

NEW ECONOMY Section

RECENT DEVELOPMENTS OF GLOBAL MIGRATION GOVERNANCE

Mariana BĂLAN*, Brîndușa Mihaela RADU**

Abstract. *Migration and international mobility are, by their nature, transnational issues concerning both countries of origin and destination and those of transit. Historically, migration governance has remained at the level of individual states, and migration policies and regulations are usually made at the national level.*

Therefore, it can be said that, unlike many other areas with cross-border activities, international migration does not have coherent global governance.

Recognizing that states cannot always address migration in isolation from each other has led to discussions on what types of international institutions and cooperation are needed to meet the challenges of international migration.

Thus, in recent decades, substantial efforts have been made to improve the global governance of migration, building on the rules and institutions developed over the past century.

In this context, in December 2018, at a United Nations conference attended by over 150 United Nations member states and, later that month, in the United Nations General Assembly, the Global Compact on Migration was adopted. It strikes a balance between the rights of migrants and the principle of state sovereignty over their territory.

The paper presents the key elements of the existing architecture of global migration governance, as well as a brief analysis of its recent evolution. It also analyzes the benefits and barriers to global migration governance, as well as its components.

Keywords: *migration, global governance, international cooperation, United Nations.*

1. Introduction

International migration has become an important component of globalization in recent decades, but also one of the vital survival strategies

* Hyperion University of Bucharest and Institute for Economic Forecasting – NIER, Romanian Academy, dr.mariana.balan@gmail.com

** Institute for Economic Forecasting – NIER, Romanian Academy, bmradu@yahoo.com

for people affected by wars, poverty and precariousness in various parts of the Earth. On the other hand, international migration is also a solution to demographic deficits in many developed countries.

Today, migration affects every country, every major city and local communities in all regions. UN estimates for 2017 indicated that 248 million people are resident in countries other than their country of birth or citizenship, of which migrant workers accounted for 64% (or 163.8 million people). Millions of people are short-term, seasonal or temporary migrants and mobile workers who are not counted in this figure. The increase in migration is determined on the one hand by the increase in international demand for labor and skills, and on the other hand by the absence in many countries of decent work and sustainable living conditions.

The persistence of irregular migration flows and the “refugee crisis” of 2015, due to the war in Syria and the protracted conflicts in the Middle East and Africa, have once again demonstrated the blatant lack of a functioning regime for the international movement of people, common rules, measures and procedures, as well as decision-makers responsible for their implementation.

Given that the migration process is not regulated by appropriate legislation, policies and practices in accordance with international norms, it involves abuse and exploitation in the workplace, disruption of social cohesion, denial of social protection, family disintegration, low productivity and loss of employment opportunities, development and prosperity. In this context, governing international migration is becoming a global challenge.

The governance of international migration must respond to the heterogeneity and complexity of migration factors, as well as to the concrete situations of refugees and migrants, the ultimate goal of governance being to promote human well-being for all.

The Migration Governance Framework (MiGOF), approved in November 2015 by the member states of the World Organization for Migration (Council Resolution 1310), consists of three principles and three objectives, which, taken together, ensure that migration is governed in -an integrated and holistic way. This framework provides internationally agreed rules and standards for the responsibility and accountability of the Government and other stakeholders; provides policy guidance that identifies what should be done by whom and when; offers a multitude of practical models of how effective migration governance is in many different contexts.

The Migration Governance Framework has also been used as a conceptual framework for Objective 10.7 of the 2030 Agenda for Sustainable Development (which includes several targets directly related to international migration or migrants), which calls on countries to “facilitate migration and orderly mobility, safe, regular and accountable for people, including through the implementation of planned and well-managed migration policies” [1].

Annex II of the New York Declaration has launched a process of intergovernmental consultations and negotiations for the development of a comprehensive pact for safe, orderly and regular migration. This process was concluded in December 2018 with the adoption of the Global Compact for safe, orderly and regular migration. This is the first comprehensive framework of principles and objectives to guide international cooperation in the field of migration and thus a new update on the governance of international migration [2].

2. Brief presentation of initiatives to improve the governance of international migration

Migration governance is, according to experts within the Global Migration Policy Association, an interdependent set of legal norms, policies, institutions and practices for the administration, regulation and mediation of activities and relations within political and social entities (whether they are states, administrative regions, cities or corporate bodies).

According to the definition given by Global Migration Policy Associates (GMPA) experts, migration governance must respond to the heterogeneity and complexity of migration-generating factors and refugee situations, and its ultimate goal is to promote human well-being for all.

If in the last century a comprehensive international framework for migration governance was created (designed primarily to support national migration governance and developed through collaborative international processes), in the first two decades of the 21st century, efforts to improve the governance of international migration through mechanisms formalities of the UN, as well as through informal state-led mechanisms, have intensified.

For example, transnational corporations, the World Trade Organization, the World Bank, but also developed countries, have sought to promote a business-friendly approach to migration management, driven by the need for high or low-skilled labor demand, without it also supports the rights of migrants. However, this approach has been challenged by

several UN agencies, led by the International Labor Organization and by launching a rights-based approach to migration [3].

Following several international initiatives, conferences and reports related to migration [4], [5], the UN General Assembly in its resolution 58/208 of 23 December 2003 [6] decided to devote a high-level dialogue (HLD) to international migration and development during its sixty-first session in 2006. The aim of the high-level dialogue was to discuss the multidimensional aspects of international migration and development and to identify appropriate ways to maximize development benefits and reduce the negative impact of migration. The first UN HLD took place in 2006 [7] and consisted of four plenary sessions and four interactive roundtables on topics such as migrant law, trafficking in human beings and smuggling of migrants, remittances, bilateral and regional partnerships. However, it did not include migration on the UN's agenda.

In the same year, in order to promote the wider application of international and regional instruments and rules on migration, and to encourage the adoption of more coherent, comprehensive and better coordinated inter-agency approaches, the UN Secretary-General established the Global Migration Group (an interagency coordination mechanism including the International Organization for Migration (IOM) and 15 entities of the United Nations system).

Subsequently, in 2007, governments launched the Global Forum on Migration and Development (GFMD), designed as a state-led process that allows for consultation, dialogue and cooperation on international migration issues. This action is considered the most complex framework for the incipient governance of international migration, involving ongoing intergovernmental deliberations between countries of origin, host and transit [8].

The second UN High Level Dialogue on Migration and International Development (HLD) took place on 3-4 October 2013 in New York, at the UN General Assembly, where the international community sought to identify concrete measures to strengthen coherence and cooperation, to enhance the development of the benefits of international migration, both for migrants and for states [9].

In 2015, the World Organization for Migration approved the Migration Governance Framework (MiGOF) to help define the concept of “well-managed migration policies” at the national level [10]. Also, indicators on migration governance (MGI) have been developed in order to assess national frameworks, but also to help operationalize MiGOF.

This Framework seeks to present, in a consolidated, coherent and comprehensive way, a set of three principles and three objectives which, if respected and met, can ensure an orderly, beneficial migration process for both migrants and society in general.

The migration governance framework corresponds to Objective 10 (“Reducing Inequality”) of the Sustainable Development Goals included in the 2030 Agenda, adopted by the UN Member States in 2015, and specifically to Objectives 10.7, “Facilitating orderly migration and mobility, safe, regular and accountable people, including through the planned and well-managed implementation of migration policies” [1].

This Framework consists of three principles and three objectives.

Principles: i) observance of international standards and fulfillment of migrants' rights; ii) evidence-based policy formulation and iii) strong partnerships to address migration and related issues, propose the necessary conditions for migration to be well managed and beneficial for all. At the same time, they are the means by which a state will ensure that there are systemic requirements for good governance of migration.

MiGOF objectives: i) improving the socio-economic well-being of migrants and society; ii) efficient approach to the dimensions of crisis mobility and iii) ensuring safe, orderly and dignified migration; they are specific and do not require any other conventions, laws or practices other than those that already exist, and which, taken together, ensure that migration is governed in an integrated and holistic manner. At the same time, these objectives respond to the need to take into account the mobile categories of people and to address their emergency assistance needs, building the resilience of individuals and communities, as well as ensuring the economic and social health opportunities of states.

The UN Secretary-General's report “On Security and Dignity: Addressing the Large Refugee and Migrant Movements” of 9 May 2016 for the UN Summit focused on both refugee and migrant issues, while highlighting trends and the causes of these large movements. He called for "new global commitments to address the large movements of refugees and migrants, starting with recommendations to ensure the human rights, safety and dignity of refugees and migrants at all times" [11].

On 19 September 2016, the United Nations General Assembly adopted a set of commitments to increase the protection of refugees and migrants. These commitments are known as *the New York Declaration on Refugees and Migrants* [12]. This document reaffirms the importance of international protection and represents the commitment of Member States to increase and improve protection mechanisms for people forced to

migrate. The New York Declaration acknowledged that, although there are separate legal frameworks governing refugees and migrants, both categories have “the same universal human rights and fundamental freedoms, and they also face many common challenges and similar vulnerabilities, including in the context of large movements” [12].

The adoption of the New York Declaration on Refugees and Migrants marked the beginning of the preparation of two global pacts, *Global Compact for Safe, Orderly and Regular Migration* and *Global Compact on Refugees*, which were finalized in 2018.

An additional major outcome of the 2016 UN Summit on Institutional Arrangements for the Governance of International Migration was the approval of the International Organization for Migration’s entry into UN structures, in order to more comprehensively help and protect migrants, to help states address migration issues and promote better coherence between migration and related policy areas” [12].

3. Benefits and barriers to the governance of international migration

Improving the governance of international migration entails a number of advantages, both for countries of origin, host or transit, and for other non-state “actors” whose activity intersects with Governments and each other in managing the movements of individuals (some of them they have formal roles: multinational corporations, labor recruitment agencies, humanitarian aid organizations, etc., others are engaged in illicit activities: human trafficking, smuggling of migrants, etc.). Also, international migration intersects with other areas: transnational issues, socio-economic development, trade, environmental change, conflict resolution, security, human rights, etc.

Therefore, it can be said that in the face of the problems of global cooperation and coordination of migration, a more effective system of governing international migration can improve collective efforts and create opportunities for mutual benefits. The benefits of international migration governance should be appreciated to the extent that such a system improves the realization of the rights and well-being of migrants.

Therefore, any improvement in the system of governance of international migration should necessarily be developed through a recognition and acceptance of the fact that migrants have the same rights as everyone else [8], [13].

In this context, in his February 2017 report, the former Special Representative of the Secretary-General for Migration, Sutherland P. warned that the global governance of migration cannot be achieved by decree, but, “progress is likely to be based on the involvement of those directly affected, and those responsible for implementing the policy, while reaching agreement on common minimum standards, principles and approaches that should be applied at the general level. The latter provides predictability for cooperation between states, based on mutual expectations and responsibilities, clearly bore also for migrants, whose rights must be protected wherever they move in the world” [14].

Efforts to improve the governance of international migration aim to achieve an effective system for governing this process, with the potential to improve collective responses and create opportunities for mutual benefit. Such a system allows:

- meeting of states to discuss issues of mutual interest;
- identification of common objectives and strategies;
- creating a space for learning and understanding;
- coordination and cooperation between states in the development and implementation of systems, processes and initiatives.

These efforts are not new. The post-World War II period has made significant progress in establishing international norms, rules, procedures and institutions in the field of labor migration and refugee movements.

However, the governance of international migration remains fragmented, with robust international law in some areas, significant gaps in others and inadequate decision-making processes and mechanisms for policy implementation.

While the legal and institutional frameworks are the strongest and oldest for refugees, the various instruments for the protection of migrant workers have received less support. For migrant workers, and for all migrants in general, the basic tools of international human rights are being developed, but there are still regulatory gaps, especially with regard to access to the territory and the stay of migrants in extremely vulnerable situations, including those who do not qualify for protection as refugees.

A number of factors have hampered progress in establishing a more coherent system for governing international migration, including:

- a) the concern expressed by a number of states regarding the effect of migration on their sovereignty, which is directly affected by the impact of migration on border integrity, economic growth, demographic change, social and cultural relations, and in rare cases on political stability;

- b) contesting migration in domestic politics, this being sometimes considered a problem, sometimes an opportunity;
- c) weak international and related cooperation. Effective cooperation between countries would require states to take into account the interests of other countries, which is difficult when states are in conflict with their own interests (in terms of migration). Also, many countries are, at the same time, countries of origin, transit and destination and their interests may differ significantly, depending on the subject in question or the agreements negotiated. Although the literature emphasizes that migration can generate economic benefits, however, social, fiscal, cultural, religious and other impacts can be equally relevant to governments when considering how to manage flows of people, or to conclude agreements with other states on this subject;
- d) the existence of a natural asymmetry in the process of building a system for governing international migration. Most destination countries tend to be global or regional hegemonies in relation to the countries of origin from which people migrate. This is also true for South-South and South-North migration. Destination countries are generally richer and often strategically and militarily dominant. In this context, in the negotiations, the representatives of the destination countries may have a disproportionate power in defining the terms by which migrants' visas will be allocated. Also, even among countries with similar economies and political systems, agreement on migration policies is often evasive;
- e) non-inclusion of migrants' representatives in the governance system of international migration. Including migrants in such a system is extremely difficult, especially since it is not always clear who can represent the interests of migrants in a given context. Within the Global Forum on Migration and Development (GFMD), in 2011, a component of civil society was created, which includes representatives of migrant organizations and the diaspora. In the context in which GFMD is a consultative process and not a decision-making process, the question arises whether these organizations would really represent the interests of large types of migrants.

Over time, *the normative and institutional architecture of international migration governance* has developed, evolved and proliferated and currently embodies a relatively detailed (albeit

fragmented) set of rules, regulations and institutions governing the behavior of states and other actors.

Among the most important aspects of the legal / normative and institutional architecture can be mentioned:

- ❖ *legal and normative architecture*. Relevant laws and regulations for migration governance are found in ordinary international law, but also in other instruments (multilateral treaties, bilateral agreements and domestic law, laws and regulations in various fields). All human rights are applied in state actions in the field of migration, but they may impose certain restrictions (which are based on legislation and are in line with other rights in the International Covenant on Civil and Political Rights of 1966) to protect national security, public order, public health;
- ❖ there is less cooperation worldwide on *laws and regulations for migrant workers*. International movements related to labor and services are governed by bilateral and multilateral agreements at the regional and sub regional levels, including in wider frameworks for free movement, but at the global level there are a number of instruments (the 1990 Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the 1949 Convention on Migration for Employment (Revised) (ILO Convention No. 97), and the 1975 Convention on Migration in Abuse and the Promotion of Equal Opportunities and Treatment of Migrant Workers (ILO Convention No. 143)), which are not yet widely ratified. An important step has been taken by the 1994 General Agreement on Trade in Services, which also contains provisions for the indirect support of the temporary movement of persons between trading partners, thus facilitating international mobility;
- ❖ for migration related to *family reunification* (family unity) there are no agreements / treaties worldwide, however, the protection of the family unit is underlined by universal rights: articles 12 and 16 of the Universal Declaration of Human Rights (1948), articles 17 and 23 of the International Covenant on Civil and Political Rights (1966) and Article 10 of the International Covenant on Economic, Social and Cultural Rights (1966), as well as the provisions of the Convention on the Rights of the Child (1989) and the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990);

- ❖ the regulation of the ways of movement of persons is, in general, achieved through bilateral agreements;
- ❖ *migration due to political reasons, religion, nationality or wars* is regulated only by the 1951 Convention relating to the Status of Refugees and its 1967 Protocol (Refugee Convention). Although the Universal Declaration of Human Rights recognizes the right to seek and receive asylum from persons persecuted in other countries (under the Refugee Convention), states do not have an appropriate obligation to admit asylum seekers;
- ❖ regarding *human trafficking and smuggling of migrants*, a large number of states have agreed to international laws and regulations regarding these processes. The purpose of the 2000 Protocol (the so-called "Palermo Protocol") to the UN Convention Against Transnational Organized Crime) is to prevent and combat the smuggling of migrants and to promote cooperation between states in this regard, while protecting the rights of smuggled migrants [15].
- ❖ *the institutional architecture of international migration governance*. The International Organization for Migration (IOM), the United Nations High Commissioner for Refugees (UNHCR) and the International Labor Organization (ILO) are the three international organizations with the strongest normative and / or operational mandates related to the governance of international migration. Also, the Global Migration Group (GMG) and the Special Representative of the Secretary-General on Migration (SRSG), other institutional actors play important direct and indirect roles in developing the architecture of global migration governance.

3.1. Efforts to improve the governance of global migration in the 21st century

Efforts to improve the governance of international migration over the past two decades, both through formal UN mechanisms and through informal state-led mechanisms, can be grouped into three sets of activities:

1. *dialogues and consultative processes to build trust and consensus between states*: Awareness of the multidimensional and transnational nature of migration has developed over the last two decades, as has the need for multilateral cooperation on various aspects of this phenomenon, which has led to a significant increase in global dialogues and consultation

mechanisms on international migration. The growing importance and priority of global migration governance is reflected in the fact that past reluctances and disagreements have been geared, to some extent, towards increased cooperation, with greater recognition of the benefits to be gained from discussions and actions at international level.

The main topics addressed in the dialogues and initiatives of various international bodies were: i) minimizing the negative aspects of migration by addressing drivers and consequences of displacement and irregular migration; ii) recognizing and consolidating the positive effects of migration for countries of origin and destination, but also for migrants; iii) protecting the rights of migrants and ensuring their well-being.

2. mini-multilateral regulatory initiatives to improve the protection of migrants through the New York Declaration calling for a state-led consultative process to improve the protection and assistance of migrants in vulnerable situations; Agenda of the Nansen Initiative for the Protection of Displaced Persons in the Context of Disasters and Climate Change (launched by Norway and Switzerland, 2015) [16] and Guidelines to Protect Migrants in Countries Experiencing Conflict or Natural Disaster (the Migrants in Countries in Crisis (MICIC) Initiative, 2015-2016) [17].

3. efforts to include migrants in decision-making on other related international issues.

The efforts of international bodies have also intensified in the direction of integrating migration and mobility of people in other areas of global governance. Thus, following stakeholder consultations and intergovernmental negotiations, four important documents have been developed highlighting ways in which migration governance intersects with governance of other transnational issues, including development, climate change, disaster risk reduction and urbanization, namely:

- the incorporation of migration in the Agenda for Sustainable Development 2030 (adopted in 2015), meant the recognition by states of the links between migration and sustainable development, its objectives and targets recognize the multidimensional reality of migration and its ability to contribute to inclusive growth;
- recommendation of the Advisory Group on Climate Change and Human Mobility, towards Conference of the Parties (COP-21) in Paris in 2015 that the COP establish a facility that would “serve as a forum for sharing experience and enhancing capacities to plan and implement climate adaptation measures that avoid displacement, facilitate voluntary migration, and encourage participatory and dignified planned relocation [18];

- the adoption at the Third UN World Conference on Disaster Risk Reduction in 2015 of the Sendai Framework for Disaster Risk Reduction 2015-2030, a document that also contains some explicit references to human mobility. The framework encourages "the adoption of policies and programs aimed at disaster-induced human mobility in order to strengthen the resilience of affected people and host communities" [19].
- the inclusion of migration in the New Urban Agenda (2016), in recognition of the major role of domestic and international migration in the growth and dynamism of cities. In this document, in line with the New York Declaration and the 2030 Agenda for Sustainable Development, states are committed to "ensuring safety, orderly and regular migration through planned and well-managed migration policies" [20].

4. Conclusions

The development of international migration governance requires, beyond international cooperation, the recognition that different states have different objectives and a deeper knowledge and understanding of the phenomenon of migration.

At present, States are more willing to engage in multilateral action and establish mechanisms to strengthen international cooperation in various aspects of migration, and in many respects the progress made so far in improving the governance of international migration is remarkable.

The progress made so far in the development of international migration governance has been based on regional processes, dialogues and consultative mechanisms that began in the mid-1980s and continue to this day. These initiatives have helped build confidence and enabled states to discuss common interests and concerns, identify effective options and practices, understand each other's perspectives and needs, and collaborate on training and technical assistance activities.

One of the challenges in developing international migration governance is to provide ongoing institutional support to address issues related to this phenomenon and to implement the results of global pacts. In this context, the entry of the ILO into the UN system is promising, but by no means sufficient, a major obstacle for the ILO to assume this role as a world leader in the field of migration is its funding mechanism.

Improving the governance of international migration, however, requires a flow of funds related to operations that will enable the ILO to

improve its role in protecting the rights and safety of migrants and helping States and other entities to develop and implement policies that contribute to safety, order and regular movements of people around the world.

Another important challenge will be the coordination between the different institutions with mandates, programs and interests for migration issues.

In the current context, international migration is a very important global issue and therefore requires a more efficient system of international governance. In the last decade, states have demonstrated a willingness to explore new ways of tackling international migration, to strengthen their cooperation in this area, both inside and outside the UN. International organizations tasked with helping states manage the movement of people and protect their rights have also shown a greater willingness to cooperate with each other and with states. However, the barriers to the governance of international migration are multiple and will increase if states do not continue the processes of consultation, cooperation and confidence building.

REFERENCES

- [1] *The 2030 Agenda for Sustainable Development*, <https://sustainabledevelopment.un.org>
- [2] *Global Compact for Migration*, IOM, UN Migration, www.iom.int
- [3] ILO, (2006), *ILO's multilateral framework on labour migration; non-binding principles and guidelines for a rights based approach*. Geneva: International Labour Office.
- [4] *Migration in an interconnected world: New directions for action*, Report of the Global Commission on International Migration, 2005, <https://www.iom.int>
- [5] World Commission on the Social Dimension of Globalization a Fair Globalization: *Creating Opportunities for All. Brief reviews of policy issues*, 2004, www.ilo.org
- [6] Resolution adopted by the General Assembly on 23 December 2003 [on the report of the Second Committee (A/58/483/Add.3)] 58/208. *International migration and development*, <https://www.un.org>
- [7] United Nations *High-Level Dialogue on International Migration and Development* (HLD), 2006, IOM, <https://www.iom.int>
- [8] Betts A. (2011), *Global Migration Governance*, Oxford University Press
- [9] UN *High-level Dialogue on International Migration and Development* 2013, IOM, <https://www.iom.int>
- [10] *Migration Governance Framework* (MiGOF), Global Forum on Migration & Development, 2015, <https://www.iom.int>
- [11] United Nations Secretary-General (UNSG), 2016 *Report of the Secretary General: In Safety and Dignity: Addressing Large Movements of Refugees and Migrants*. UN Doc. A/70/59. 21 April 2016.

- [12] *New York Declaration for Refugees and Migrants*). UN Doc. A/RES/71/1. 3 October 2016. www.un.org.
- [13] A. Betts and L. Kainz (2017), *The history of global migration governance*, RSC Working Paper Series, No. **122**, <https://www.rsc.ox.ac.uk>
- [14] *Report of the Special Representative of the Secretary-General on Migration* 2017. UN Doc. A/71/ 728. 2 February 2017. <https://documents-dds-ny.un.org>
- [15] Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (Palermo Protocol). Adopted and opened for signature, ratification and accession by General Assembly resolution 55/25 of 15 November 2000, <https://www.unodc.org>
- [16] *The Nansen Initiative, Agenda for the Protection of Cross-Border Displaced Persons in the Context of Disasters and Climate Change*, 2015, <https://nanseninitiative.org>
- [17] *Guidelines to Protect Migrants in Countries Experiencing Conflict or Natural Disaster* (the Migrants in Countries in Crisis (MICIC) Initiative, 2015-2016, <https://micicinitiative.iom.int>
- [18] Paris Climate Conference - COP 21, <https://www.gouvernement.fr>
- [19] United Nations General Assembly (UNGA), 2015 *Sendai Framework for Disaster Risk Reduction*. UN Doc. A/RES/69/283. 23 June 2015. www.un.org
- [20] UNGA, 2017, *New Urban Agenda*. UN Doc. A/RES/71/256. 25 January 2017. www.un.org