Article

International Migration and Global Governance

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This article discusses: current trends in international migration, highlighting why global governance of international migration is needed; explores reasons why this form of global governance has lagged behind others; and reviews the steps that have been taken since the early twentieth century to foster greater international cooperation. In recent years, states appear more willing than before to discuss issues of mutual concern although actual decision-making on these issues remains elusive. The article concludes that although an international migration regime is unlikely to be in place any time soon, the prospects for progress in this area are better today than any time in the past century.

Introduction

On October 3 and 4, 2013, the General Assembly convened the High Level Dialogue (HLD) on Migration and Development (United Nations 2013). The HLD was the second of its kind, the first having taken place in 2006. While this first gathering led to a Chair's report, the second gathering resulted in a negotiated declaration adopted by the General Assembly. The declaration reinforced the need and benefits of international cooperation in addressing the complex issues raised by international migration. It also called on states to "promote and protect effectively the human rights and fundamental freedoms of all migrants, regardless of their migration status, especially those of women and children" (United Nations 2013). Furthermore, the declaration took a strong stance against xenophobia, violence against migrants, and human trafficking; calling on states to take action against these phenomena. The points made in the document were not in and of themselves particularly groundbreaking. Yet, the negotiated text marked a significant advance in the willingness and ability of governments to come to agreement within the structure of the United Nations on issues related to international migration.

Global governance of international migration has been much more controversial than has been the case regarding most other transnational issues. Most governments appear willing to discuss issues related to international migration, and even to consult in identifying effective policies and practices,

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Editor's Note: Susan Martin has done an admirable job in surveying the confusing landscape of immigration global governance. The fragmented nature of international governance appears to suggest that immigration global governance is what international relations experts call a 'Regime Complex'. Susan was not in a position to focus on the crisis of migration in Europe that has been so very recently in the news. The limitations to immigration global governance have been brought home as a result of the upheavals in the Middle East, especially Syria and in Africa, especially Eritrea. For an examination of Europe's crisis see: Jeanne Park, 2015, "Europe's Migration Crisis," Council on Foreign Relations (April 23, 2015) http://www.cfr.org/migration/europes-migration-crisis/p32874.

but they have not shown the desire or capacity to take common decisions or to coordinate migration policies.

It would be difficult to characterize the institutional response to voluntary migration as an international regime—"institutions possessing norms, decision rules, and procedures which facilitate a convergence of expectations" (Krasner 1983, p. 7). As Krasner explains, "in a world of sovereign states the basic function of regimes is to coordinate state behavior to achieve desired outcomes in particular issue-areas" (Krasner 1983, p. 7). The international migration system, with the exception of the refugee regime, has many norms (but few that are broadly accepted) and few decision rules or procedures that facilitate such convergence. None of the international conventions on labor migration have been ratified by a large number of countries. The UN Convention on the Rights of All Migrant Workers and Members of their Families (Migrant Workers Convention, MWC) is the most detailed in setting out norms, but only forty-seven States have ratified it. No major destination country of international migrants is among its State Parties. Further, unlike the regimes for movements of capital (International Monetary Fund, IMF) or goods and services (World Trade Organization, WTO), there is no single agency within the international system for establishing decision rules or procedures on international migration (again with the exception of refugees). Rather there is a complex network of intergovernmental organizations within and outside of the UN that focus on specific aspects of international migration (Betts 2011; Hansen, Koehler, and Money 2011; Koslowski 2011; Martin 2014).

This article discusses the following: current trends in international migration, highlighting the reasons that global governance of international migration is needed; exploring why this form of global governance has lagged behind others; briefly reviewing the steps that have been taken since the early twentieth century to foster greater international cooperation; discussing the current state of affairs; and finally concluding with recommendations regarding next steps in global international migration governance.

Current Trends in International Migration

International migration is one of the most salient issues on the twenty-first century global governance agenda. At present, there are more than 232 million international migrants (UN Population Division 2013). There is not a single country that is not affected by international migration, either as a source, transit, and/or receiving country. Some migrants come for temporary stays, planning to return home. Others are admitted for permanent residence or remain for lengthy periods regardless of their original intentions. Migrants come to work, study, join family, escape from violence and natural hazards, learn about new cultures and societies, and engage in a variety of other activities. Many support entire families and even communities through the remittances they send home as well as the financial, human, and social capital they bring back on return. Some come through legal channels and others irregularly, often via smuggling or trafficking operations. International migration is likely to grow in importance and volume in the years ahead. Some of the trends likely to contribute to this increase as well as the need for enhanced international cooperation to manage the impacts include:

- *Growing economic integration*—Multinational corporations want governments to facilitate the intercountry movements of their own personnel. When labor shortages appear in such sectors as information technology or seasonal agriculture, companies also seek to import foreign workers to fill these positions. Although the rules for admission of foreign workers are largely governed by national legislation, regional and international trade regimes, such as the North American Free Trade Agreement and the General Agreement on Trade in Services, now include provisions for admission of foreign workers.
- *Changing geopolitical and security interests*—that view international mobility as problematic even though necessary for commerce and economic growth. Balancing the competing interests of facilitation and security in an age of terrorism, human smuggling, and trafficking in persons poses challenges to all governments and requires cooperation in information sharing to prevent the movement of those who pose security threats while maintaining opportunities for legitimate forms of transnational mobility.
- *Increasing transnationalism*—that allows migrants to maintain strong ties in two or more countries. Money flows between immigrants and those who remain at home is an important aspect of transnationalism, as is the growing acceptance of multiple nationalities by source and destination countries.
- *Technological innovation*—that supports migration and facilitates cooperation. The communications, information, and transportation revolutions transforming society make travel and telecommunications cheaper and easier than ever before, increasing the likelihood that migrants can move far distances while still keeping in touch with families at home. At the same time, the communications revolution has transformed the ways in which governments manage migration and share information.
- *Climate change*—which in the future may prompt large-scale migration within and across borders if the scenarios of rising sea levels, intensified drought, and more frequent and violent storms significantly undermine lives and livelihoods. As the environment is a global issue that defies unilateral solutions, so too will be the potential migration that occurs if the impacts of climate change lead to worsened conditions for people throughout the world.

Why is International Cooperation Needed?

Managing such large and complex movements of people cannot be achieved through unilateral state action. By definition, migration involves at least two countries—source and destination—and, increasingly, implicates numerous other countries that serve as transit points, competitors for talent, trade partners, collaborators in combatting organized crime and movement of terrorists, and participants in the global financial system that moves remittances. Moreover, migration also involves transnational non-state actors that intersect with governments and each other in managing movements of people. Some of these have formal, sanctioned roles (e.g., multinational corporations, labor recruitment agencies, humanitarian aid organizations, trade unions), whereas others are engaged in illicit activities

(e.g., human smuggling and human trafficking organizations). Furthermore, international migration intersects with other transnational issues, including development, security, environmental change, conflict resolution, disaster risk reduction, human rights, and humanitarian action.

International cooperation is necessary to manage all of these complex relationships. Unilateral policies tend to ignore the interests of other actors. For example, efforts taken unilaterally to curb irregular migration often fail when other parties—smugglers or traffickers, for example—intervene. These other parties may facilitate or even coerce people to leave their home countries. Curbing the activities of these criminal networks is difficult under the best of circumstances but without the cooperation of countries from which migrants originate and transit, these activities generally are impossible to stop. The same can be said for other aspects of migration management.

Why is Global Governance so Difficult?

Despite the potential benefits of international cooperation, states have long been wary of putting international migration on the international agenda. As an issue that defines sovereignty—who enters and remains on a state's territory; who may eventually become citizens—international migration has called into question how to maintain national prerogatives and retain unilateral national action. Only in the area of refugee movements, and more recently human smuggling and trafficking in persons have a large number of governments agreed to binding international laws and norms.

Beyond reasons of sovereignty, there are a number of other impediments to achieving effective global governance of international migration. First, states are unclear what they want to achieve through their own immigration policies, let alone in cooperating bilaterally and multilaterally. Moreover, unlike the case of trade and capital flows, there is no consensus as to whether all parties to any immigration agreements would, on the whole, benefit from liberalization or curtailment of the movement of people. Even though the economics literature appears to indicate that migration has a positive impact on the world's economy (World Bank 2006), economics are not the only, or sometimes even the most important, factor in determining the effects of population movements. Social, fiscal, cultural, religious, and other impacts may be as salient to governments when weighing whether liberalizing or curtailing flows of people make sense.

Public opinion also is often ambivalent, at best, about immigration. Sometimes these publics are deeply divided as to whether migration is a problem or an opportunity (German Marshall Fund of the United States 2014). Interest groups in these countries tend to take more consistent stances in favor or opposed to enlarging or contracting immigration but they may cancel each other out in the public immigration debates. Moreover, even among those who see immigration as an opportunity, there are widespread concerns that governments are unable to manage it well. According to a recent transatlantic survey, when people are asked if they approved of their government's handling of immigration, "Sixty percent of Europeans said they disapproved; 71% of Americans polled disapproved as well" (German Marshall Fund of the United States 2014, p. 5). Despite frustration with national government migration policies, a majority of respondents in five

European Union (EU) countries (UK, France, Germany, Italy, and Spain) still preferred that policies be made at the national, not supranational levels, with support for EU decision-making higher in the Mediterranean countries and lower in the UK and Germany (German Marshall Fund of the United States 2011).

A final impediment to international cooperation is the difficulty in harmonizing policies that derive from varying national interests and processes. There is a natural asymmetry in the process of building an international migration governance system. Most destination countries are global or regional hegemons in relationship to the source countries from which people migrate. They are certainly wealthier and often they are also strategically and militarily dominant. In negotiations, the destinations have disproportionate power to define the terms by which their visas will be allocated. Even among countries with similar economies and political systems, harmonization of policies is often elusive. The EU has been working on such harmonization issues for decades and has still not achieved all of the policy coherence that it has sought.

Initiatives to Build Global Governance on International Migration

Although states remain reluctant to consider the establishment of an international migration regime, there have been numerous efforts during the past hundred years to develop norms, decision rules, and procedures to govern movements of people. As noted above, the refugee regime is the most highly developed system. In the aftermath of World War I, Fridjolt Nansen was appointed High Commissioner for Refugees by the League of Nations, with responsibility providing aid and finding solutions refugees created by the Russian revolution and Greek–Turkish population exchanges. Later the office of the High Commissioner was asked to assist refugees from fascist oppression. Although not always successful in finding solutions, especially for those seeking to flee Nazi Germany, a precedent was set that international obligations regarding refugees derived from the lack of protection by the persecuting state for its citizens (Martin 2014).

Post World War II

After World War II, and as the Cold War was emerging, governments adopted the 1951 Convention Relating to the Status of Refugees, which set out the obligations of states toward refugees. Almost 150 countries have ratified the convention or its 1967 Protocol. The principal obligation of states, *non-refoulement* (non-forcible return) to countries where refugees would face serious harm, is considered customary international law that applies to all countries, regardless of whether they ratified the convention or not.

Established in 1950 as the convention was being finalized, UN High Commissioner for Refugees (UNHCR) is recognized widely as the pre-eminent institution with responsibility for assisting and protecting refugees worldwide. Its Executive Committee, composed of governments, sets out the rules of operation for UNHCR, and makes recommendations and adopts guidelines regarding state behavior.

The post–World War I era also saw some progress in establishing norms, rules and procedures in the area of labor migration. The International Labor Organization (ILO) was founded as part of the terms of the Treaty of Versailles, with the idea that peace required economic stability, which in turn required jobs for the unemployed. As many of the unemployed were displaced populations, ILO had an important role with regard to labor migration but its mandate was much broader. It efforts at norm setting have been less successful than that of UNHCR. The 1949 ILO Convention and 1975 Convention on migrant workers have been ratified by forty-nine and twenty-three countries, respectively. The more recent MWC has been ratified by only forty-seven countries to date. ILO has a small staff devoted to labor migration issues but these remain a rather peripheral area for the organization.

By contrast, the Intergovernmental Committee on European Migration (ICEM), later known as International Organization for Migration (IOM), was established in 1951 with clear responsibilities for migration matters (IOM 2014). The organization was founded to make arrangements for the transport of migrants from countries in Europe with what was considered surplus population to overseas countries that would provide opportunities for orderly admissions (Perruchoud 1989). It now has a broader mission to facilitate the orderly and humane management of international migration (IOM 2014a). Its principal aims are to assist in "meeting the growing operational challenges of migration management; advance understanding of migration issues; encourage social and economic development through migration; and uphold the human dignity and well-being of migrants" (IOM 2014a).

The IOM is not part of the UN system although it follows many of the UN rules and often participates in UN country teams. It has 155 member states and 11 state observers. Many of its members see its principal strength to be the flexibility that comes from independence of the UN. It is often described by governments as a lean, efficient organization that has the capacity to respond quickly to the needs of states. In their view, the IOM is unencumbered by the human and labor rights conventions that are at the core of UNHCR and ILO's mandates. Although the IOM itself argues that protection of migrant rights is central to its mission, many migrant rights organizations criticize the IOM as being too state-centric in its operations, yielding to the agenda of governments with too little regard for the migrants themselves (Martin 2014).

Post–Cold War Developments

Given the relative weakness of the labor migration system, during the past twenty years, there have been a number of initiatives aimed at strengthening both normative and institutional responses to these movements as well as others, such as family reunification and student migration, which fall through the normative and institutional cracks. At the normative level, there has been recognition that binding labor migration conventions are not sufficiently ratified but governments might be more willing to sign on to nonbinding principles and guidelines, especially if these were developed by governments themselves.

Table 1 National, Regional, and International initiatives to foster international cooperation on migration

Initiative	Date
International Conference on Population and Development	1994
Berne Initiative	2001–2004
Doyle Report	2002
Global Commission on International Migration	2003–2005
Global Migration Group	2006
UN High Level Dialogue on Migration and Development (1)	2006
Global Forum on Migration and Development	2007+
UN High Level Dialogue on Migration and Development (2)	2013

At the institutional level, the focus has been on improving migration management at the national level and greater coordination and consultation at the regional and international levels (table 1).

Just as the end of World Wars I and II provided opportunities to reframe international arrangements on a range of transnational issues, so too did the Cold War's end. The first set of new initiatives focused on forced migration. With the end of the Cold War, many of the surrogate-Cold War conflicts in developing countries came to an end, raising new questions regarding return of refugees and displaced persons. The UNHCR, Sadako Ogata, referred to the early 1990s as ushering in a decade of repatriation. International conferences were called to find solutions for refugees in Central America, Southeast Asia, and elsewhere while the break-up of the Soviet Union raised the visibility of displacement within that territory and need for coordinated responses.

In 1994 came the first opportunity to consult on migration issues more broadly. Migration was an integral part of the Conference on Population and Development in Cairo and figured prominently in the Cairo PoA (Program of Action). The PoA devoted a full chapter to international migration, emphasizing the need "to encourage more cooperation and dialogue between countries of origin and countries of destination in order to maximize the benefits of migration to those concerned and increase the likelihood that migration has positive consequences for the development of both sending and receiving countries" (International Conference on Population and Development 2014, p. 106).

Despite the clear call for greater consultation in the PoA, there was disagreement among states regarding the benefits or value of convening a conference specifically on international migration and development. Many were reluctant to support global discussions of migration. In 1997, after consulting with member governments about the desirability of an international conference on migration, UN Secretary-General, Kofi Annan, found insufficient consensus to plan such a meeting. He concluded, "The disparate experiences of countries or subregions with regard to international migration suggest that, if practical solutions are to be found, they are likely to arise from the consideration of the particular situation of groups of countries sharing similar positions or concerns with the global international migration system. In the light of this, it may be expedient to pursue regional or subregional approaches whenever possible" (Annan 1997).

In fact, proliferations of regional and cross-regional consultative processes were already underway. Some of these included like-minded countries
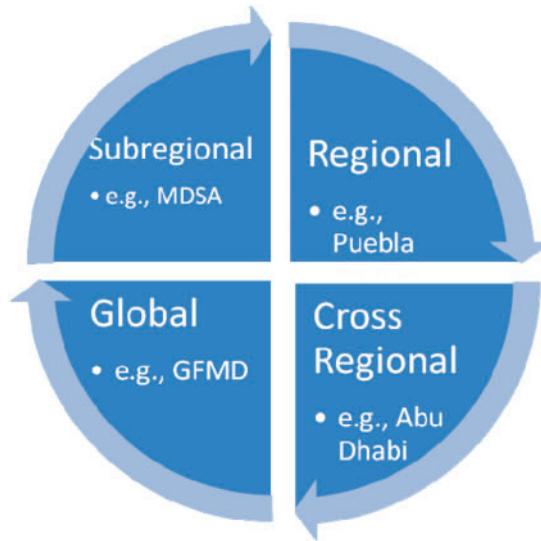
Figure 1 Mechanisms promoting cooperation

experiencing similar challenges as source or destination countries. Examples included the Colombo Process that focused on the overseas employment and contractual labor for countries of origins in Asia and the Intergovernmental Consultations on Migration, Refugees and Asylum that brought together destination countries in Europe, the Americas, and Oceania. Others were composed of both source and destination countries, such as the Regional Migration Conference (RCM), otherwise known as the Puebla Process, that includes Canada, the United States, Mexico, the Central American countries and Dominican Republic, and the Abu Dhabi Dialogue between the countries in the Gulf Cooperation Council and the members of the Colombo Process. Subregional consultative processes have been established in the southern cone and Andean regions of South America and the Migration Dialogue for Southern Africa (MDSA) and the Migration Dialogue for Western Africa (MDWA) (figure 1).

Yet, interest in establishing mechanisms for global dialogue on migration did not fade. Many governments found themselves participating in multiple regional or specialized consultative mechanisms. In 2001, the Swiss government launched the Berne Initiative as a States-owned consultative process with the goal of obtaining better management of migration at the global level through cooperation between States. The Swiss government funded a parallel process that resulted in the first comprehensive analysis of the source and scope of international law on migration (Aleinikoff and Chetail 2003). Through regional and international consultations, the Berne Initiative developed an International Agenda for Migration Management, which includes "common understandings for the management of international migration" and "Effective Practices for a Planned, Balanced, and Comprehensive Approach to Management of Migration" (IOM 2005). The common understandings briefly restated international law, but they went well beyond conventions to achieve consensus on principles and norms to undergird international cooperation. This framework recognized the benefits of legal avenues of migration and the integration of immigrants, but also

emphasized the need to reduce irregular migration and curb such abuses as smuggling and trafficking, as well as racism and xenophobia.

The effective practices focused on mechanisms to promote international cooperation. Specific policies to regulate entry and stay for purposes of work, family union, study, and humanitarian resettlement were recommended. Measures were also outlined to prevent irregular migration and manage return. Due attention was also paid to mechanisms to protect the rights of migrants and ensure that refugees would not be subject to refoulement. Programs to integrate immigrants and regulate naturalization and citizenship more effectively were presented. The practices also addressed the nexus between migration and such issues as development, trade, security, health, and the environment.

The strength of the Berne Initiative was the State-led consultative process that brought source, transit, and destination countries together to build consensus on common understandings and effective practices. Participating governments took pains to explain their positions and avoid criticizing other governments for holding different perspectives. The governmental participants generally worked in ministries that were directly responsible for migration matters, bringing expertise on the substance of the issues to the table. At the same time, the weakness of the Berne Initiative was its relative exclusion of non-state representatives. Although staff of international organizations, nongovernmental organizations, and academic experts participated in the international and regional meetings, the process was dominated—purposefully—by governments. There was little opportunity for external actors to voice their concerns or recommendations. This diminished some of the credibility that the Initiative might have gained through a more inclusive process.

While the Berne Initiative was considering modes of interstate cooperation, the UN was considering its own role in migration management. The Secretary-General asked his Special Adviser, Michael Doyle, Professor of International Relations at Columbia University, to convene a working group to present recommendations for future UN involvement in migration issues. In analyzing the international system, Doyle identified numerous agencies within and outside of the UN that worked consistently on migration issues. He concluded, however that "International migration is lightly institutionalized within the United Nations system . . . . No organization has the broad mandate that would allow the international community better to meet the challenges of internationalization by coordinating action, developing preventive strategies, and fostering constructive solutions" (Doyle 2004, p. 4). There were significant differences, however, in views as to which organization was best situated to take on such a mandate. Moreover, discussions were then taking place within the IOM governing board about the feasibility and desirability of that organization joining the UN system. As a result, the Doyle Report recommended that the Secretary-General establish a commission to make more specific recommendations about the assignment of long-term responsibilities for migration.

Following this recommendation, UN Secretary-General, Annan, asked Switzerland and Sweden—key participants in the Berne Initiative—to provide financial and technical support for what became the Global Commission for International Migration (GCIM). The GCIM was mandated to "provide the framework of a coherent, comprehensive and global response to the issue of international migration" (GCIM 2005, p. vii).

Cochaired by Jan Karlsson, former Swedish Minister for Development Co-operation, Migration and Asylum, and Mamphela Ramphele, former Managing Director, World Bank and Vice-Chancellor of the University of Cape Town in South Africa, the Commission brought together nineteen members from source, transit, and destination countries. All experienced leaders in their own countries and internationally, the Commissioners engaged in a consensus building initiative, holding regional consultations, engaging the expertise of researchers, consulting with the governments that formed a core group of supporters, and wrestling with many difficult issues which had no easy or ready solutions.

The Global Commission tried to tackle the institutional framework in which migration should be managed. It began where the principal responsibility rests—with the state. After a discussion of state sovereignty, the Commission urged states to establish coherent national migration policies based on agreed objectives and consistent with international law. The Commission then extolled the benefits of bilateral and regional cooperation before embarking on the thornier issues of international cooperation. It laid out a two-phase reform process. In the long term, the Commission concluded, a fundamental overhaul would be required to bring the disparate migration-related functions of the UN into a single organization. The Commission set out various options for this entity, but did not make recommendations on its mandate, size, or shape, a shortcoming that may have reflected an inability of the commissioners to reach consensus on the issue. One option would create a new agency for all migration issues, possibly by merging the IOM and the UNHCR. A second would designate a lead agency from among the existing UN agencies (such as UNHCR or the ILO). A third was to bring the IOM into the UN system to take a lead on issues of voluntary migration, leaving UNHCR as the key institution on forced movements.

The Commission gave equal weight to the first and third options, mentioning little about how the second would work. In explaining the benefits of merging the IOM and UNHCR, the Commission contended that the historical mandates of the two organizations do not reflect contemporary realities, in that the distinctions between voluntary and forced migrants have become blurred. There is overlap in their migration routes and a large number are in a gray zone between the two categories (for example, they may have left because of violence or persecution but chose a destination with better economic opportunities). The Commission was cognizant, however, that there would be serious barriers to a merger of UNHCR and the IOM, including the possible dilution in UNHCR's mandate for refugee protection, the difficulties in combining organizations with very different cultures and approaches (a rights-based protection approach for UNHCR and a service approach for the IOM), and the considerable negotiation that would be needed for a merger.

Incorporation of the IOM into the UN system as the global agency for economic migration had certain advantages from the Commission's perspective, but it also posed several barriers. The Commission noted that the IOM already assumes a number of the required functions of such an agency, but its mandate for protection of migrants is weak and member states and donor governments prefer its independence and flexibility.

The Commission avoided making a solid recommendation as to which option the UN should pursue. Rather, it recommended that they be "taken

forward at an appropriate moment in the context of the ongoing process of reforming the UN … " (GCIM 2005, p. 76). For the short term, GCIM recommended enhanced coordination among the existing UN international organizations with migration responsibilities, via an Inter-agency Global Migration Facility that would coordinate policy planning and analysis in areas that cross the mandates of several institutions. This new facility would also engage in capacity building efforts, consultations, data collection, and similar activities.

The Global Migration Group (GMG) appears to have taken on some of the Commission's recommended coordination activities (GMG 2014). It is an outgrowth of the Geneva Migration Group, which was in turn the outgrowth of a UNHCR/IOM consultative process. The Geneva Migration Group included the IOM, ILO, OHCHR, UNCTAD, UNHCR, and UNODC. According to participants, the Geneva Migration Group was relatively successful in providing a forum for the member agencies to share issues and concerns (Martin 2014). Agency heads generally participated in its meetings. As one respondent noted, the heads of agencies knew each other reasonably well and, being Geneva based, they were able to have face-to-face discussions. The Geneva group was not meant to be a decision-making body; rather it provided an opportunity for discussion of issues that crossed the mandates of the major agencies with policy and operational responsibilities in the migration area.

Following the GCIM report, the membership was expanded to include a broader range of UN agencies plus the World Bank. The Terms of Reference were updated and the coordination body was renamed the GMG as its membership was now worldwide. At present, the total GMG membership is eighteen agencies.

According to its Terms of Reference, the aim of the GMG is to "promote the wider application of all relevant international and regional instruments and norms relating to migration, and the provision of more coherent and stronger leadership to improve the overall effectiveness of the United Nations and the international community's policy and operational response to the opportunities and challenges presented by international migration" (GMG n.d.). The GMG, whose chairmanship rotates among member agencies, is primarily consultative in nature, with regular sharing of information its primary function. The heads of agencies are supposed to meet quarterly to guide the work of the GMG. The Terms of Reference detail a number of areas in which the GMG should focus, including establishing a comprehensive and coherent approach in the overall institutional response to international migration; providing direction and leadership on migration-related issues with governments and other stakeholders; promoting and exchanging information and expertise; reinforcing the human rights, labor rights, human security, and criminal justice dimensions of migration governance and management; and enhancing the efforts of individual states, regional bodies, regional and global consultative processes.

While the GMG provided opportunities for enhancing institutional coherence among international organizations, the need for a global mechanism to foster cooperation among states remained. Toward that end, General Assembly resolution 58/208 in December 2003 called for high-level dialogue on international migration and development within the context of the 2006 General Assembly. The tone for the HLD shifted subtly but markedly from that of the ICPD. Whereas the migration section of the Cairo PoA

called on governments to make the option of remaining in one's country viable for everyone" (International Conference on Population and Development 2014), the HLD preparations recognized the reality of international migration and sought to explore ways it might speed up development.

To assist in the preparation of the HLD, Peter Sutherland, the former Director General of the WTO was appointed in January 2006 as Special Representative of the Secretary General of the United Nations on International Migration and Development. He has since played an extremely important role in encouraging states to cooperate, bringing issues to their attention, and cajoling the members of the GMG to support the effort.

The HLD was to include four plenary meetings for statements by leaders of participating States, and four interactive roundtables. The four roundtables were organized around the following themes: (1) the effects of international migration on economic and social development; (2) measures to ensure respect for and protection of the human rights of all migrants and to prevent and combat smuggling of migrants and trafficking in persons; (3) multidimensional aspects of international migration and development, including remittances; and (4) promoting partnerships and capacity building and the sharing of best practices at all levels. Participants included high-level state representatives, officials from UN agencies and programs, the Executive Secretaries of two regional commissions, the Director-General of the IOM, and representatives of various nongovernmental organizations, civil society groups, and the private sector.

In plenary statements, states generally acknowledged that the transnational nature of migration required transnational coordination. The general tone was to encourage more international cooperation, especially in fighting trafficking, facilitating remittances, and combating brain drain. As the Mexican representative asserted, "No country can address migration alone." Most differences in view were on procedural issues — that is, on how to move the debate forward. One group emphasized the need for, in the words of the Irish representative: "the establishment of . . . a forum which would be nonbureaucratic, open-ended, state owned, consultative and non-decision making and would provide a framework for continued dialogue on challenges which face all our societies in the areas of migration and development, as quoted in (Martin, Martin, and Cross 2007)." Another group favored continuing the dialogue at the global level, but preferred that it be conducted more formally, within the United Nations. Countries represented by the Group of seventy-seven and China took this position, noting that the dialogue "is too important not to have it within the United Nations" (Martin, Martin, and Cross 2007).

There was some opposition to any forum, whether independent or within the UN system. Such opposition came from a distinct minority, but nevertheless a very important minority of states that included the U.S. and Australia. Their statements warned of duplication of efforts and expressed a preference for follow-up at the regional level. According to the American delegate, "We are not interested in grand and elaborate global dialogues simply because we have seen the inherent weakness that results from their size and scope. They lumber under the great weight of rounds and rounds of conversation, far removed from immediate problems and realistic solutions" (Martin, Martin, and Cross 2007).

Global Forum on Migration and Development

The Secretary-General of the UN concluded, "Clearly, there is no consensus on making international migration the subject of formal, norm-setting negotiations. There is little appetite for any norm-setting intergovernmental commission on migration" (Annan 2006). With no agreement on continuing the discussions within the UN, the default outcome of the HLD was a more informal process that was designed to be state owned. The Belgian government announced at the HLD that it would be hosting a GFMD in 2007 and invited interested governments to participate. More than 160 governments accepted the invitation.

The GFMD subsequently proceeded as a State-led process. It has two principal components. The core of the GFMD is a meeting of government officials, which relies primarily on the governments themselves to plan and execute. The second part is a gathering of nongovernmental representatives, called the Civil Society Days (CSD). The CSD precedes the government meeting with the aim of contributing recommendations on the issues to be discussed by the officials. A common space provides the opportunity for the two groups to meet jointly. Representatives of international organizations participate in both parts of the Forum as observers. For brevity, the government meeting will be described as the GFMD, the nongovernmental as CSD and the overall process as GFMD/CSDs.

The past, present, and future countries that host the GFMD form a troika in preparing for the annual government meeting. The host country assumes responsibility for the implementation of each Forum, chairing all preparatory meetings and the Forum itself. The government process relies on a Steering Group, composed of governments that are actively engaged in the preparations. It is balanced between developed and developing countries and includes representatives from all regions. It meets at regular intervals to provide advice on all "relevant policy issues pertaining to the smooth running of the Forum process." The Steering Group provides substantive input into the agenda of the GFMD, the various roundtables, and the materials disseminated to participants. The special representative of the UN Secretary-General on international migration and development is invited to participate in Steering Committee meetings but is not a member of the group. There is also a "Friends of the Forum" that is open to all state members. Specialized agencies of the UN and other international organizations participate as observers as do representatives of the CSD. The Friends of the Forum provide an opportunity to keep potential participants in the Forum up to date on preparations and to receive input on the substance of the deliberations.

The CSD has an international advisory committee that helps guide the preparations. The participants are generally drawn from five sectors: development organizations, migrant rights and diaspora groups, trade unions, private sector employers, and academia. Priority is given to organizations that are migrant or diaspora-led. The CSD meetings generally discuss the same issues that will be on the GFMD agenda but the organizers have added or substituted topics that they believe should garner more attention from governments.

The CSD/GFMD also provide space for representatives of the People's Global Action on Migration, Development and Human Rights—a parallel

process that permits larger numbers to gather in workshops to discuss a range of migration issues—to present their findings to the delegates.

Much of the work of the GFMD/CSD is organized around roundtables. Roundtables focus on a wide range of issues that link migration and development. Some issues come up for repeat discussion while others tend to be raised because of the host country's particular interests or because of such pressing events as the global financial crisis that could not be ignored. Issues addressed across roundtables in different venues include human capital development and labor mobility; remittances and other diaspora resources; rights of migrants; options to increase legal admission options and reduce irregular migration; and integration and reintegration of migrants. In addition, roundtables have focused on emerging issues, such as the impact of the financial crisis on migration patterns, migrant well-being, migrants in countries in crisis, and environmental change and migration. A recurring area of discussion at all GFMDs has been enhancing policy and institutional coherence and promoting partnerships for migration and development. Working papers are prepared for each roundtable session, and a number of specialized surveys of government policies and practices have been undertaken to support the discussions. Generally, a developed and developing country cochair each of the roundtable sessions, overseeing preparations for the discussions that would take place when all of the governments are present at the GFMD. The roundtable preparation process, by this author's observation, serves a confidence building role in its own right as governments bring different perspectives into the discussions about the papers while weighing which inputs are sufficiently evidence-based to merit inclusion in the final paper.

The continued enthusiasm of the participating governments, as witnessed by the successful completion of seven GFMD sessions, the establishment of a small support structure, and working groups that have allowed for discussions between formal annual meetings, indicates that many countries find it a useful way to exchange information, form partnerships and tackle difficult issues. Yet, the GFMD is by no means at a point where it serves the regime functions that Krasner outlined: despite the discussions of migrant rights, it has not attempted to set out norms, nor would the member states accept that as a role of the GFMD. The GFMD is not a mechanism to build agreement on decision rules to guide state-to-state negotiations over migration policy. Nor is the Global Forum set up to address institutional gaps or duplications within international organizations. It also has a narrow focus on the linkages between migration and development although its mandate has stretched to include discussions on other issues, including irregular migration. In effect, the GFMD has been successful precisely because it has no decision-making authority. This is not to say that there is no follow-up to the recommendations that come out of the GFMD, but their implementation depends solely on the interest of individual countries.

The 2013 HLD strongly endorsed the GFMD as a model for consultation and dialogue on migration issues. In his opening remarks, the Secretary-General detailed the progress that had been made since the 2006 HLD, concluding "This progress has been made possible by the climate of trust that we established in the Global Forum on Migration and Development" (Ki-Moon 2013b). He further referred to the GFMD as "indispensable" in his report on migration and development, issued in the context of the HLD (Ki-Moon 2013a). The declaration adopted by governments echoed these

sentiments in acknowledging that "the Global Forum on Migration and Development has proved to be a valuable forum for holding frank and open discussions, and that it has helped to build trust among participating stakeholders through the exchange of experiences and good practices, and by virtue of its voluntary, informal State-led character" (United Nations 2013). Tobias Billström, Minister for Immigration and Asylum Policy in Sweden, which would chair the GMFD in 2014, reiterated the importance of the GFMD as "the only global platform for frank, open and trust-building exchange of experiences and good practices" (Billström 2013). Sweden had already ensured that the GFMD would not be superseded by the UN processes in pledging to hold the meeting in Stockholm regardless of the outcome of the HLD. Turkey's assumption of the chair in 2015 and Bangladesh's pledge to hold the GFMD in 2016 further strengthened the future of the consultative process.

The Way Forward

Whether the current arrangements will result in a stronger international migration regime is still debatable. The current regime consists of a weak normative framework encapsulated in a series of international conventions with relatively few ratifications and these ratifications fail to include any of the major destination countries. The international migration regime also includes a new interagency coordination mechanism in the GMG, which brings together institutions with varying levels of interest and involvement in migration but has no authority over the activities of its members. Finally, the regime includes state-owned consultative process that explicitly refrains from binding decision making.

The institutional barriers to a more effective regime may be more easily overcome than the continuing weakness in the norms and principles. I am persuaded that the IOM has the strongest capability to take on the range of activities needed in both managing migration and providing states with a platform to increase international cooperation. The IOM already hosts the International Migration Dialogue, which could encompass a larger number of states, particularly if the IOM were to become a part of, or more closely affiliated with the UN. The way to do this probably is to make the IOM an independent specialized agency of the UN. It already works closely with the UNHCR, which, in my view, should retain its pre-eminent position as the lead agency on refugee issues. I would also suggest that the UNHCR expand its mission to undertake protection of other vulnerable displaced populations—see (Martin 2014) for reforms to UNHCR's mandate that would improve protection of displaced persons.

IOM's work on migration management corresponds to the agenda of many states as do its crosscutting activities on the promotion of international migration law, policy debate and guidance, protection of migrants' rights, migration health and the gender dimension of migration (IOM 2014b). The IOM also serves as secretariat to many of the regional consultation mechanisms and houses the light support structure for the GFMD. Establishing a more formalized secretariat within the IOM might help provide continuity and the expertise needed to ensure that the best available information is brought to the forum. The GFMD would not lose its state-owned character but preparations would be embedded in an organization

that could provide technical assistance, programs, and other resources needed to carry out agreed-upon plans of action, at least on a pilot basis. With success, such implementation also could lead to standard-setting and negotiated agreements, which governments now shy away from but may in the future see as mutually beneficial. It might also allow a broadening of GFMD's mandate to cover important issues beyond migration and development—the security implications of international migration for instance.

There are three major challenges that the IOM would have to overcome if it were to become the focal point for a new global regime on voluntary migration. The first challenge is the lack of a clear set of norms and decision rules. The IOM's mission statement appears to provide such a framework ("IOM is committed to the principle that humane and orderly migration benefits migrants and society") but it also acknowledges that IOM has no legal protection mandate for migrants, as compared to UNHCR's for refugees (IOM 2014a). IOM's Constitution references a specific list of purposes and functions of the organization, but none of the items relates to a responsibility towards migrants, stating rather a range of services that IOM would provide to states. Tying the IOM to a specific Convention is not needed to establish a mandate for protection of migrant rights; the IOM's Constitution, in my view, would need to be amended to establish a legal obligation for protection that would be as clear as its current mandate to assist states in their management of migration. Such a statement would not be in contradiction with a principle already established in the Constitution that the IOM "shall recognize the fact that control of standards of admission and the number of immigrants to be admitted are matters within the domestic jurisdiction of States" (IOM 1951, revised 2013). Rather, such a statement would recognize that once having entered a state, migrants have certain rights that must be protected. It would also give greater substance to the important and often dangerous protection work that the IOM already does, such as the rescue and evacuation of migrants in countries that fall into crises resulting from conflict and acute natural hazards.

A second barrier pertains to the way in which the IOM receives its financial resources from states. While state members provide for administrative costs on the basis of agreed upon assessments, the operational budget comes mostly from voluntary, earmarked allocations for specific programs and activities. Only a small portion of the operational funding is available for discretionary activities, mostly derived from the indirect costs associated with earmarked resources. Two problems arise from this funding process. First, many of the "regime-building" functions of the IOM—for example, its policy, research, and legal analysis units—are largely funded as a discretionary activity, as compared to its service functions, which are generally funded through earmarks. This creates a vicious cycle. As long as states are reluctant to see an international migration regime develop, the states are unlikely to earmark funds for this purpose, restricting IOM's activities. This in turn limits the ability of the organization to demonstrate the value of having a more robust international migration regime, which reinforces state reluctance.

The third and most serious barrier to the IOM becoming a focal point for a new global regime on voluntary migration is the reluctance of key states to see the IOM more closely tied to the UN or to an evolving international migration regime. The IOM is often described by government representatives as a lean, efficient organization that has the capacity to respond quickly

to the needs of states. In effect, its current Constitution and focus is what states see as its strength. But the Constitution is also the basis of criticism by many civil society organizations that see the IOM as undertaking the bidding of states with too little regard for the rights of migrants. For the IOM to become the principal focus of international institutional responsibility on migration management, it would need to better balance its dual responsibilities—toward states and toward migrants. Whether states will permit this to happen will depend largely on the discussions taking place in regional and global forums to determine what forms of interstate cooperation are mutually beneficial to source and destination countries, as well as to the migrants themselves. If these forums lead to the conclusion that a more robust international regime would be mutually beneficial, the reforms to the IOM's mission and mandate would help achieve that goal.

Close working relationships between the IOM and UNHCR would clearly be needed in any new international migration regime. The distinctions between voluntary and forced migration are by no means inviolate. What is now referred to as mixed migration, or more broadly, the intersection between voluntary and forced movements, requires mechanisms to address the complexities inherent in large-scale mobility.

Increasing the IOM capacity to help states manage voluntary migration should also not be seen as a signal to other international organizations to lessen their activities in this area or reduce their coordination efforts. With its century of experience and tripartite governance structure, the ILO should continue to play an important role in bringing governments, employers and trade unions together in forging new approaches to labor migration and protecting the rights of migrant workers. To engage in such activities, the ILO's migration-related funding and staffing would need to be enhanced. The same observation can be made about the other members of the GMG, many of which have very few staff members whose primary responsibility relates to the relationship between migration and the mission of their agency.

Moreover, the nexus between migration and such areas as development, labor, peacemaking/peace-building, security, trade, and capital flows will require coordination between the IOM and UNHCR, the institutions with specialized expertise on human mobility, and those responsible for these other policy issues. Thus, the GMG would continue to play a role in ensuring that migration issues remain on the agenda of the development and security agencies already involved. A more coherent regime for managing migration and protecting the rights of migrants would, however, allow such coordination to take place among policy equals.

Encouraging states to accept a stronger normative framework is even more problematic. Years of negotiations on the MWC yielded a document that few states will ratify. With no major destination country as a party, the Convention does not represent a framework for protection of migrant rights. Yet, many of the Convention's provisions are already in much more widely ratified legal instruments, indicating that state reluctance may be related to optics as much as substance. Binding a country to a convention that explicitly specifies that all migrants, including those in irregular status, have certain rights appears be more than many governments are willing to undertake.

In the absence of greater willingness of countries to ratify international conventions setting out the rights of migrants, an alternative approach is to build greater state acceptance of a set of basic norms that address issues at

the core of migrant vulnerability to abuses—what Alexander Aleinikoff, (former Dean of the Georgetown University Law Center and current Deputy UNHCR) has called an International Bill of Rights for Migrants (GU International Migrants Bill of Rights Initiative 2010). Gest (2010, p. 646) suggests that states are more likely to accept limitations on their sovereignty when the focus is on fundamental rights in other words "minimum rights that afford migrants equal opportunity to subsist, succeed, and participate in their new society" as opposed to "those entitlements which benefit individuals and families beyond this baseline minimum–these are *supplemental*. A migrants' rights regime suggests that fundamental rights should be extended to all people, regardless of citizenship, by virtue of their situated coexistence, codependency, and co-humanity." To gain adherence to this concept, Gest (2010, p. 647) recommends positing these rights "as a selection of fundamental entitlements that are excerpted from the regimes to which states are already subject."

This approach is similar to the one taken in development of the Guiding Principles on Internal Displacement. The value of the these guidelines is they do not constitute a binding instrument such as a treaty or convention but they reflect and are consistent with existing international law and have become a standard for developing national practice. There are thirty clearly articulated principles that fall into five areas: general principles that set the basic framework; principles related to protection from displacement, which set out the rights that people have to remain within their own home communities; principles related to protection during displacement, which set out the basic rights of those who must relocate; principles related to humanitarian assistance, which set out the obligations of states and the broader international community; and finally principles related to return, resettlement and reintegration.

Although these principles are not binding international law, the Guiding Principles on Internal Displacement have stimulated the development of domestic law in many countries with large numbers of internally displaced persons and a regional convention in Africa. Some of the countries that have adopted laws based on the Guiding Principles have not implemented the provisions in the intended spirit but they have become important in galvanizing the means by which the internally displaced and human rights groups have pressed in courts and elsewhere for improvements in treatment. A similar process may well be highly advantageous for international migrants as well.

Conclusion

After almost hundred years of efforts to increase international cooperation on international movements of people, there has been only modest success in developing norms, principles, and decision rules, with the notable exception of refugees. Yet, in the past two decades, progress has been made in the establishment of forums through which greater trust and consultation has been able to take place. First, at the bilateral and regional level, and now increasingly at the global level, states appear willing to discuss issues of mutual concern although actual decision-making on these issues remains elusive. More promising, however, is that even the most reluctant governments, such as the United States, are not only at the tables at which the

discussions of international cooperation take place, they are taking leadership roles in setting the agenda. Although an international migration regime is unlikely to be in place any time soon, the prospects for progress in this area are better today than any time in the past century.

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