# The Challenge of Migration Governance[*]

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## MIGRATION AND GLOBALIZATION

International migration has been steadily increasing in every region of the globe since the end of the Second World War. Today approximately 244 million people reside outside of their country of birth and over the past half-century individual mobility has increased at a steady pace (see Figure 1). Tens of millions of people cross borders on a daily basis, which adds up to roughly two billion annually. International mobility is part of a broader trend of globalization, which includes trade in goods and services, investments and capital flows, greater ease of travel, and a veritable explosion of information. While trade and capital flows are the twin pillars of globalization, migration is the third pillar or the third leg of the stool on which the global economy rests.[1]

[1] James F. Hollifield, "Migration and International Relations," in *The Oxford Handbook of the Politics of International Migration*, eds. Marc R. Rosenblum and Daniel J. Tichenor (Oxford: Oxford University Press, 2012).

Figure 1: Trends in International Migration

**International Migrants, 1960-2013**
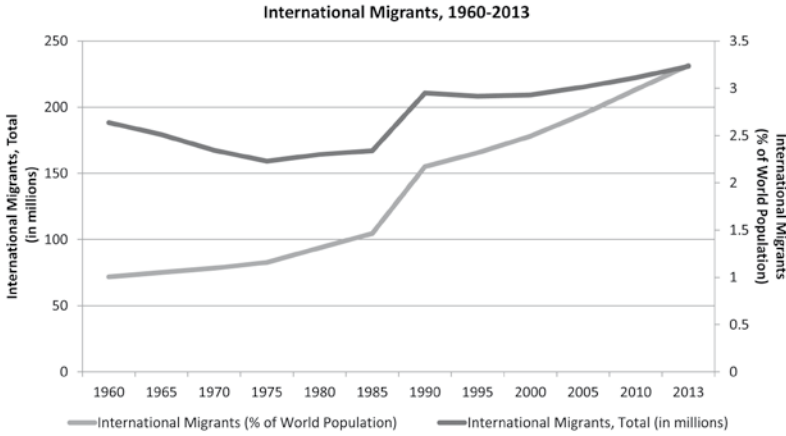


Source: World Bank Data 2015

Migration is a defining feature of the global era in which we live. It is in many ways connected to trade and investment, yet it is profoundly different. *People are not shirts*, which is another way of saying that labour is not a pure commodity. Unlike goods and capital, individuals can become actors on the international stage (they have agency) whether through peaceful transnational communities or violent terrorist/criminal networks. In the extremely rare instances when migrants commit terrorist acts, migration and mobility can be a threat to the security of states. However, the benefits of migration far outweigh the costs. Immigrants bring new ideas and cultures (diversity) to their host societies and in liberal democracies, they come with a basic package of (human and civil) rights that enables them to settle and become productive members of society, if not citizens of their adoptive countries. Conversely, they may return to their countries of origin where they can have a dramatic impact on economic and political development.[2]

Lest we forget, not all migration is voluntary—in any given year millions of people move to escape political violence, hunger, and deprivation, becoming refugees, asylum seekers, or internally displaced persons. In 2017 the number of "persons of concern" to United Nations High Commissioner for

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[2]  James F. Hollifield, Pia Orrenius, and Thomas Osang, eds., *Trade, Migration and Development* (Dallas: Federal Reserve Bank of Dallas, 2006); Philip L. Martin, Susan F. Martin, and Patrick Weil, *Managing Migration: The Promise of Cooperation* (Lanham, MD: Lexington Books, 2006).

Refugees (UNHCR) was 65.6 million, including 22.5 million refugees, 2.8 million asylum seekers, and 40.3 million internally displaced people.[3] Wars in the Middle East (especially Syria and Iraq), East and West Africa, and South Asia continue to feed a growing population of forced migrants. One of the most recent and fastest exoduses of people from their place of origin was the movement of Rohingyas from the Rakhine State in western Myanmar into neighbouring Bangladesh. Europe (as in the European Union) and Germany in particular have struggled to cope with the latest waves of forced migration—almost 1 million asylum seekers arrived in Germany alone in 2015. Because it is so complex and multi-faceted, migration of all types poses a challenge for individual states, for regional integration processes like the European Union (EU) and the Association of Southeast Asian Nations (ASEAN), and for the international community as a whole.[4]

## MIGRATION AND GLOBAL GOVERNANCE

To illustrate the difficulties of international cooperation in regulating migration, I have constructed a simple typology of international regimes. This typology, depicted in Figure 2, points to a clear distinction between the regulation of capital, goods, and services on one hand and migrant labour or refugees (people) on the other. The figure highlights the inadequacies of global migration governance compared to international trade and finance. Admittedly, the typology does not capture fully the ongoing negotiations over the Global Compacts on Migration and Refugees or previous attempts to construct a global migration regime, such as the 1990 Convention on the Rights of Migrant Workers and their Families; but the fact remains that no international/multilateral regime for migration has emerged, and we must ask why?

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[3]  http://www.unhcr.org/ph/persons-concern-unhcr.

[4]  James F. Hollifield, Philip L. Martin, and Pia M. Orrenius, eds., *Controlling Immigration: A Global Perspective*, 2nd ed. (Stanford, Calif: Stanford University Press, 2014).

Figure 2: A Typology of International Regimes



Of the two "regimes" dealing with migration, one for labour migrants and the other for refugees, clearly the refugee regime (UNHCR) is the more effective and comes closer to providing a global public good. For instance, the European states, together with the United States (US) and other liberal democracies, are respecting the letter, if not the spirit, of international refugee law. Although the principles of the refugee regime are widely recognized, UNHCR as an institution remains weak and heavily dependent on a few "client states," especially Sweden, the Netherlands, and other small European democracies. The Japanese also contribute a lot of money to UNHCR, and the Americans support it and use it as a tool for managing refugee crises around the world, especially when American national interests are concerned.

The regime for international labour migration is weakly institutionalized (see Figure 2), with no central norm, and its principal organs, the International Labour Organization (ILO) and the International Organization for Migration (IOM), based in Geneva, have little regulatory or institutional capacity. Nation-states rather than intergovernmental organizations like the United Nations (UN) still set the rules of entry and exit. However, both ILO and IOM are active in setting standards. For developed states in particular, the costs of participating in a regime for international labour migration outweigh the benefits, and a short-term strategy of unilateral or bilateral regulation of migration is preferred to a long-term, multilateral strategy. This is less true for the refugee regime because the more powerful liberal states need this regime for situational exigencies—to manage refugee flows that can destabilize governments and, in some cases, entire regions, as is happening in the Middle

East in the 2010s. When such crises strike close to home, as in Europe in 2015, the utility of the refugee regime goes up. When the crisis is past, it drops again.

The major exception is the EU, which has a strong institutional base and strong multilateral agreements in the fields of labour migration (treaties of European Union and the Schengen Agreement) and refugee/asylum policies (Dublin agreement). The Schengen system reflects a regional governance approach among independent nation-states to labour migration and freedom of movement, but functions only for nationals of the member states (it is a club good), not (or at least not yet) for third-country nationals. The impending British exit from the EU and the debates surrounding "Brexit" together with the refugee crisis that began in 2014 have undermined the Schengen Agreement for the relaxation of internal borders, threatening the core principle of free movement, one of the four fundamental freedoms.

Through the Dublin system, the EU built a multilateral regime for refugees, which required asylum seekers to register and request asylum in the first EU country in which they arrived. All EU member states plus Switzerland and Norway are considered safe third countries. This arrangement was put in place to help member states restrict secondary movement and to prevent "asylum shopping." The Dublin system is consistent with the Geneva Convention: If an individual transits through an EU country, they can be *refoulés* (sent back to that third country). The result was that—at least in theory—many of the states along the EU's southern and eastern borders turned into buffer states. Spain and Italy initially bore the brunt of movements across the Mediterranean with Greece becoming the primary point of entry for migrants and refugees in the 2010s. However—in contrast to the Dublin Regulation—these countries could not carry all the responsibility and—as cries for help were not heard in Brussels—they turned a blind eye on arriving migrants, allowing them to continue their journey to other EU states. Even before the "crisis" in 2015, the Dublin system was flawed, but the wave of asylum seekers in 2015 and 2016 demonstrated the dysfunctionality of the EU system for all to see. Since then the EU has been struggling to reform the Dublin Regulation and find a mechanism to distribute asylum seekers more evenly across the member states. Yet, the EU has been successful in setting up hotspots to process asylum seekers, and members states have stepped up cooperation for policing external borders, with help from transit-countries outside the EU. Despite setbacks and limitations, the EU's experience with

the Schengen and Dublin systems provides useful lessons for both regional and global governance approaches to migration.

To date, unwanted labour migration is more of a nuisance, especially from a political and security standpoint. Labour migrants are not fundamentally threatening. They can be controlled unilaterally and on an ad hoc basis. The payoff from international cooperation in the area of unwanted labour migration therefore is negative, and opportunities for defection from a global migration regime are numerous. The possibilities for monitoring, enforcing, or developing some core principle of non-discrimination are minimal at this point, and there is little or no reciprocity. That brings us back to the domestic level in our quest to understand migration governance and to explain why states risk openness.

The four factors driving migration policy—security, cultural and ideational concerns, economic interests, and rights—must be studied on a case-by-case basis (see Figure 3). National security—the institutions of sovereignty and citizenship—and economics (markets) and rights are all part of a multi-dimensional game in migration policymaking. In "normal" times, the debate about immigration control in liberal democracies revolves around two poles: markets (numbers) and (status) rights, or how many immigrants to admit, with what skills, and what status? Should migrants be temporary (guest) workers, allowed to settle, bring their families, and get on a "path to citizenship?" Is there a trade-off between rights and numbers (markets) as Martin Ruhs and others suggest?[5] All good questions—but cultural concerns (where should the immigrants come from, which regions of the globe, with which ethnic characteristics, and issues of integration) often trump markets and rights, and the trade-offs are more intense in some periods and in some countries than in others.

With the September 11, 2001 terrorist attacks in the US and again with the November 13, 2015 attacks in Paris, France, immigration and refugee policymaking has been dominated by a national security dynamic (with a deep cultural subtext, fear of Islam) and the concern that relatively open borders pose a serious threat to the nation and to civil society. In times of war and political crises, the dynamic of markets and rights gives way to a culture-security dynamic and finding equilibrium (compromise) in the policy game is much harder—this is the policy dilemma facing leaders across the globe.

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[5]   Martin Ruhs, *The Price of Rights: Regulating International Labor Migration* (Princeton, NJ: Princeton University Press, 2013).

Figure 3: The Dilemmas of Migration Governance
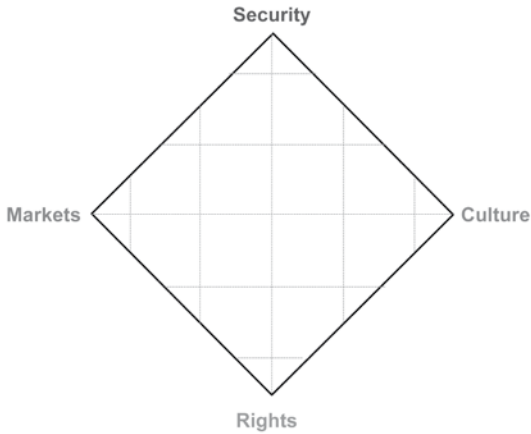


If this domestic four-sided game is not complicated enough, it becomes more difficult by virtue of the fact that migration control has important foreign policy implications. The movement of populations affects international security and in some instances it can change the balance of power. Hence, political leaders are always engaged in a two-level game,[6] seeking to build domestic coalitions to maximize support for policy but with an eye on the foreign policy consequences. Migration is an important factor driving economic interdependence and creating an international labour market. The first rule of political economy is that markets beget regulation. Hence, some type of a stronger global migration regime is likely to develop. What will be the parameters of such a regime, and how will it evolve?

## MIGRATION INTERDEPENDENCE AND INTERNATIONAL COOPERATION

One of the principal effects of economic interdependence is to compel states to cooperate. Increasing international migration is one indicator of interdependence, and it shows no signs of abating. From Figure 4, we can see levels of migration interdependence, with states in Europe, North America, and Asia relying heavily on migration for national development, whether through

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[6]  Robert Putnam, "Diplomacy and Domestic Politics: The Logic of Two-level Games," *International Organization* 1988/42: 427-460.

labour migration (both high- and low-skilled) or income generators via remittances. As the international market for skilled and unskilled labour grows, pressures to create an international regime will increase. We can identify two ways in which states can overcome coordination problems in the absence of a multilateral process that can build trust and reciprocity and overcome asymmetries: (1) through the centralization of regulatory power and pooling of sovereignty, and (2) suasion or "tactical issue linkage."

Figure 4: Migration Interdependence
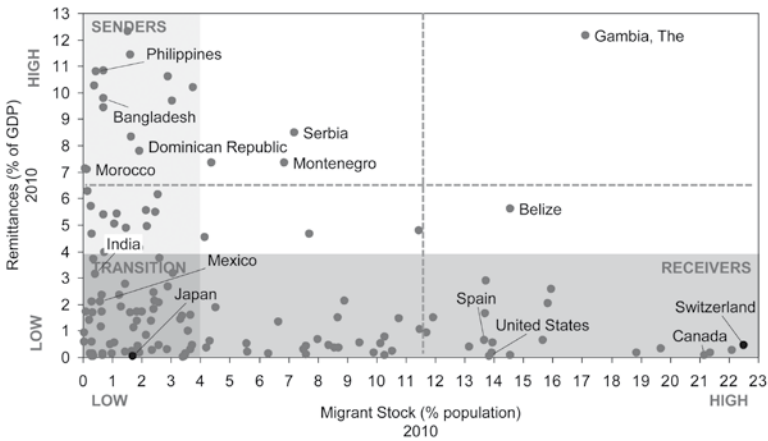


We already have seen an example of the first strategy at the regional level in Europe. The EU and, to a lesser extent, the Schengen and Dublin regimes were built through processes of centralization and pooling of sovereignty. This was easier to do in the European context because of the symmetry of interests and power within the EU and the existence of an institutional framework (the various treaties of the European Union). It is much more difficult to centralize control of migration in the Americas or Asia, for example, where the asymmetry of interests and power is much greater, and levels of political and economic development vary tremendously from one state to another. Different from the European Union, it is unlikely that regional trade regimes like the North American Free Trade Agreement (NAFTA), Asia-Pacific Economic Cooperation (APEC), or the Trans-Pacific Partnership (now Comprehensive and Progressive Agreement for Trans-Pacific Partnership) will lead quickly to cooperation in the area of migration. Nevertheless, the regional option— multilateralism for a relevant group of states where migration governance is a

club good—is one way to overcome collective-action problems and to begin a process of centralization of regulatory authority.

Most international regimes have had a long gestation period, beginning as bilateral or regional agreements. It is unlikely, however, that an international migration regime could be built following the genesis of the International Trade Organization/General Agreement on Tariffs and Trade /World Trade Organisation or the example of the International Monetary Fund and the World Bank, which provide a certain level of multilateral governance for the other two pillars of globalization. In the area of migration governance, it is difficult to fulfil the prerequisites of multilateralism: indivisibility, generalized principles of conduct, and diffuse reciprocity. The norm of non-discrimination (equivalent of Most Favoured Nation [MFN]) does not exist, and there are no mechanisms for punishing free riders and no way of resolving disputes. In short, as depicted in Figure 2, the basis for multilateralism is weak, and the institutional framework is not well developed. However, this has not prevented the international community (via the UN) from moving forward with a Global Compact for Migration, built around the principle of "safe, orderly and regular migration." The challenge of course will be to convince the most powerful states, especially the US, to support a multilateral process for global migration governance. For the moment, the US and other powerful countries (like the UK) are moving in the opposite (nationalist and unilateral) direction.

With the asymmetry of interests and power between developed (migration receiving) and less developed (migration sending) countries, *suasion*, including financial incentives, is the only viable strategy for overcoming collective-action problems, whether at the regional or international level. This game follows several steps:

Step one is to develop a *dominant strategy*, which can be accomplished only by the most powerful states, using international organizations (like the UN) to persuade or coerce smaller and weaker states. From the standpoint of receiving countries, the orderly movement of people, defined in terms of rule of law and respect for state sovereignty, should be the principal objective of the powerful liberal states. From the standpoint of the sending countries, migration for development, taking advantage of remittances and returns (brain gain) or circular migration, should be the principle upon which an international regime is based.

Circular migration encompasses a wide range of migrants: low-skilled seasonal workers, medium and high-skilled professionals, students, trainees,

researchers and entrepreneurs. Several countries in Europe have experimented with circular migration on the assumption that it will stimulate trade, enterprise networks and investments by diaspora, often called co-development schemes; and Japan has an extensive trainee or guest worker programme. These agreements have taken the form of mobility partnerships and regional consultative processes (RCPs).

Step two is to persuade other states to accept the dominant strategy. This will necessitate *tactical issue linkage*, which involves identifying issues and interests not necessarily related to migration and using these as leverage to compel or coerce states to accept the dominant strategy. This is, in effect, an "international logroll." Such tactics will have only the appearance of multilateralism, at least initially. Tactical issue linkage was considered in negotiations between the US and Mexico over the NAFTA agreement and migration issues have figured prominently in negotiations between the EU and new member states in East Central Europe, as well as with the candidate countries in the Western Balkans and Turkey.

In such instances, reciprocity is specific rather than diffuse. Individual states are rewarded for their cooperation in controlling migration, as Turkey was for its willingness to cooperate in stemming the flow of refugees from the Middle East into Europe in 2016. Again, we have seen many bilateral examples of this type of strategic interaction between the states of Western and Eastern Europe, and more recently between the US and Mexico to control the movement of Central Americans. The tenuous deal struck between Turkey and the EU in 2016 to stem the flow of asylum seekers from the Middle East and Africa is a perfect example of suasion (an international logroll). In this agreement, the EU promised to pay Turkey to stop the flows, to reopen EU accession talks and provide for a visa-free access to the EU on the condition that Turkey pursues legal and political reforms. However, liberal-democratic states face a problem of credibility in pursuing these types of strategies. They need international organizations to give them greater legitimacy (cover) and to facilitate these logrolls. With respect to forced migration, the UNHCR often has played this role.

The third step for dominant states is to move from what is an essentially one-sided, manipulative game to a multilateral process, and eventually to *institutionalize this process*. The long-term benefits of such a strategy for receiving states are obvious. It will be less costly to build a multilateral migration regime than to fight every step of the way with every sending state, relying

only on unilateral or bilateral agreements. Multilateral processes may entail some short-term loss of control/sovereignty (such as larger numbers of visas, or higher quotas for the sending states; the case of Turkey in 2016 again comes to mind) in exchange for long-term stability and more orderly/regular migration. The ultimate payoff for liberal states is the establishment of a regular migration based upon rule of law, respect for state sovereignty, ease of travel, and the smoother functioning of international labour markets. The payoff for sending states is greater freedom of movement for their nationals, greater foreign reserves and a more favourable balance of payments (thanks to remittances), increased prospects for return (brain gain) migration, and increases in cultural and economic exchange, including technology transfers—potentially a "win-win-win" for sending and receiving states, and especially for the migrants themselves. However, once again we must remind ourselves that terrorist attacks, increasing economic and social polarization within host, erstwhile liberal societies can upset this delicate equilibrium and give way to more protective and nationalistic politicians/policies, ultimately resulting in defections from multilateral regimes. For example, the US has considered the suspension of its visa-waiver programme with European states because of the terrorist threat, and since 2016, the US has been pursuing a "beggar-thy-neighbour" policy to seal the southern border with Mexico.

Changes in the international system with the end of the Cold War have altered this game in several ways. First, it has made defection easier. Since 1990, states have been more likely to pursue beggar-thy-neighbour policies by closing their borders and not cooperating with neighbouring states in the making of migration and refugee policies. The Schengen process itself is a kind of beggar-thy-neighbour policy on a regional scale. Second, the new post-Cold War configurations of interests and power, both at the international and domestic levels, make it more difficult to pursue a multilateral strategy for controlling international migration. Rights-markets coalitions of left- and right-wing parties (for example, civil rights Democrats and Wall Street Republicans in the US) have broken apart in liberal societies, increasing polarization and politicization over immigration and refugee issues. Yet liberalization and democratization in formerly authoritarian states have dramatically reduced the transaction costs for emigration. Initially, this caused panic in Western Europe, where there was a fear of mass migrations from east to west. Headlines screamed: "The Russians are Coming!" Even though these massive flows did not materialize, Western states began to hunker down and

search for ways to reduce or stop immigration. The time horizons of almost all Western democracies are much shorter because of these changes in domestic and international politics since the end of the Cold War; and the terrorist attacks of the 2000s and 2010s have exacerbated these fears, as migration and mobility have come to be perceived as greater threats to national security, especially in the post-9/11 strategic environment.

If the US or the EU were to defect from the liberal refugee and migration "regimes," such as they are, it could mean the collapse of these regimes. In game theoretic terms, such defections would fundamentally alter the equilibrium outcome, and it would be very costly to all states and to the international community. The process of globalization of exchange and increased mobility could be reversed. To prevent the collapse of the liberal migration and refugee regimes the US and other liberal states must pursue an aggressive strategy of multilateralism, taking the short-term political heat for long-term political stability and economic gain, much as Angela Merkel and Germany did in the face of the refugee crisis of 2015-16. This (cooperation) happened in the areas of international finance, with the collapse of the Bretton Woods system in the early 1970s and the creation of the G7, and in trade, with the Latin debt crisis of the 1980s and Asian crisis of the 1990s. Without the kind of leadership exhibited in international trade and finance, irregular migrations will increase and become ever more threatening, to national and international security. The current trend is to move away from liberal regimes in favour of nationalistic, beggar-thy-neighbour (America First) strategies for migration governance.

## CONCLUSION

Migration is both a cause and a consequence of political and economic change. International migration, like trade, is a fundamental feature of the postwar liberal order. As states and societies became more liberal and open, migration increased. Will this increase in migration be a virtuous or a vicious cycle? Will it be destabilizing, leading the international system into greater anarchy, disorder and war; or will it lead to greater openness, wealth and human development? Much will depend on how migration is managed by the more powerful states, because they will set the trend for the rest of the globe. To avoid a domestic political backlash against immigration, the rights of migrants must be respected and states must cooperate in building an international migration regime. I have argued that the first, halting steps

towards such a regime have been taken in Europe, and that North America is likely to follow.[7] As liberal states come together to manage this extraordinarily complex phenomenon, it may be possible to construct a truly international regime, under the auspices of the United Nations. We have seen steps in this direction with the Global Compact on Migration. However, I am not sanguine about this process, because the asymmetry of interests, particularly between the developed and the developing world, is too great to permit states to overcome problems of coordination and cooperation. Even as states become more dependent on trade and migration, they are likely to remain trapped in what I have called elsewhere a liberal paradox,[8] needing to be economically open and politically closed, for decades to come.

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[7]  James F. Hollifield, "Should Countries Liberalize Immigration Policies? Yes," in *Controversies in Globalization: Contending Approaches in International Relations*, eds. Peter M. Haas, John A. Hird, and Beth McBratney (Washington, DC: CQ Press, 2010).

[8]  James F. Hollifield, *Immigrants, Markets and States* (Cambridge, Mass.: Harvard University Press, 1992).