

Is the Global Governance of International Migration Feasible and Desirable?

Written by Talgat Turmaganbet

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TALGAT TURMAGANBET, AUG 2 2015

Political, economic, and social systems all over the world have been altered in the extreme by the phenomena of globalization. The nations of the world are more tightly interconnected now than at any time in history, and the planet has been coalescing into what is known in common parlance as the “global village.” This phenomenon is being accelerated by a variety of different factors, such as advances in shipping and transport of goods, and the rise of transnational problems including terrorism, religious extremism, and international trade disputes, among others. This new state of affairs, globalization, has led to the historical, state-centred view of the world taking a backseat.

The new, global view of politics that has risen to replace the former state-centred view is defined by the prominence of international political actors, including the United Nations (UN) and the European Union (EU). The ways in which global rules are made and enforced has also been radically altered by the rise of globalization. Currently, the role of defining and enforcing international laws is no longer limited to states, as was once the norm. Within the scope of the international political economy, non-state and multinational organisations have emerged as formidable players. The concept of global governance can be summarized by the presence of these developments.

Unlike many other global issues, such as universal human rights, international migration (IM) has not been adequately represented on the world stage as a whole. IM has not even merited its own governing body or agency within the UN. As a result of the lack of any comprehensive, international migration system, the governance of IM is now the sole provenance of individual states. Therefore, some nations have taken it upon themselves to sign inert-state agreements, regarding migration.

However, it bears mentioning that the majority of migration laws that exist have been enacted by sovereign states, not international bodies. Although there have been debates meant to be about the creation of a global agency governing IM, states have been unable to create any sort of comprehensive IM organisation. There is, however, a formal global governance (GG) platform that is in place over IM. This paper will attempt to critically review the extent in which global governance international migration (GGIM) is feasible, or even desirable in the present day. It will achieve this goal by initially investigating an overview of GGIM, and then debating the previous arguments, and finally makes a conclusion on whether or not GGIM is feasible or desirable.

Global Governance of International Migration under Different Actors

Among the most noteworthy qualities that distinguish world governance is the inclusion of non-hierarchical networks of institutions at the international level. As opposed to international governance, many actors have input in checking the conduct of individual states, including international regimes, intergovernmental organisations, and transnational players. Due to this fact, there is a great deal of room for large groups of actors to get involved in the daily affairs of GG.

GGIM within the UN

International organisations bear mentioning as key actors within GG. The vital role that international organisations

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play on the international political stage is that it provides a necessary platform in which different actors can cooperate and collaborate at a transnational level. GGIM has also employed the large window that international organisations such as the UN can offer, in order to build a model of low-key cooperation, drawing in diverse actors from the state and international levels.[1]

Unlike GG in most other areas, on the other hand, states have not cooperated to create an overarching agency to govern IM. The closest equivalent is an approach based on the UN, which addresses the problems of migration, and the protection of refugees and seekers of political asylum. The UN adopted the legal basis of GGIM regarding the fates of refugees and asylum seekers in 1951: the UN Convention on the Status of refugees.[2]

Aside from refugees and asylum seekers, the UN has also put a system in place for other areas within IM, such as human trafficking, and migration due to labour. These frameworks, however, exist under the auspices of different UN agencies, such as the UN Department on Social and Economic Affairs, and the UNHCR.[3]

With the exception of the UNHCR, most of these GG frameworks that exist within the UN are weak, institutionally speaking. As a result of this trend, the cause of promoting GGIM as feasible has been considerably weakened. According to Landau and Segatti (2013), however, IM frameworks based on the UN contribute a fine platform to monitoring GGIM. Despite this favourable outlook, even the well-established UNHCR has been occasionally accused of failing to address the plight of refugees and seekers of political asylum, in particular those who have attempted to flee to Southern Europe from North Africa.[4]

An additional major element of determining if GGIM can be safely deemed to be feasible is the fact that some immigration frameworks within the UN have not been ratified. The only framework that can be safely focused upon is the International Labour Organisation (ILO), which has been burdened with defending the rights of foreign employees in nations worldwide. However, the ILO Migration for Employment Convention of 1949 and the ILO Migrant Workers Convention of 1975 have only been ratified by less than fifty nations, 49[5] and 23 states, respectively.[6]

Since the provisions of the ILO Conventions are only legally binding after being ratified, it is not unreasonable to assume that majority ILO participant countries are not willing to make commitment to the auspices of this legal framework regarding international movement. The fact that some of these clauses are non-binding has only exacerbated the reluctance that these nations feel has made the ILO a less attractive part of the GGIM.[7]

It is only fair to mention that the ILO has made a great deal of headway towards securing its position in the GG framework of the 21st century. This fact is illustrated by the adoption of the resolution on Fair Deals for Migrant Workers in 2004, as well as the founding of the World commission on social dimensions of globalization several years ago. Between these two steps, the necessary impetus towards promoting a solid, legal framework for GGIM may already be in place.

Frameworks outside the UN System

The sole exception to GGIM is the International Organisation for Migration (IOM). The IOM remains the sole global organisation that governs IM outside the system of the UN. The benefits of the IMO are that it has a large number of member states and observer groups that are drawn from circles within and outside established governments. The existence of the IOM illustrates an affirmative move towards proving the achievability of GGIM, and the transition from the state-centred method towards examining this governance.

Since cooperation is key in matters of migration at the global level, an international organisation such as the IOM does a great deal to highlight just how ready the GGIM is to adopt a new approach. One of IOM and GGIM's noteworthy shortcomings is the lack of institutional structure within the organisation. That is to say, unlike the UNHCR, an established political framework does not support the IOM. Due to this particular issue, it is extremely difficult for the IOM to push its migration policies as far as it would wish, which would therefore demonstrate its feasibility in the contemporary world.[8]

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Informal Governance of IM

There have also been series of autonomous initiatives beyond the UN system, within the auspices of GGIM. The Berne Initiative of 2001 was the first of these initiatives to be adopted. The goal of this initiative was to create a collective platform for representatives of IOM participant states and organisations, through that various actors could forge a common approach towards solving the problems of global movement. The Berne Initiative has since made a great deal of headway in gaining crucial insight on many of the largest challenges that IM faces today, and concurrently gives some recommendations to IOM member states on ways in which they can solve these problems.[9]

The Berne Initiative has also created an effective platform for various actors, including states, civil societies, Non-governmental Organisations, and international organisations to use in order to cooperate on IM issues. However, just how well this initiative has secured a global view of IM remains a matter of debate. The fact that the provisions adopted by the Berne Initiative are non-binding implies that any sovereign nation can simply opt out of any endeavour to establish a comprehensive IM framework.[10]

Other independent governing initiatives exist, including the Global Forum on International Migration and Development, the High Level Dialogue on Migration and Development, and the Global Commission on International Migration, and they have done a great deal to advance the case for IM on the global stage, as well as illustrating the need for an institutional framework in order to increase the efficiency of GGIM. Unfortunately, like so many other initiatives within GGIM, most of these initiatives have been unable to establish a solid institutional framework, or able to convince most nations to give up their governing authority in GGIM.[11]

The feasibility of GGIM is once again held back by the non-binding nature of those initiative's frameworks. The previously mentioned independent initiatives were all established informally, so much so that their agendas are overlapping. For example, the Global Commission on International Migration, and the High Level Dialogue on Migration and Development were running in competition with one another, despite the fact that they were operating with the same goals in mind. This disjointed approach leads to the establishment of fragmented or incomplete platforms for GGIM.[12]

Inter-Agency Governance Platforms

In response to the uncooperative approach of the previously mentioned initiatives, efforts have been made to create an interagency platform, which would facilitate the creation of constructive policies in a cooperative manner for GGIM. The first of these inter-agency groups was the Global Migration Group, founding in 2007 that was created to be an inter-institutional demonstrative of all agencies working on IM.[13]

Currently, the Global Migration Group has joined fourteen IM agencies in total, and has made significant headway in its attempts to enhance GGIM. The existence of the Global Migration Group is therefore a check on the positive side of the feasibility of GGIM. If there is an interagency framework set in place, there may be hope that these policies will not be so fragmented in the near future.

Civil Society and GGIM

Shaw and Mbabazi (2011) state that the involvement of civil societies as major players is able, to some extent, negate the many issues that plague solutions to GGIM.[14] Many see civil societies as the "conscience" of GG. Furthermore, civil societies are able to address democracy, and the shortfalls of international institutions. They do this by acting as major actors on the global stage in regard to migration, and also serve as a "transmission belt" between the people of the planet, and the many different institutions that are forming within GGIM.[15]

Considering Main Arguments

Having critically analysed the contemporary GGIM, it can be argued that the GGIM is not very plausible whilst also

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not being completely a negative phenomenon. In other words, governments all around the world maintain their leverage over issues related to global migration as GG frameworks do not possess adequate integrity and they also do not have at their disposal tools effective enough to increase their control over IM. Notwithstanding, there are still organisations of GG that are able to exert some form of influence over IM, such as the UNHCR and the International Labour Organisation.[16]

With respect to the overall weakness of the GGIM, one key factor stands out – the unwillingness of national governments to give up some degree of their control over IM and thus increase functional capacities of international and supra-national organisations as the cornerstones of the GGIM. In this regard, Dauvergne (2014) maintains that the nature of IM necessitates cooperation that goes beyond state borders and that is informed by the notion of responsibility of all countries for the state of IM.[17] In spite of this seemingly logical argument, the reality on the ground do not offer many reasons for optimism, for most national states do not want to fully commit to the pertinent cause and the necessary collaboration between states.

Furthermore, the majority of states have not engaged in a global discussion regarding issues related to IM short of the member countries of the EU. This refusal on the side of countries to become more engaged in solving immigration-related issues stands in a stark contrast to the ever-increasing pace of globalisation which renders any problem regarding IM global rather than just regional or even national.[18]

The ineffectiveness of dealing with IM-related issues in the context of GG can be documented by countless number of cases where the triangle of employers, migrants and smugglers have been able to hide from the controlling power of state-centric policies. Although this does not completely undermine the importance and potential of such policies to deal with illegal migration, the key problem remains to be the inability of these policies to deal with IM-related issues outside the physical borders of a given country. To put simply, most national migration laws do not have in their design implemented any notion of the need for the GGIM; rather, their current design has often further exacerbated existing problems regarding IM.

As an attempt to react to this negative trend, since the beginning of the 21st century, many countries have tried to modify their state-centric migration policies and adopt more globally and supra-national orientated attitude. Such shift has been mainly attributed to the mechanics of globalisation that changed various attributes of international relations and political system. Therefore, although a complex system of the GGIM is yet to emerge, a considerable number of countries have conducted tangible steps to improve the quality of policies regulating IM whilst also deepening their cooperation with other states, non-state actors and representatives of the third sector whether on national, regional or international level.

Notwithstanding the recent progress, the effectiveness of the GGIM is hindered by the absence of strong institutions, where states still possess the decisive power. The need to increase this effectiveness without the ability to fundamentally change the conditions in which the GGIM exists has been a subject of numerous debates. Since there is not a one powerful institution that would encompass in its operations various aspects of the GGIM, states are required to cooperate in order to address numerous issues related to IM; however, not surprisingly, such cooperation is yet to become an ordinary occurrence as governments tend to focus on their national interests, thus disregarding the global dimension of IM. The contemporary GGIM thus retains its non-binding essence with continuing fragmentation of its capacities.[19] In this context, O'Rourke (2007) argues that this very non-binding nature of the GGIM renders cooperation of states in matters of IM at the global scene particularly problematic.[20]

Realism perceives the current state of the GGIM as a logical consequence and a part of the existing world system in which its main actors – nation states – are engaged in perpetual power struggle. At the same time, the GGIM can be seen as a potential tool of global powers to control IM in a way that serve their interests.[21] Hence, this thoroughly state-centric philosophy that is being applied with respect to IM creates a situation in which any major betterment of the state of the contemporary GGIM is a rather far-fetched notion.

This however should not dissuade efforts to implement more globally informed GG. Rather, it is crucial to adopt very realistic views regarding the plausibility of increasing the leverage and capacities of GG. In this context, one should

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emphasise that since IM essentially originates in the context of nation states, as people migrate from one country to another, it can be expected that the state-centric approach towards matters related to IM will prove to be considerably resistant to any radical augmentation.[22] Yet, the foregoing should not be perceived too dramatically as Martin and Callaway (2011) argue, since states are the only actors with the power to both enact and implement new policies and to request or even enforce compliance with them.[23] Hence, the wide-spread criticism of the state-centric essence of GG does not always have to be substantiated.

Institutionalism represents another possible way of perceiving the contemporary GGIM. Its proponents stress the importance of institutions in facilitating global processes with IM not being an exception in this regard. Although institutionalists acknowledge the role of nation states with respect to GG, this role is fundamentally diminished in comparison with realists and their notion of nation states' supremacy in the context of the international political system.[24]

Institutionalists commonly tend to consider the concept of GGIM as less plausible than realists. This is mainly due to the continuing dominance of nation states in questions of IM, whereas the possibility of creating powerful institutions capable implementing some form of GGIM remains extremely low. Institutionalists focus on the effect of globalisation in their argumentation concerning the urgency of institutionalising the management of IM. More specifically, they point at the way that globalisation has forced states to cooperate more intensively than ever before in order to deal with a plethora of political, social and economic issues that care little for arbitrary borders between countries. Since such cooperation, including the management of IM, can be only effectively managed within a more institutionalised form of GG, the absence of powerful institutions with respect to GGIM lowers significantly the possibility that an effective concept of GGIM would emerge in the foreseeable future.[25]

The complexity of the GGIM's state is underlined by the fact that even relatively strong institutions like the UNHCR or the ILO have not managed to fully utilise their potential in dealing with issues related to IM. For instance, the UNHCR has not so far managed to assist refugees and asylum seekers, particularly during their move to their final destination, to a desirable or expected degree. This is confirmed by the recent news of people dying in hundreds when trying to cross the Mediterranean Sea. The fact that this has occurred in the presence of relatively strong institution – the UNHCR – lowers the confidence that the GGIM will gain prominence anytime soon.[26]

Another organisation that is active in the context of IM is the International Labour Organization (ILO). The ILO has been successful in highlighting the plight of forced labour as an increasingly acute phenomenon in the modern globalised society. The majority of those involved in forced labour are illegal immigrants, often as victims of human traffickers. The key issue in this regard remains the ineffectiveness of the GGIM to tackle this problem where it has to be dealt with – on the international level.[27]

Besides the abovementioned lack of significant successes that could be associated with the activity of the few institutions operating in the context of IM, there is another point that the critics of the plausibility of GGIM emphasise – the absence of shared vested interests of states with respect to the need for cooperation when addressing issues related to IM. Those supporting institutionalisation of the processes tackling IM argue in this regard that the presence of such interests is more crucial for the success of various forms of GG than the attitudes of individual states towards GG as a concept.[28]

In this context, it is particularly important for the existing GG platforms to incorporate democratic mechanisms and strictly follow principles of justice in dealing with issues of international nature. The lack of such mechanisms as well as significant shortcomings in upholding the principle of justice is apparent in the contemporary GGIM, albeit as some authors have argued, these deficits are being counter-balanced by intensification of the civil societies' engagement in GGIM.[29]

And yet, it can be argued that the absence of solid institutionalised foundations on which GGIM could operate does not render the concept of GGIM as less feasible. The 21st century has already offered enough empirical evidence that some form of global framework is slowly emerging in the context of dealing with matters related to IM. This new development can be perceived as a logical consequence of an increasingly interconnected and globalised world,

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where the majority of the most pressing issues require at least regional if not international cooperation.

Conclusion

As one of the main findings that can be derived from the overview of the current GGIM's state is the apparent lack of nation states' willingness to give up some of their authority in dealing with matters related to IM. This unwillingness has then rendered the feasibility of GGIM significantly low. Although the foregoing is certainly a still prevailing characteristic of GG frameworks addressing issues of IM, there are certain promising developments in terms of getting states to cooperate on dealing with IM on a regional and international level to a much larger degree than in the past. The track record of several relatively strong institutions such as the UNCHR or the ILO might not be as impressive as it would be desired, however the activities of these institutions have shown the potential of the GGIM. Therefore, there is an urgent need to not only identify the shortcomings of the current institutionalised framework of the GGIM but also to involve states in creating a stronger version of these institutions which subsequently increases the feasibility of the GGIM.

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