POLICY PRIMER

The UK and Global Migration Governance

COMPAS
CENTRE ON MIGRATION, POLICY & SOCIETY

UNIVERSITY OF OXFORD

www.migrationobservatory.ox.ac.uk

This policy primer discusses the emerging debate on the global governance of migration, and its implications for the UK.

The Issue: To what extent and how should the UK engage with global migration governance?

International migration is a trans-national process and no individual nation-state can address all of the challenges of migration alone. By definition migration involves at least two states – a sending country and a receiving country – and, usually, it also involves a wider range of states who are affected by a given migration system or by the consequences of another state's migration policies. There has therefore been an increase in the degree and scope of international cooperation on migration, with states developing a range of bilateral, regional and multilateral arrangements.

A debate has emerged on the global governance of migration within both academia and policy circles. At the policy level, reports such as the Doyle Report (2002) and the Global Commission on International Migration (2003-5) outlined gaps in the institutional architecture governing migration. They led to the development of the Global Forum on Migration and Development (GFMD) as a site for multilateral dialogue on aspects of global migration governance. Within academia, a number of publications have started to address issues of global migration governance (Betts 2011a, Hansen et al. 2011, Koser 2010, Koslowski 2011, Kunz et al. 2011, Newland 2010).

As this debate evolves it poses questions for all states about how to engage with the debate, and what it means to have a coherent 'global migration governance policy'. To what extent should the UK and other immigration countries promote and engage with the debates on the global governance of migration? What vision of global governance should it promote and through what channels? Having answers to these questions matters because it will shape the extent to which a state like the UK is able to effectively engage with a key trans-national political issue of the Twenty-First Century. Yet before a coherent policy position can

emerge, it is first necessary to have a clear analytical understanding of what global migration governance is and the basis on which governments can begin to make judgements about what type of global migration governance is desirable.

This policy primer therefore offers a simple set of lenses for understanding global migration governance. It sets out ways of thinking about global migration governance in relation to three broad questions:

- Institutionally, what is global migration governance?
- Politically, why is it the way it is?
- Normatively, how can we judge whether what currently exists is sufficient to address existing needs?

In the conclusion it assesses what these questions mean for the UK. The aim of the primer is not to advocate a particular form of global migration governance policy but to offer tools to enable a national debate on 'global migration governance policy' to proceed.

Clarifying the debate: What is global migration governance?

Global migration governance can be defined as the norms and organizational structures which regulate and shape how states respond to international migration. However, this begs the question of where it is found. To analytically simplify global migration governance, it can be thought of as existing on three levels.

First, there is a thin layer of multilateralism. This limited global multilateralism mainly originated in the Inter-War era. It includes the global refugee regime (with the Office of the United Nations High Commissioner for Refugees - UNHCR - and the 1951 Refugee Convention), the labour migration regime (with International Labour Organization and its ILO Conventions), and the travel regime (with agreements on passports and visas). However, states are reluctant to

pursue formal multilateralism in relation to other areas of migration as evidence by the limited ratification of the UN Convention on the Rights of All Migrant Workers and Their Families as well as the voting patterns within the UN in 2006 on how to carry forward the UN High-Level Dialogue on Migration and Development. Consequently, the most rapidly emerging area of multilateralism is at the regional level where Regional Economic Communities (RECs) such as the European Union are developing internal and external cooperation on a range of aspects of migration.

Second, migration governance exists at the level of what can be referred to as 'embeddedness'. In other words, a range of institutions exist that may not be explicitly labelled as migration institutions, but nevertheless regulate and facilitate states' responses to migration. Rather than being 'migration institutions', they are 'embedded' within the global governance of other policy fields. For example, so-called International Migration Law is not an independent body of law but is based upon drawing together the implications of states' existing obligation within other areas of public international law such as international human rights law, World Trade Organization (WTO) law, and international maritime law. Similarly, a range of international organisations have mandates that touch upon international migration, which is illustrated by the participation of 18 organisations within the UN's main migration coordination structure, the Global Migration Group (GMG).

Third, the most rapidly growing aspect of global migration governance relates to informal networks. So-called Regional Consultative Processes (RCPs) have emerged in most parts of the world, as informal, inter-state dialogues on migration within and across different geographical regions and migration systems. The model of RCPs mainly focuses on addressing irregular migration through sharing information and 'best practice' and by facilitating 'capacity-building'. It has been promoted as a governance model by the International Organization for Migration (IOM). The IOM itself is an international organization that can be understood as part of informal governance insofar as it lies outside of the UN system and provides a range of migration-related projects and services on behalf of its donor states. In many ways the Global Forum on Migration and Development (GFMD) is a global-scale manifestation of the RCP model. Today,

the GFMD represents the main inter-state forum for informal dialogue on migration at the global level, taking place annually and focusing on migration insofar as it relates to development.

'One size does not fit all': Choosing between bilateral, regional and multilateral cooperation

If a country recognises that it has an interest in international cooperation on particular areas of migration, on what basis should it decide between cooperating at different levels of global governance? Different areas of migration vary in their type of governance. For refugees there is a strong multilateral framework but for labour migration there is not. Rather than being an aberration, there is an underlying logic to this variation – at least from a state perspective.

States generally create international institutions when a problem goes beyond the scope of its boundaries and two or more states are worse off dealing with the problem separately than they would be cooperating. The type and scope of the institutions they create will depend upon the extent to which a problem can be addressed by a smaller or larger group of states.

Global Public Goods Theory may help to understand this. A global public good is one for which:

- all states benefit equally irrespective of who contributes ('non-excludability')
- one state's consumption does not diminish another state's enjoyment of the benefits ('non-rivalry')

For global public goods such as climate change mitigation, one would expect states to work towards formal multilateral cooperation.

However, not all areas of migration governance are global public goods. Instead, some forms of migration governance vary in the qualities of 'excludability' and 'rivalry' that define a global pubic good. Where this is the case, one might expect alternative forms of cooperation – such as bilateral or regional cooperation -- will be expected to emerge:

1. The governance of refugee protection represents a global public good. The benefits – in terms of security and human rights - accrue to all states, to some extent, and the enjoyment of those benefits by one state is largely undiminished by another state's enjoyment. One would therefore expect a multilateral regime.

2. The governance of low-skilled labour and irregular migration represents a 'club good' in the sense that while regulating irregular movement has benefits that are non-rival (i.e. not diminished by other states' participation in governance), the benefits are partly excludable in the sense of the benefits of governance being geographically confined within a particular regional context. One would expect cooperation within 'clubs' – regional, interregional or trans-regional (i.e. based on groups of states across regions).

3. The governance of high-skilled labour migration is a private good. Its costs and benefits are highly excludable, accruing almost exclusively to the sending state, the receiving state and the migrant. However, the benefits of high-skilled migration are 'rival' because there is a finite supply of skilled labour. The dominant form of cooperation is therefore likely to be through unilateral liberalization or bilateralism.

Table 1: Migration Governance as a Global Public Good

Type of Migration Governance	Main Level of Governance	Type of Good
Refugees	Multilateral	Public good
Irregular/ low-skilled migration	Regional	Club good
High-skilled migration	Unilateral/bilateral	Private good

In other words, from a state perspective not all areas of migration need the same types of cooperation. Global migration governance does not and should not imply a 'one size fits all' approach. In some areas, formal UN-based multilateralism may be required, while in other areas more flexible 'club' based structures may be more appropriate.

While multilateralism may still be useful in the areas of irregular and low-skilled migration, or high-skilled migration, it is likely to be a different kind of multilateralism. A 'facilitative multilateralism' for example, would not be based on the development of binding norms, so much as the creation of structures that, through dialogue, repeated interaction or normative oversight, enable the emergence of bilateral, regional or inter-regional structures of cooperation.

Identifying and Filling Gaps: The Functions of Global Migration Governance

Global migration governance lacks a clear vision. Unlike many other areas, it also lacks articulate leadership. There can be no single, objective vision for 'better' governance. While some migration governance choices are 'win-win' for all stakeholders, others involve inevitable trade-offs. Most decisions about migration governance involve inevitably prioritising between three competing aims: rights, security and the economy. Any substantive visions needs to take seriously the trade-offs and political choices inherent to a vision for global migration governance.

Nevertheless, three broad and competing visions for global migration governance can be identified:

- formal UN-based multilateralism
- informal network-based governance, along the lines of the RCP model being encouraged by IOM
- coherent plurilateralism, based on an alternative middle-way

The first option is too binding and too inflexible for many states, the second is likely to be too exclusionary and inequitable, and risks leaving important issues such as the human rights of migrants off the radar. The third – coherent plurilateralism – offers a way to draw together the benefits of each, based on recognition that: a) 'one size does not fit all'; that b) it is not a matter of creating new institutions but making existing institutions work better, but that c) there is currently inadequate coordination and several gaps within the existing architecture.

Developing global migration governance based on coherent plurilateralism would entail first identifying

what the functions of global migration governance should be, and then examining the extent to which these are currently addressed to an adequate extent to meet the collective interest. Five functions of global migration governance can be identified. Within each area there are important gaps.

Function 1: Normative oversight: One of the biggest gaps in existing governance is the absence of an institutional authority to oversee implementation of states' existing obligations under International Migration Law. IOM has no clearly defined normative role, and, in contrast to UNHCR's role in overseeing international refugee law or the International Committee of the Red Cross's role in overseeing international humanitarian law, there is no organisation with a similar normative role in relation to migration. This is a particularly problematic gap in relation to the human rights of migrants, which frequently falls between the mandates of different international organisations.

Function 2: Forum for dialogue: The Global Forum on Migration and Development (GFMD) provides the most inclusive forum for dialogue on migration available to states. It serves as an annual multilateral meeting within which states can informally share ideas on good practice and capacity-building, sometimes leading states to develop new forms of more formal bilateral cooperation. However, it is not yet totally inclusive in terms of either its participants (states or non-state actors) nor in terms of the range of migration topics that it covers. For example, its focus is on the economic dimensions of migration more than rights or security dimensions. The next UN High-Level Dialogue on Migration and Development, scheduled for 2013, will provide a context in which to revisit the question of whether or not the GFMD remains the most appropriate format for inclusive multilateral dialogue.

Function 3: Service provision: A range of organisations support capacity-building for states in the area of migration, most notably IOM. However, capacity-building tends to focus on issues relating to border control, travel documentation and forensics, to the neglect of other areas. To take one example, the Global Migration Governance project's research on migration capacity-building in East Africa revealed that many border guards were familiar with identifying fraudulent

documents but did not know the definition of a 'refugee' (Betts 2011b).

Function 4: Political facilitation: An important role that international institutions can play for states is in overcoming collective action failure through facilitation. By identifying areas of mutual interest and putting forward a vision for collaboration or coordination, international organisations play an important role in many policy fields. However, this function is largely missing in the area of migration. IOM, for example, has little capacity at headquarters to engage in political facilitation and other institutions working on migration lack the personnel and resources to play this role. Yet it is crucial if leadership is to emerge.

Function 5: Knowledge capacity: In order to identify areas in which international cooperation is needed, global migration governance needs to have a knowledge capacity that can engage analytically with developments in migration – in the terms of both the issue, and its wider political and institutional context. However, at the moment none of the major institutions working on migration have significant capacity in this area. One or a group of international organisations need to develop a much stronger knowledge capacity in the area of migration. The World Bank, for example, might be one option for a lead organisation in this role. In its initial stages, this might involve convening an international panel of experts, similar to that which emerged in the area of climate change.

This basic framework of five functions does not provide all of the answers for what global migration governance should look like – or what the UK's global migration governance policy should look like. But it does offer a basic outline of the governance functions that need to be filled at some level of inter-state governance in relation to all areas of international migration, and hence a basis on which to identify and fill specific gaps.

Implications for the UK

At the moment, the UK engages with global migration governance at the bilateral, regional and multilateral levels, through formal and informal governance. On a multilateral level, it participates, individually and through the EU, within a wide range of UN and non-UN based

forums and debates on migration, at the global and the regional levels. It attends the GFMD and plays an active role in shaping the internal and external dimensions of the EU's asylum and migration policies. At the level of embeddedness, it has signed and ratified a range of treaties and works with a number of international organizations that, although not explicitly labelled 'migration', have a significant impact on UK migration policies. At the level of informal networks, the UK works through the Intergovernmental Consultations on Asylum, Refugees and Migration (IGC) to develop 'best practice' in the area of irregular migration management. Meanwhile, it works through IOM (and a range of other intermediaries) to promote improved migration management capacity in other regions of the world.

However, the UK's current position is relatively fragmented. Different government departments (Foreign and Commonwealth Office, Department for International Development, Home Office, and Office of the Prime Minister) have different responsibilities for engaging with different aspects of global migration governance. Furthermore, the general position – led mainly by the Home Office -- is to work unilaterally, bilaterally and through the European Union. It generally refrains from providing strong leadership at the multilateral level. Yet, the UK is well placed to have a significant impact on how the global institutional framework evolves, not least given the range of coalitions through which it can work, including the Commonwealth and the European Union. Regardless, of what position it takes, there is a strong case for the UK to develop a coherent 'global migration governance policy'.

Global migration governance is at a crucial stage in its institutional development, and it is important that the UK takes a position in relation to these debates. Among the broad debates on which the UK needs to consider in developing a policy framework:

Inside or outside the UN? With the exception of the regional level, the trend is towards informal rather than formal governance. Most Northern states are in favour of informal bilateral and regional structures in most areas of global migration governance, in contrast to Southern states which more frequently favour a formal UN-based model. This begs the question of which parts

of migration governance should be within the UN system and which parts outside. Behind this broad debate lies the question of the future of a number existing international institutions. Should IOM be brought into the UN system or at least given a normative role in overseeing International Migration Law? What should the future of the GFMD be; if it has a future, should it be inside or outside the UN system? At the moment the UK is generally working outside of the UN framework, through IOM or Regional Consultative Processes to shape global migration governance. But this begs the question of what kind of long-term vision for global migration governance it is seeking to promote?

Addressing emerging challenges? The world is constantly changing but international institutions tend to adapt more slowly than new challenges or problems arise. In the area of migration, a host of new challenges are emerging, which fall outside of the mandates of any existing international institution. The threat of environmental migration and displacement in the context of climate change, the emergence of new drivers of cross-border displacement from fragile states that fall outside the framework of the refugee regime, the rise of inter-state competition for high-skilled labour, and the challenging relationship between diasporas and security all pose new and emerging governance challenges that fall outside the boundaries of existing international institutions' mandates. For example, the UK has a significant stake in thinking through responses to such new challenges. It has been a major receiving state for people fleeing fragile states such as Zimbabwe and Somalia and therefore has an important stake in thinking through how the world should respond to such challenges. Meanwhile, through the Commonwealth, the UK has important ties to small island states and other countries that may be affected by climate change and its consequences for migration. The UK's demographic challenges and aging population further require cooperation to address its future labour demands. These types of new challenge require new forms of international cooperation; the question is: what should these look like and where should they be developed?

Overall vision and coherence? On a global level, there is a lack of vision and leadership in the area of global migration governance. Current responses are ad hoc

at best, and largely characterised by 'drift'. Historically, where global governance has been adapted and reformed it has generally relied upon one or a small group of states taking on a leadership role. While few politicians in some liberal democratic states want to touch the domestic 'immigration debate', the global migration debate offers a way to engage with the challenges of migration in a less politically charged context. The UK could and should be well placed to play a leadership role in defining the contours of a vision for global migration governance. One starting point might be to consider develop a national 'global migration governance policy'.

Bibliography

- Betts, Alexander, ed. *Global Migration Governance*. Oxford: Oxford University Press, 2011a.
- Betts, A. "The Global Governance of Migration and the Role of Trans-regionalism." In *Multi-Layered Migration Governance*, edited by R. Kunz, S. Lavenex, and M. Panizzon. London: Routledge, 2011b.
- Hansen, R., J. Koehler, and J. Money, eds. *Migration, the Nation-State and International Cooperation*. London: Routledge, 2011.
- Koser, K. "International Migration and Global Governance." *Global Governance* 16, no. 3 (2010): 301–316.
- Koslowski, R., ed. *Global Mobility Regimes*. London: Palgrave MacMillan, 2011.
- Kunz, R., S. Lavenex, and M. Panizzon, eds. *Multi-Layered Migration Governance*. London: Routledge, 2011.
- Newland, K. "The Governance of International Migration: Mechanisms, Processes and Institutions." *Global Governance* 16, no. 3 (2010): 331–344.

The Migration Observatory

Based at the Centre on Migration, Policy and Society (COMPAS) at the University of Oxford, the Migration Observatory provides independent, authoritative, evidence-based analysis of data on migration and migrants in the UK, to inform media, public and policy debates, and to generate high quality research on international migration and public policy issues. The Observatory's analysis involves experts from a wide range of disciplines and departments at the University of Oxford.

COMPAS

The Migration Observatory is based at the ESRC Centre on Migration, Policy and Society (COMPAS) at the University of Oxford. The mission of COMPAS is to conduct high quality research in order to develop theory and knowledge, inform policy-making and public debate, and engage users of research within the field of migration.
www.compas.ox.ac.uk

About the author
Dr Alexander Betts
Research Fellow in International Relations, University of Oxford
alexander.betts@politics.ox.ac.uk
www.politics.ox.ac.uk/