



THE TRANSFORMATION OF GLOBAL GOVERNANCE PROJECT

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MIGRATION GOVERNANCE - A COMMON APPROACH?

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- 1. Global migration governance is important to study, not because of its successes but because of its failures.** It is the oldest form of economic interdependence: it developed long before any international trade took place. And yet, there is no comprehensive global regime for migration governance and barely any regional regimes. Although mass migrations triggered by geopolitical, natural or economic events, and the response to them, involve strong cross-country spillovers, international cooperation is generally weak and ineffective – if not conflictual.
- 2. Analysis has to start from the unique characteristics of the field.** Chief amongst these characteristics is a high asymmetry between the origination and the destination of migratory flows; this has repercussions on (dis-)aligning incentives and hence on the difficulty in arriving at commonly agreed solutions and governance rules. It is a process chiefly driven not by states but rather by people (migrants, intermediaries assisting their migration and businesses who hire migrants), including against the will of states. The recent flows which have dominated the policy debate are simply a more visible component of broader displacement and of deeper trends. Interdependence tends to be regional rather than global. States react to the movement of peoples, usually in crisis situations, mostly in regional settings. Governance is characterised by several interconnected but separated layers corresponding to different “migration regimes” (the protection regime, the travel regime, and the labour migration regime); however, these cannot always be distinguished in practice and decisions taken for one regime may spill over onto the other ones.
- 3. Interactions across layers and amongst countries are complex and impacts are disputed.** The evidence on the migration costs and benefits for sending and receiving countries depends amongst other factors on the scale of migration, demography, skill levels, and the time horizon involved. “Brain drain” for sending countries is often combines with “brain waste” in terms of over-qualification for existing jobs in receiving countries. There is significant substitutability across different migration layers. For example, restrictions to labour migration lead more potential migrants to seek asylum. There can also be significant substitutability across countries. Home countries are often substitutable when considered as pools of labour. Destination countries are often substitutable when considered from the point of views of personal safety and economic opportunity. For these reasons there are major spillovers across layers and amongst countries (e.g. the effects on country A’s labour migration policy on refugee flows into country B). Such substitutability makes estimates of costs and benefits of migration harder.
- 4. The migration governance regime is incomplete and fragmented.** The migration governance landscape is characterised by high heterogeneity of preferences amongst countries, and as a consequence by few rules, no institutions, and no enforcement at a global level. It is mainly characterised by frequent unilateralism, patchy regional agreements, a web of bilateral agreements as well as by the intervention of subnational actors (cities, NGOs). The relevant knowledge base regarding both patterns and impacts has become highly politicised and is as a result also highly contested. Unlike what happens in other fields where “epistemic communities” have significant influence on policy, the debate on migration governance tends to be driven by ideological beliefs rather than by hard facts. An additional complicating factor is that migration cannot be easily separated from other fields (trade, aid) in negotiations between receiving and sending countries.
- 5. The flawed governance regime has major social, economic and political impacts.** Recent crises have highlighted the major human and welfare costs for people of mass and often sudden migratory flows that are being opposed through unilateral and often very brutal measures. Next to human costs,

efficiency costs from the lack of a functioning governance regime lead to serious obstacles to development, especially in the loss of a large number of skilled people in origin countries. International frictions abound as a result of migratory flaws and the lack of a migration governance regime, including a commonly agreed set of core rules and procedures for migration and assimilation. The toxic and often fact-free debate surrounding migration in destination countries has had adverse domestic political consequences, polarising positions (liberal rights vs. majority rule, national vs. human security), with some countries choosing ethnic homogeneity irrespective of economic outcomes. It has also undermined migration regimes such as that for international protection that enjoy governance structures, making it harder to arrive at commonly accepted international norms and agreements.

6. **A hesitant and controversial step forward at global level.** Spurred by the 2015 migration crisis in Europe, the Global Compact for Migration (GCM) affirms for the first time a multilateral approach to managing migration and provides common but non-binding principles for national policies and international agreements. The agreement is softer than soft law, with no monitoring but regular reviews. However, while it remains non-binding, and cannot be invoked to claim rights in courts, it could progressively become more binding by repeated reference in legal practice. Nevertheless, despite its deficiencies and limited character, the GCM is a step forward; its usefulness will be tested in its implementation. In principle the GCM could produce effects through peer pressure, potentially through courts and by providing a template for international agreements; it has the advantage of setting out a framework and a menu of possible measures/policies for discussion and implementation. In practice it may have already backfired; during its adoption it has been misrepresented by demagogues, with the US and some European countries withdrawing, and generally little ownership). In addition, the GCM may be flawed in specific respects, such as in its approach to regulating labour migration.
7. **Going beyond the inadequate response at European level.** The discussion surrounding migration in EU MS has obscured the potential gains from a common high-skill labour migration policy, which would arguably help limit the EU disadvantage vis-à-vis US, and harmonisation of policies to create legal pathways of migration to the EU. The recent migration crisis in Europe has highlighted the fact that a no-border space and heterogeneous asylum policies are incompatible; the asylum and migration debate has had inevitable spillovers onto the Schengen regime. Europe's asylum system is broken; the internal coordination regime is beyond repair: it is inefficient, with no agreement on principles, captured by interior ministries, and externalities that are not dealt with. The external joint action regime remains ineffective: the EU lacks competence and means to negotiate with source countries or transit countries, and states do not cooperate. A workable solution requires (a) coalition of like-minded countries, (b) single law and a single agency for asylum policy, (c) coordination in relationships with third countries.