The governance of international migration: mechanisms, processes and institutions

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Introduction

Ten years ago, the Programme of Action formulated for the 1994 International Conference on Population and Development (ICPD) included a chapter on international migration. Balanced, realistic and far-reaching, it was endorsed by 160 governments and then more or less ignored in practice. Repeated calls for an UN conference dedicated to migration were rejected by the major migrant-receiving countries (many of which are also the major funders of UN conferences), who feared a bruising North-South confrontation over issues of access to their territories and labor markets. Despite the growing concern that migration was escaping the control of even the most capable governments, the sensible recommendations of the ICPD fell on deaf ears. Global governance of international migration, as in a number of other policy arenas (the international flow of information, development, environmental protection) was seen as an intrusion on national sovereignty.

For most of the decade of the 1990s, international migration, excepting only refugee flows, was all but invisible on the global policy agenda. A treaty on the rights of migrant workers was passed by the General Assembly in 1990 but languished without the 20 ratifications needed to come into force. No UN agency had migrants or migration processes as priorities —not even the International Labor Organization, with its historic mandate for the protection of migrant workers going back to 1919. The International Organization for Migration (IOM), outside the UN system, was held to a fairly narrow portfolio of service-provision by its member states.

All this changed quite suddenly around the turn of the millennium. Suddenly, migration was everywhere one looked in the UN system and beyond. Between 1999 and 2004 the following actions were initiated:

- The 53-member UN Commission on Human Rights appointed a Special Rapporteur on the Human Rights of Migrants.
- The Division for the Advancement of Women decided to make migration the theme of its 10-year review of the Beijing World Conference on Women and Development.
- The UN High Commissioner for Refugees (UNHCR), normally strict in its focus on refugees, put the 'asylum-migration nexus' on its priority 'Convention Plus' agenda.
- The ILO made migration the theme of the 2004 International Labor Conference.
- The Migrant Workers Convention drew its 20th ratification and came into force in July 2003, triggering the creation of a treaty monitoring body serviced by the Office of the UN High Commissioner for Human Rights.
- The Doha round of trade negotiations under the World Trade Organization (WTO) took up the issue of trade in services, which in many cases involves the movement of the human providers of those services—'natural persons' in trade argot—and found itself in the thick of the migration debate.
- The Bretton Woods institutions (especially the World Bank) and several of the multilateral regional development banks, discovered that migrant remittances

surpassed the world total of official development assistance and started to gear up a research effort to suggest how these flows of funds might have a stronger impact on development.

- The UN General Assembly decided to hold a High Level Dialogue on migration and development in a special session in 2006.

The IOM, under new leadership, began to expand its range into international migration management. At the 50th anniversary meeting of its governing council in 2001, the IOM established an 'International Dialogue on Migration' through which it aimed 'to contribute to a better understanding of migration and to strengthen cooperative mechanisms between governments to comprehensively and effectively address migration issues. ' It also created a Migration Policy and Research Program to strengthen its capacity in migration management. At the 88th session of it governing Council in 2004, it articulated an ambitious set of revised objectives for the organization which would take it into a much broader range of activities if its member states would provide the endorsement—and, more importantly, the resources—to realize these objectives.

In this same period, a number of initiatives sprang up outside the UN system. Of particular note are the Berne Initiative, started by the Swiss government in 2001, and the Hague Process, launched by the Society for International Development of the Netherlands in 1999. Berne fostered a far-reaching discussion among states on migration management, while the Hague process drew in a wide range of civil society actors to a positive debate on migration and refugee movements.

In part triggering and in part responding to this storm of interest in international migration policy, UN Secretary-General Kofi Annan included, in his 2002 proposals for strengthening the United Nations Organization, the need to 'to take a more comprehensive look at the various dimensions of the migration issue…'[1] To that end, he established a working group on migration in his office in 2002, convened by Assistant Secretary-General Michael Doyle. Its mandate was to explore how the UN could provide leadership and a framework for cooperation among its member states on this increasingly high-profile and often divisive issue. The report emanating from that group, which became known as the 'Doyle Report', suggested that further and deeper analysis of the question was urgently needed. The Secretary-General called for the creation of an independent Commission to 'make recommendations on how to strengthen national, regional, and global governance of international migration'. This paper is part of the effort of the Global Commission on International Migration (GCIM) to address that element of its mandate.

The paper discusses two contrasting concepts of international governance and how they apply to international migration. The roles of the major international institutions and programs involved in international migration are summarized. The paper then analyzes the value and likely impact of global processes that are currently underway in various international institutions and ad hoc forums. It goes on to assess some of the specific proposals for new institutional arrangements for governance of international migration.

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[1] Report of the Secretary-General, A/57/387, 2002.

Taking account of the current and evolving legal and normative frameworks, it also presents some policy options for governance of international migration, taking into account their political viability, financial realism, and the capacity of states to implement them. It then offers some broader conclusions about howto think about the governance of international migration.

What kind of international governance of migration?

Global governance can be either top-down or bottom-up. Supra-national governance comes from the top: governments cede some part of their sovereignty to a higher level of authority, which 'governs' their actions in a manner analogous to the way that a federal authority governs its component states, provinces, *lander* or cantons.
That is, the supranational authority makes rules, constrains actions, monitors compliance and sanctions defiance. The principle of subsidiarity (decisions are to be made at the lowest level possible and the highest level necessary to be effective) may limit its scope, but within the acknowledged areas of its authority, the supranational institution trumps national sovereignty.

National governments have been extremely reluctant to relinquish formal regulatory authority over migration to a global supra-national authority, or even to discuss common principles for international cooperation beyond a (usually) fairly low common denominator at the regional level (the EU, as indicated below, being an exception). This unwillingness is ironic, in that states have never had full sovereign control over migration and have lost much of what little they had in the era of globalization. Employers, smugglers, migrant networks, agents, and individual migrants continue to defy national policies on admission, egress, and employment as well as length and terms of stay. Governments have won many battles against unauthorized migration, but they are, by and large, losing the war for control over who enters, leaves, and remains in their territories.

Despite states' reluctance, to many observers the global nature of migration forces and the inability of national policies to manage them effectively cry out for a global authority. Professor Jagdish Bhagwati of Columbia University has long argued on economic grounds for the creation of a World Migration Organization analogous to the World Trade Organization. [2] The late legal scholar Arthur Helton echoed his view on normative grounds, writing that 'the fragmented and uncoordinated policy environment relating to international population movements feed friction and fears…. Achieving a comprehensive policy relating to the international movement of people would require new international institutional arrangements capable of serious research leading to the generation of norms in this field—a World Migration Organisation…. The ultimate objective for a WMO would be to make and arbitrate global migration policy. '[3]

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[2] See Jagdish N. Bhagwati, 'Borders beyond Control', <u>Foreign Affairs,</u> Jan-Feb. 2003.
[3] Arthur C. Helton, 'People movement: the need for a World Migration Organisation', posted on <u>www. openDemocracy. net</u>, dated May 1, 2003.

It is difficult to see what would compel states to create a supranational authority to actually govern international migration in the foreseeable future. The small number of states that have been willing to ratify international legal instruments on migration speaks to the lack of consensus on a normative level. [4] The two ILO Conventions that deal explicitly with migrant workers, No. 97 of 1949 and No. 143 of 1975, have been ratified by 42 states and 18 states, respectively. The UN Convention on the Rights of Migrant Workers and their Families, which took 13 years to come into force, still has only 25 ratifications as of late 2004. Few states are willing to submit themselves to the requirements of the Treaties, including the rather cumbersome administrative and reporting requirements, which can be a particular burden to states with relatively weak administrative capacity. The normative content of the treaties is not necessarily the primary obstacle to all states—indeed, many major receiving countries in the West argue that migrants have stronger protections under their domestic laws than the treaties offer.

The substantial political obstacles to supra-national governance of migration are significant. Immigration, including *particularly* unauthorized immigration, plays an important role in maintaining competitiveness and labor-market flexibility; precisely because the unauthorized are not protected, they form a labor reserve that can be expelled from the labor market with fewer political and economic repercussions than when citizens lose their jobs. Promoting the rights of foreigners is in many countries unpopular with the citizen electorate. Even where the need for greater cooperation and coordination among states is acknowledged, supra-national organization is not seen by many states as the preferred avenue of international governance. An alternative to the top-down model is more promising.

International governance from the bottom up stitches together the common threads of governmental responsibilities for problem-solving purposes, often on the basis of intensive interactions among government officials (bureaucrats, regulators, legislators, judges) with similar functional portfolios. Anne Marie Slaughter of Princeton University describes these 'policy networks' as the building blocks of world order for the age of globalization. In this kind of governance, she says, 'the same officials who are judging, regulating, and legislating domestically are also reaching out to their foreign counterparts to help address the governance problems that arise when national actors and issue spill beyond their borders. Global governance, from this perspective, is not a matter of regulating states the way states regulate their citizens, but rather of addressing the issues and resolving the problems that result from citizens going global—from crime to commerce to civic engagement. '[5] Formal, set, legally binding negotiated agreements are not the *modus operandi* of government networks. Rather, government officials continuously devise (and may revise) terms of agreement and are themselves responsible for implementing them. Coordinated solutions to common problems are sought through

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[4] An excellent analysis of the obstacles to ratification of the UN International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families can be found in Antoine Pecoud and Paul de Guchteneire (UNESCO), 'Migration, human rights and the United Nations: an investigation into the low ratification record of the UN Migrant Workers Convention', Global Migration Perspectives, No. 3, October 2004, Global Commission on International Migration at www. gcim. org.

[5] Anne Marie Slaughter, <u>A New World Order</u> (Princeton: Princeton University Press: Princeton, NJ, 2004), p. 16.

constant exchange of information, the development of best practices, and the formulation of non-binding codes of conduct.

Slaughter points out that well-functioning government networks may decide to press for more formal, supranational organization, and that 'particular types of international organizations—secretariats, commissions, agencies—can evolve or be created largely to facilitate the work of horizontal government networks by collecting and disseminating needed information and performing other coordinating functions'. [6]

The European Union offers an example of government networks calling forth, over time, supranational institutions with legislative, judicial and executive responsibilities. The European Commission in the early days of the European Communities was chiefly a secretariat to intergovernmental meetings. As it grew in stature because of its expertise, both technical and political, the member states gave the Commission a seat at the negotiating table; then a right to co-initiate legislation; then the right of sole initiative. When the EU moves to majority voting, the Commission will behave very much like a supranational body. Nonetheless, ultimate decision-making power will still reside in the Council of Ministers, made up of heads of national governments, and in the functional Councils made up of ministers with corresponding portfolios. The EU is a highly evolved government network, in Slaughter's terms, and the European Commission has developed authority by serving its needs—not least in the development of a common migration and asylum policy.

Freedom of movement for workers from the member states within the EU was from the beginning a basic principle of the Common Market, established in the Treaty of Rome in 1957. Implemented gradually, it was fully realized for the original six member states by 1968. Members that joined later had to go through a transition period to reach the same privilege. Since 1993, freedom of movement has applied to all citizens, not only workers, for the 15 states that were members prior to 2004. Eight of the 10 new accession states (excepting Cyprus and Malta) will also go through a period of transition, to be reviewed in 2006. Until that time, access to the labor markets of the other member states will be regulated by national policies, including bilateral agreements. Free movement is expected to be in effect for workers of all the 25 by 2011.

Removal of internal border controls in the EU began in 1985 with the adoption of the Schengen Agreement. Controls had been removed among 13 of the 15 members (excepting Ireland and the United Kingdom) by 2001. With the removal of internal border controls, control of the EU external borders assumed great importance, as did the harmonization of member states' immigration and asylum policies; with free movement within the continental EU, anyone admitted to one of the 13 states would have easy access—physically if not legally—to all of the others. Thus, in 1999 at the EU Summit in Tampere, Finland, EU governments agreed to work toward a common policy on immigration and asylum, to be in place by 2004. The program called for greater attention to external border controls, as well as a higher level of cooperation with immigrants' countries of origin. While it may be said that the Tampere program has not been fully

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[6] Ibid. p. 153.

realized by the end of 2004, considerable progress has been made. At the end of 2004, under the Dutch Presidency of the EU, member states were ready to adopt a staement of principles concerning migration.

The EU experience illustrates the power of government policy networks to expand the area of consensus over time through a functional approach to migration policy. A declaration of principles concerning migration was more than 35 years in coming after the Treaty of Rome; in the meantime, a capacity to solve real problems, while allowing members to opt out of provisions with which they were uncomfortable (as, for example, Britain and Ireland have done with the removal of internal border controls) has produced a high level of joint governance of migration issues. The member states have come to rely on the European Commission to formulate the solutions to problems, by drafting a number of directives which, once accepted by the Council, are binding on the member states. With respect to non-EU citizens (and citizens of eight of the accession countries for the time being), however, national governments continue to determine the levels of admissions and length of stay. Rather than starting from principles and trying to wrest sovereignty from reluctant governments through binding agreements, the EU migration policy has taken shape gradually in response to felt needs and converging objectives.

It is a cliché now to say that international migration has surpassed the ability of any one country to manage it unilaterally. This supplies a general motive for international cooperation around migration issues, but a broad consensus on the purposes of such cooperation has yet to coalesce. Discussions about international governance of migration thus have tended to focus on institutional architecture for cooperation and/or common underlying principles. In the absence of consensus, these are unproductive—or at least unnecessarily difficult—starting points. Insistence on the articulation of common principles is difficult when the interests of states in migration processes differ so starkly, threatening a very low common denominator or hollow commitments that will not be implemented in national practice. The problem is a common one in the search for ways to manage global issues. [7] Whalley and Zissimos, writing of the potential for a World Environment Organization, lament 'an elusive search for principles to guide the global regime…rather than the search for operational mechanisms that actually improve environmental quality…'[8]

In terms of architecture, international migration is truly a case where form must follow function—and states have not yet agreed what the function of institutional arrangements should be. What kind of an institution is needed to govern international migration? A negotiating body like the WTO? A standard-setting body like the ILO? A regulatory agency like the International Broadcasting Union? An operational agency like the WHO? A monitoring office like the Commission on Human Rights? A supervisory body like UNHCR? An expert resource like UNAIDS? A service provider? A treaty oversight

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[7] See P. J. Simmons and Chantal de Jong Oudraat, <u>Managing Global Issues</u> (Washington, DC: Brookings Institution Press, 2002), passim.

[8] John Whalley and Ben Zissimos, ' A World Environment Organisation?', CSGR Working paper No. 63/00 (November 2002), Center for the Study of Globalisation and Regionalisation, University of Warwick, at www2. warwick. ac. uk/fac/soc/csgr/research.

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body? The implications of the choice are profound: a framework for inter-state negotiation will look very different from a technical assistance agency.

The search for enhanced multilateral governance of international migration should begin with a consideration of what functions it would need to carry out for the good of countries of origin, destination and transit and for migrants themselves. The platform for the development of international governance of migration will have to begin with a limited number of widely agreed functions that respond to felt needs of states and address real issues in the societies affected by migration. A short list to begin with would likely include the following nine functions:

- Data collection, dissemination and analysis; monitoring of trends
- Policy research and development
- Technical assistance and training
- Provision of services
- A platform for discussion
- Support for negotiations
- Anti-trafficking initiatives
- Promotion of migration-related development initiatives
- Coordination

A number of important functions, in particular those relating to protection of migrants' rights, standard setting, immigration law enforcement and border control, compulsory returns, and facilitation of migration are not included in this list of starting points because the divisions among states on those issues are too pronounced for them to act as a basis for developing habits of cooperation at this stage.

Where do the capacities to perform the listed functions effectively exist, and what mechanisms are needed to develop or strengthen them? Will the actors within states who are responsible for migration functions persuade state treasuries to provide the resources necessary to put in place an extensive cooperative network of international governance?

The roles and functions of existing organizations

Some elements of the functions of international governance already exist, mostly in a limited way, within the major existing institutions and arrangements that deal with migration. There remain more gaps than duplications within the system. The combined resources devoted to governance of international migration fall far short of the magnitude needed to address the challenges of international migration today. The following is a brief description of the roles of the major multilateral institutions involved in migration issues.

International Organization for Migration (IOM)

IOM provides migration services to its member states and to some migrants. Founded in 1951 to help resettle European displaced persons after World War II, IOM now has 105 member states and 41 state observers. It has over 4000 staff, and offices or sub-offices in more than 100 countries. It is not part of the UN system. IOM's Constitution was revised in 1989 and establishes the following purposes and functions of the organization:

- Make arrangements for the organized transfer of migrants to countries offering opportunities for orderly migration
- Concern itself with the organized transfer of refugees, displaced persons and other individuals in need of international migration services for whom arrangements may be made between the Organization and the States concerned, including those states undertaking to receive them.
- To provide, at the request of and in agreement with the states concerned migration services, such as recruitment, selection, medical screening, orientation, and so forth
- To provide similar service for voluntary return migration
- To provide a forum to states as well as international and other organizations for the exchange of views and experiences, and the promotion of cooperation and coordination of efforts on international migration issues, including studies on such issues in order to develop practical solutions.

IOM's budget and staff do not match its broad mission. ' It has been held to a 'Zero Net Growth' standard in recent years, even as its programs and ambitions have grown. Its work is largely "projectized", and dependent on member states to fund specific activities. As a result, it is given responsibility for many ad hoc activities, responding to the requests of governments to perform a service. Currently, IOM projects include managing the dispersal of compensation to victims of Nazi slave labor; returning rejected asylum seekers interdicted by Australia in the South Pacific; helping to process applicants for the US refugee resettlement program; running mass information campaigns warning of the perils of trafficking in Eastern Europe, and administering small return-of-talent programs. Its Migration Policy and Reseaarch Program acts as the Secretariat of the Berne Initiative. IOM has developed a strategic plan that would give more consistency and breadth to its action, around the theme of 'migration management'. It has identified four key areas of migration management as priorities for the organization: migration and development, facilitating migration, regulating migration, and forced migration. These areas take it deep into the substantive territory of other organizations such as ILO and UNHCR, which has created some tension with the UN agencies.

World Trade Organization (WTO)

The WTO purpose is to bring about "reciprocal and mutually advantageous arrangements directed to the substantial reduction of tariffs and other barriers to trade" among its 144

members.   The movement of people comes into WTO trade negotiations through the General Agreement on Trade in Services (GATS). GATS recognizes four modes of trade in services, one of which (Mode 4) involves service providers who are "natural persons" (human beings as opposed to "juridical persons" such as corporations) providing services in another country. The GATS does not confer any right on an individual to live and work in another country, but it does call on governments to reduce barriers and improve market access to Mode 4 foreign suppliers of services, whether they be bankers or construction workers. The existing Mode 4 commitments are heavily tilted toward high-skill persons. Only about 17 percent of the commitments apply to low-skilled personnel. A number of big questions remain unanswered within the GATS framework, such as whether foreign service-providers who work for domestic companies are covered.

The GATS Annex on "Movement of Natural Persons Supplying Services under the Agreement" states that GATS shall not prevent governments from applying measures to regulate the entry of natural persons into their territory, or to regulate their "temporary" stay, or protect the integrity of borders.   This provision makes clear that GATS obligations must be consistent with national immigration provisions.   In all, WTO supervision of national regulation of the movement of people is much weaker than its supervision of goods, other services, and technology, and applies to a very narrow segment of international migration.

International Labor Organization (ILO)

The ILO is a standard setting body with a unique tripartite structure in which representatives of labor union confederations, employers' association and governments play an equal role in decision-making. Founded in 1919, it is the only surviving body created by the Treaty of Versailles and became the first UN specialized agency in 1945. According to its Constitution, one of the purposes of the ILO is protection of the interests of workers employed in countries other than their own. The tripartite structure may explain in part why the ILO has been relatively quiescent on migration issues; unions, employers and governments have not seen eye-to-eye on development of standards for labor migration, with the union confederations being particularly concerned about the effect of migrant labor on the rights, conditions and remuneration of the domestic labor force.

The ILO sets and supervises international labor standards in the form of Conventions and Recommendations. These are drawn up by the annual International Labor Conference through negotiations among governments, unions and employers from all ILO member states, and require a two-thirds vote by Conference delegates for adoption. Member states are required to submit newly adopted Conventions to their legislature for a decision on ratification. Once ratified, the Conventions are binding. The treaties spell out labor protections that should be accorded to migrant workers, but their impact is weak. The standards on migrant labor were not included in the "core labor standards" laid out in the ILO Declaration on Fundamental Principles and Rights at Work, adopted by the

International Labour Conference in 1999, although the Declaration does reaffirm the need to pay special attention to migrant labor.

Having been quite passive in the debate on international migration throughout the 1990s, the ILO rejoined the debate in earnest after the turn of the century. It created a World Commission on the Social Dimensions of Globalization, which had migration on its agenda, which reported in early 2004. International migration was the theme of the 2004 International Labour Conference, which called for the elaboration of a non-binding multilateral framework for the governance of labor migration.

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UN High Commissioner for Refugees (UNHCR)

UNHCR's role in migration is, in formal terms, strictly after the fact. Once people have left their home countries because of a well-founded fear of persecution, UNHCR is mandated to ensure that they receive international protection in place of the national protection they have lost, and are not returned to a place where they would be in danger of losing their lives or liberty. (States are not obligated to admit refugees, but they are obligated not to return them once they have managed to enter.) The organization also is tasked with seeking durable solutions to the plight of refugees, either by helping them to

return voluntarily to their country of origin or by assisting them to form an enduring tie with another state that will protect their rights and allow them to integrate socially and economically.

UNHCR's work is grounded in the 1951 UN Convention relating to the Status of Refugees, which currently has 141 signatory states. In addition to refugees as defined in the 1951 Convention, UNHCR may be, and frequently has been, asked to assist and/or protect forcibly displaced people who do not fall within the Convention definition. Currently, of the nearly 20 million people 'of concern' to UNHCR, 12 million are refugees, over 6 million are internally displaced people, one million are asylum seekers, and half a million are recently returned refugees.

Although UNHCR's responsibility is confined to that segment of the world's migrant's who have moved involuntarily, it is under increasing pressure to become more involved with voluntary migrants, chiefly at the intersection of asylum and migration concerns, particularly in Europe. European states experiencing a high level of concern with unauthorized entry of migrants, some of whom attempt to use the asylum channel to secure entry, urge UNHCR to cooperate with deterrent measures that in many cases have no safeguard to distinguish between refugees and illegal immigrants. It has also been asked to cooperate in the return of rejected asylum seekers, but has so far declined. UNHCR is exploring ways in which it might cooperate with other international organizations to develop a more comprehensive approach to international migration issues.

The United Nations Secretariat and General Assembly

The Department of Economic and Social Affairs is responsible for follow-up to the ICPD. Within DESA, the *Population Division* collects data on migration and monitors trends. In 2000, it issued a report on "Replacement Migration", which projected the numbers of immigrants that would be required in selected countries to maintain a) current population levels, b) current size of the working-age population, and c) current dependency ratios. The report played a significant role in focusing attention on the role that migration might play in countries (especially in Western Europe and Japan) experiencing a "birth dearth". The Population Division continues to explore the implications of migration trends, and emphasizes the importance of high-quality data collection.

 The Population Division also convenes annual 'coordination meetings' among UN agencies and departments, with governments and independent experts also invited to attend. The first of these, in 2002, focused on data issues; the second on the migration-related activities of the participating entities; and the third and most recent on preparations for the High Level Dialogue in the General Assembly in 2006. The meetings provide a valuable opportunity for information-sharing and brainstorming, but do not really perform a coordination function beyond that. DESA will be responsible for much of the preparation for the High Level Dialogue, which many see as an important platform for discussion in itself, and which could lead to a more continuous platform.

The Statistics Division of DESA collects and works to improve migration statistics; it also provides some training and technical assistance on statistical issues. One of its goals is to persuade states to harmonize their definitions and methodology in data collection. UNFPA also funds data collection efforts and provides technical assistance for them through the IMP.

The Human Rights Commission

The 53-member United Nations Commission on Human Rights (CHR), created in 1947, is the main UN body that deals with human rights. Its functions include standard setting and drafting of conventions and treaties as well as the elaboration of a number of country and thematic mechanisms to deal with violations of human rights - civil and political, as well as economic, social and cultural - in all world regions These mechanisms monitor compliance by States with international human rights law and investigate alleged violations of human rights. The thematic mechanisms include a Special Rapporteur on the Human Rights of Migrants, appointed in 1999, whose mandate is "to examine ways and means to overcome the obstacles existing to the full and effective protection of the human rights of this vulnerable group, including obstacles and difficulties for the return of migrants who are non-documented or in an irregular situation. " In 1997 the Human Rights Commission established a Working Group on Migrants, with the mandate to a) gather information on obstacles to the protection of the human rights of migrants and b) to elaborate recommendations to strengthen the promotion, protection and implementation of the human rights of migrants.

UN/Bretton Woods Economic Organizations

Given the importance of remittances from international migrants in the economies of many developing countries, it is remarkable how little and how unsystematically international economic institutions have dealt with migration processes. Since shortly after the turn of the millennium, however, the World Bank has begun to do (and commission) research and analyze data relating to migrant remittances, and some of the other linkages between migration and development. It is also cooperating with a number of other national and regional organizations to explore remittance issues. Attention to the subject of migration has grown considerably in the last two or three years, but the subject does not earn the attention one might expect for the second- or third-largest source of foreign exchange in country after country. The UN Development Program remains on the sidelines with respect to migration; the TOKTEN return-of-talent program is its sole systematic activity.

Inter-agency mechanisms

The International Migration Policy Programme (IMP) is co-sponsored by UNITAR, UNFPA, ILO and IOM. It offers capacity-building and training for national and regional migration practitioners. The common training in a number of regions contributes to building a basis of common language and assumptions across regions.

The Geneva Migration Group brings together the heads of six agencies that work on migration: UNHCR, IOM, ILO, OHCHR, UNCTAD, and UNODC. They meet quarterly, or more often if needed, and plan to ecange iformation, identify critical issues, develop conceptual thinking, provide leadership system-wide, contribute to each others' initiatives, promote debate on the issues, and 'work towars integrating human rights, refugee protection, criminal justice and victim-related dimensions in the general debate on migration'. [9]

Global processes and policy fora

Dialogue and debate on international migration have proliferated in the period since about 1999, demonstrating that the subject is very much on the international public policy agenda. (This paper does not include description of the many regional processes that have proliferated around the world.) The globally inclusive efforts that are planned or have taken place in multilateral contexts, such as the High Level Dialogue in the General Assembly, IOM's Migration Policy Dialogue, UNHCR's Global Consultations, the International Labor Conference and so forth show that the gap between words and practical results may be large. The Global Consultations were productive both of legal interpretations which expanded the envelope of refugee protection and elicited a re-commitment of states to the principles of the Refugee Convention. But perhaps one ought not to hold these processes to too high a standard. There is value in dialogue for its own sake—for the role it plays in knitting together the policy networks that, in Anne Marie Slaughter's conception, are the building blocks of global governance.

Of the ongoing global processes, the Berne Initiative probably comes closest to Slaughter's model. It is a very loose network, but it has brought in, through a series of regional consultations, a large number of government policy-makers and program implementers. Its product is an 'Agenda for Migration Management' consisting of a set of 'common understandings' and 'effective practices' in migration management. The first of these reaches only a fairly low common denominator, and includes some 'understandings' that get little more than lip service from many states. The second is meant to be purely descriptive of what states are doing rather than prescriptive, but the implication clearly is that the weight of common practice should be persuasive to other states in formulating their own actions. The Berne Initiative does not push states further than they are willing to go, not requiring any specific commitments from them.

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[9] Geneva Migration Group, 'Terms of Reference', nd.

The weakness of the Berne Initiative derives from its strength as a forum for governmental practitioners: it does not include the non-state actors who are so important in international migration processes. The only one of the existing global processes that does explicitly include the private sector and representatives of civil society is the Hague process. It is heavily and deliberately normative. Its central document is a set of 21 principles making up The Hague Declaration. Its inclusiveness makes it distinctive as well as useful, but it is chronically underfunded and understaffed. It provides an important counterpoint to the state-centered processes mentioned earlier.

Policy options

A number of specific proposals have been put forward to fill the governance gap in the arena of international migration. Some of the most prominent are briefly evaluated below.

Create a new agency

The *de novo* creation of a World Migration Organization within the United Nations system was discussed above as an example of governance from the top down. . The advantage of doing so would be to consolidate responsibility for the many overlapping categories of forced and voluntary migrants into one entity, thereby reducing problems of coordination, overlap, and gaps. States, especially the major migrant-receiving countries, are unlikely to agree to the creation of a new agency, for financial and even more for substantive reasons. Most would see it as encroaching upon domestic policy-making prerogatives and fear that it would foster dissension between North and South. The inability to reach wide agreement on a world migration conference as a follow-up to the ICPD, and the low ratification of the ILO and UN migrant labor treaties, are indicative of the lack of enthusiasm for a WMO at this stage.

Designate a 'lead agency' from among existing agencies

UNHCR and ILO are the most likely candidates in the UN system for permanent lead agency for migration, an institutional arrangement that has the advantage of avoiding a divisive and probably fruitless debate on the creation of a new agency. Neither has the expertise to cover the full spectrum of migration issues, however; furthermore, the ILO's unique tri-partite structure would probably disqualify it in the eyes of many states that would not accept the participation of employer and trade union associations in decision-making on migration policy. (This is why the Convention on the Rights of Migrant Workers and their Families came out of the General Assembly rather than ILO.) ILO does not have the operational expertise to provide relief and protection in the field to refugees and internally displaced people. UNHCR lacks the economic expertise required to address labor migration issues. Many would undoubtedly see an attempt to bring labor and family migration into UNHCR's portfolio as detracting from its refugee protection

mandate. Other UN agencies that deal with some aspect of migration are likely to object to having their expertise subsumed or dominated by the lead agency, as was seen with the IDP lead-agency debate.

Bring IOM into the UN system

The International Organization for Migration has the broadest mandate for migration issues of any international institution. There is strong interest within IOM's leadership and among some member states of its Council, in seeing IOM become a specialized agency of the United Nations. This could happen either directly, by a vote of the General Assembly and the IOM Council, or indirectly, by a gradual rapprochement between IOM and other agencies with migration responsibilities. In the latter process, IOM would gradually assume some of the functions of other agencies and emerge as the *de facto* WMO. This path could avoid raising states' fears about dealing with the unknown quantity of a brand-new organization, and give them the opportunity to check the process if the result was not developing in a way that met their needs. Three kinds of problems could arise with this option. First, there would likely be substantial bureaucratic resistance from other agencies, funds and departments to the absorption of some of their functions. This could perhaps be overcome if states were consistent in their support for the new arrangement. More serious is the likely problem of resources. Although IOM has grown rapidly in size and reach, it remains an agency with limited capacity. Its strategy paper presented at the 88th session of the IOM Council (November, 2004) noted that 'financial contributions from Member States have not always allowed IOM to increase its capacities to the extent required to best be able to fulfill the agreed…objectives. A third problem that would need solving is IOM's limited mandate: in particular, it has no protection mandate or standard-setting mechanism.   The organization in 2004 has proposed a revised set of strategic objectives which includes the injunction to 'work toward promoting international migration law including enhanced protection of migrants rights and welfare', but that is not yet incorporated in the IOM's constitutional mandate.

None of these problems are insurmountable if states are willing to reinforce IOM's resources and mandate very substantially. To bring the organization into the US system without doing this would represent a deterioration from the status quo, as it would close off other options for the evolution of governance.

A coordination model

Analogous to the 'Comprehensive Approach" for Internally Displaced People, this model has been quite heavily discredited by the lack of commitment of participating agencies genuinely to coordinate their migration-related work. It does, however, create some synergy and visibility for the issue in question and encourages agencies to give higher priority to it.   A stronger version might build on the experience of the internal displacement issue, and create a Special Representative of the Secretary General

simultaneously with a dedicated research and technical unit. It remains, however, a weak option for moving toward global governance.

A leadership model

One objective of this avenue would be to forge greater cooperation among agencies, but the emphasis would be on conceptual and policy leadership for member states as well as for international agencies and programs—including, importantly, the Bretton Woods institutions and the regional development banks. It would require the establishment of a small, high-powered unit within the Office of the Secretary-General with the stature and expertise to command the respect of actors outside the UN system and the attention and cooperation of those within.   In addition to the agencies, funds, departments and programs of the UN system and IOM (whether IOM is incorporated into the UN system or not), it would relate to the General Assembly and member governments' migration experts, as well as regional and ad hoc processes. It would not be operational, but would act as an internal think tank for policy development. It could take on the functions of a 'leading Secretariat" to the Geneva Migration Group, with the right of initiative on matters of policy coordination and coherence. One of its most important functions would be to convene 'policy networks' of migration officials from national governments, intergovernmental organizations, and other stakeholders.   This option is relatively economical in terms of financial resources, but high-risk, as they effectiveness of the migration secretariat would be dependent on the ability to produce ideas and analysis of a quality that has not very often been a hallmark of efforts within a large bureaucracy.

A WTO model

Another option would be to replicate the World Trade Organization model and proceed through successive rounds of negotiation toward multilateral agreements on specific migration issues. This route is lengthy and painstaking, and riddled with compromises that would undoubtedly be painful to those in whose minds migrants' rights are uppermost. The WTO model rests on the assumption of mutual self-interest in a well-functioning trading system; an analogous assumption is also a practical (and justified) starting point for international cooperation on migration.

The international consensus on migration issues is probably too weak and fragmented at this time to support the creation of a powerful and well-resourced global organization. A policy network built on high-quality analysis and initiative may be the most promising because the most open-ended. Changes in the international migration regime must be built from the ground up with the hard work of policy development and consensus building.

Conclusions

Building beyond international cooperation toward international governance requires acknowledging that different states have different goals, compromising where possible, and building first on recognized common objectives—the need for more knowledge and understanding of migration phenomena, fewer deaths of migrants in transit, reduction of the influence of criminal networks, minimizing tensions between migrant and host communities, greater safety and dignity for migrants, increased national security, the maximum mutual benefit from migration, and a general capacity to implement policies that have been embraced.

The evolution of an international regime for the governance of migration will need to be underpinned by a conceptual basis that evolves at least as fast as the realities of population movements. This is not to be taken for granted. The very use of the term 'migration management' suggests a slightly old-fashioned, pre-globalisation assumption of state control over migration processes. One of the weaknesses of the Migrant Workers convention, as Pecoud and de Goucheteneire point out, is that is was formulated at a time when the recruitment of foreign labor by industrialized and oil-producing states was the dominant paradigm of international migration. Now the same states are preoccupied with control over entry, combating illegal immigration, trafficking, and security threats associated with foreigners. They point out, "today few migrants follow states procedures in moving from one country to another. They rely on private agencies or their own networks…. States do not have the power to fully impose the conditions in which migration takes place'. [10] Even the term 'migration' suggests a 'there-to-here' dichotomy that is no longer accurate in a world where many migrants keep one foot in two worlds and move between them virtually if not physically on a regular basis.

Today, it is perhaps more useful to think in terms of a 'global mobility regime', in which states are only one of a number of important actors, than in terms of an inter-state regime of migration management. One simple reason is that short term movements, which are not considered migration—such as for temporary work contracts, family visits, seasonal labor, or study—are part of the package that must be included in the full range of policy instruments for the governance of international migration. Another, more complex reason, is the proliferation of actors who make decisions about international mobility independently of state frameworks of regulation.

With governments finding it increasingly difficult to regulate international migration, the debate about international governance should be framed not in terms of ceding sovereignty but rather in terms of reclaiming it and exercising it collectively in a manner consistent with the needs of labor markets, the integrative capacity of the host societies, the development potential of migration for the countries of origin, humanitarian norms and the obligation to protect the fundamental human rights of migrants. Above all, the frameworks established for cooperative evolution of international migration must work with rather than against the realities of globalization. People do not move as easily as financial capital, perhaps, but unlike traded goods or services, they move of their own

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[10] Pechoud and de Goucheteneire, op. cit. , p. 9.

volition. A migration policy or a system of governance whose success depends on the ability to defeat market forces and human ingenuity is doomed to failure.