numbers enabling them to work. Thus, insights from an analysis of the interconnections among migration, the shadow economy, and street life in Russia are relevant not only for studying migrant legal adaptation in other hybrid regimes but also in Western migration regimes.

The above arguments lead to another important contribution of this book, which is intended to move beyond the area studies approach and aims to connect the Russian case to a broader debate within migration studies. Russia and many other “non-Western” migration regimes (e.g., the Gulf states, Kazakhstan, Malaysia, Turkey, and Singapore) remain underrepresented in comparative and theoretical research on contemporary migration regimes. The undertheorization of these non-Western migration regimes within migration studies (and, more generally, in the social sciences) can be explained in part by the ongoing effects of the “three-worlds division” of social scientific labor, whereby non-Western societies were used as a foil against which the virtues of Western political systems and frameworks were tested and highlighted (Pletsch 1981). In other words the study of non-Western societies—both the “second world” (Eastern Europe, Eurasia, and Russia) and the “third world” (the developing countries of Africa, Asia, and Latin America)—relied solely on the area studies approach, largely isolated from mainstream theoretical and comparative debates in the social sciences.

This book thus attempts to overcome the limitations of the “three-worlds” approach, placing the Russian migration regime within the broader migration studies scholarship. Based on the empirical data presented herein, I have argued that the legal adaptation of migrant workers in Russia must be understood not only in terms of their knowledge of their legal status, their knowledge of immigration laws, and their legalization strategies through the formal legal system and state institutions; more importantly, these migrants must be considered in terms of their knowledge of street law, their ability to adapt to a weak rule of law and corrupt environment, and their capacity to navigate around laws and adjust to changing circumstances and situations. The migrant legal adaptation strategies explored in this book are not simply anomalies or abnormalities; they are institutionalized practices that emerged from this hybrid regime context. Thus, drawing on the legal pluralism perspective, this book provides a new framework, suggesting that the law and legal adaptation should be defined more broadly, beyond state immigration laws, policies, and institutions, and encompass informal legal orders.