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The role of civil society
in the migration policy debate

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Global Commission on International Migration

In his report on the 'Strengthening of the United Nations: an agenda for further change', UN Secretary-General Kofi Annan identified migration as a priority issue for the international community.

Wishing to provide the framework for the formulation of a coherent, comprehensive and global response to migration issues, and acting on the encouragement of the UN Secretary-General, Sweden and Switzerland, together with the governments of Brazil, Morocco, and the Philippines, decided to establish a Global Commission on International Migration (GCIM). Many additional countries subsequently supported this initiative and an open-ended Core Group of Governments established itself to support and follow the work of the Commission.

The Global Commission on International Migration was launched by the United Nations Secretary-General and a number of governments on December 9, 2003 in Geneva. It is comprised of 19 Commissioners.

The mandate of the Commission is to place the issue of international migration on the global policy agenda, to analyze gaps in current approaches to migration, to examine the inter-linkages between migration and other global issues, and to present appropriate recommendations to the Secretary-General and other stakeholders. .

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Potential contributors to this series of research papers are invited to contact the GCIM Secretariat. Guidelines for authors can be found on the GCIM website.

Introduction

International human mobility[1], once considered an area of secondary or tertiary importance to States, now plays center-stage and is intrinsically linked to the mobility of goods and services, as well as to broader considerations underpinning globalization (including trade, sustainable development, environment, security (human and national), conflict management, poverty eradication, etc.) Its scope, which has doubled in less than 50 years, and its increasing complexity have captured the attention of governments and society at large.

Despite the growing attention paid to human mobility, civil society's role has tended to remain one of offering operational assistance. Advocacy on migration policy has been limited, or restricted to specific categories of human movement such as refugee protection, trafficking victims, etc. Particularly when compared to other fields such as the environment or human rights, for example, where the "third force"[2] has a significant impact on policy development, the influence in the field of international migration policy has been limited. This is changing, however, and is likely to evolve rapidly in parallel to other developments in this field.

This paper focuses on the roles and responsibilities of international civil society organizations (CSOs) vis-à-vis international migration policy development, dialogue and related advocacy work. [3] It looks at the current environment giving a bird's eye view of CSOs working on migration issues and the scope and nature of existing "policy networks". [4] Most CSOs in this field focus on one aspect of migration advocacy and policy development such as human rights of migrants or trafficking in human beings.

Advocacy rarely encompasses the whole migration policy field. Two major factors accounting for this are: the nature of international migration; and the nature of policy networks in this field. As mentioned, however, CSOs have recently come onto the stage and are beginning to play a more important role. How the third force might further contribute to international migration policy development and related advocacy work is assessed drawing from recent literature on civil society, and referring in part to how the third force has evolved in other fields.

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[1] The terms human mobility/migration/international migration are used inter-changeably here and refer to all forms of human mobility including voluntary movements (ex. migrant workers) and involuntary or forced movements (ex. refugees).

[2] This term is borrowed from the works included in Ann M. Florini (ed.) *The Third Force: The Rise of Transnational Civil Society*. Tokyo: Japan Center for International Exchange and Washington: Carnegie Endowment for International Peace, 2000

[3] In the literature on civil society, a distinction is made between civil society groups providing services and those with a role in shaping policy through advocacy and dialogue. Whether such groups begin with one function and later incorporate other responsibilities into their mandate varies from case to case. For the purposes of this discussion, the focus is on policy dialogue/advocacy groups regardless of whether they also hold operational functions; it also does not make the distinction between those whose work is "not for profit".

[4] "Policy networks" refers to partnerships between states, other actors (national, regional, international) and NGOs.

The current context

A first distinction can be made between operational migration-related international non-governmental organizations (INGOs) that are plentiful from those working on policy formulation, implementation, monitoring and advocacy. [5]   To practitioners, the distinction between advocacy and operations may seem an artificial one, as operational work is tied to existing policies and standards, and there is a natural evolution towards advocacy work as gaps between policy and practice become clear.   Florini actually describes the opposite trend for NGOs engaged in advocacy work in other fields where these are later subcontracted by governments to assist with operational matters. [6]

In the case of advocacy on migration policy, both trends seem to apply though the overall contention here is that advocacy work on international migration policy *per se* is still limited, and its impact should be strengthened.   Of those INGOs or networks of NGOs whose work touches on this issue, three separate categories can be identified.

The first are traditional operational INGOs working on refugee, displaced person, migrant assistance that have an advocacy branch focusing on specific aspects of migration policy.   The International Catholic Migration Commission (ICMC), an operational arm of the Catholic Church, for instance, coordinates Catholic assistance activities for refugees, migrants and other displaced persons of all faiths.   It is also involved in advocacy work focusing on different aspects of migration policy including human rights, racism issues, international protection of refugees and migrants, and counter-trafficking. [7]

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[5] Brinkerhoff describes this latter type of CSO's functions as "demand-making capacity relat(ing) to advocacy and policy dialogue functions, as well as policy monitoring and ability to interact with policy makers and public sector implementers to promote accountability and transparency. "   Derick W. Brinkerhoff *Exploring State-Civil Society Collaboration: Policy Partnerships in Developing Countries* in Nonprofit and Voluntary Sector Quarterly 1999, 28, 4: p. 65

Though regionally-focused INGOs/NGOs are excluded from the discussion here, it is worth noting that a number of organizations working on migration policy advocacy exist and are becoming increasingly influential particularly vis-à-vis concerned regional entities.   Examples that come to mind include the European Council on Refugees and Exiles (ECRE) (www. ecre. org) and the Migration Policy Group (MPG) (www. migpolgroup. com) vis-à-vis the European Commission.

[6] Florini notes: "Some civil society groups are moving beyond the role of advocate and monitor, providing services directly, implementing governmental policies, or otherwise taking on the roles traditionally reserved to governments and intergovernmental organizations (IGOs). Most of these, in essence, are acting as subcontractors to governments, which increasingly are channeling funds for service provision, development projects, and humanitarian relief through NGOs. For the most part, such subcontractors are not the same groups as those involved in the advocacy coalitions or form only one element of a coalition. But in some cases, governments are turning significant official responsibilities over to advocacy coalitions".   Ann M. Florini, *Lessons Learned* in Ann M. Florini (ed.) *The Third Force: The Rise of Transnational Civil Society*. Tokyo: Japan Center for International Exchange and Washington: Carnegie Endowment for International Peace, 2000,p. 213

[7] See http://www. icmc. net/docs/en/programs

The second category is traditional advocacy INGOs whose mandate covers a specific issue and that are expanding their scope to include different aspects of migration policy. Amnesty International[8], for instance, has a "Forced Migration Project", Human Rights Watch[9] covers "global issues" including "Refugees", and smaller INGOs such as Migrants Rights International (MRI)[10] are developing their purview to cover different aspects of migration policy including the challenges of the "migration/asylum" nexus, the "migration/trade" nexus, *et alia.*

Some advocacy INGOs/NGOs falling into these categories are coming together to take a common position on migration and refugee issues before international organizations with migration and refugee-related mandates. For instance during UNHCR's Global Consultations on International Protection in Geneva, 28-29 June 2001, Human Rights Watch, ICMC and the World Council of Churches in consultation with other NGOs developed a background paper on "the refugee and migration interface" ("nexus"). [11]

The third category is networks that have been created amongst civil society to strengthen its voice, and to address migration and refugee challenges. Umbrella NGOs such as the International Council of Voluntary Agencies (ICVA) consists of an advocacy network for humanitarian NGOs and acts as a focal point on UN bodies such UN Inter-Agency Standing Committee and within the Partnership in Action (PARinAC) program between NGOs and UNHCR (discussed below). [12] Another is the initiative launched in 1999 entitled the *Project on the Future of Asylum and Migration* (FAM) headed by the Society for International Development (SID) through one of its national chapters in the Netherlands. Though other actors in addition to CSOs are members of SID, this initiative is largely perceived as one emanating from civil society to "encourage a positive view and international perspective on asylum and migration matters". [13]

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[8] http://www. Amnesty. org

[9] http://www. hrw. org

[10] MRI was founded during the ICPD to promote the recognition and respect for the rights of all migrants and members of their families. A membership organization, it played a central role in the campaign for the ratification of the UN International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families. MRI also supports the efforts of migrant associations and other NGOs in advocating migrants' rights and monitoring trends and developments of migrants' rights and welfare.
MRI is currently expanding the purview of its human rights work to include other migration-related topics such as trade and remittances. It works to tie a broad set of issue areas including in this case, human rights, trade, globalization and migration. The following statement published in its report from the WTO Ministerial Conference in Cancun, illustrates this inter-linkage: "To illustrate by example, the violation of economic, social and cultural rights of people in extreme poverty, resulting from failed trade and economic policies, forces them to leave their home countries and become migrant workers abroad. A whole migration cycle is triggered, which simultaneously intersects with human rights violations occurring within the dominant context of corporate globalization. " Genevieve Gencianos, MRI (Geneva), *Migration and Trade: A Report from Cancun*, Fifth WTO Ministerial Conference, Cancun, Mexico, 10-14 September 2003, p. 5

[11] *Composite Flows and the Relationship to Refugee Outflows, including Return of persons not in need of international protection, as well as facilitation of return in its global dimension"* in UNHCR Standing Committee, 12th meeting (EC/48/SC/CRP. 29)

[12] See http://www. icva. ch

[13] It is important to note that though the SID Process and its "Declaration of the Hague on the Future of Refugee and Migration Policy" (2002) share a comprehensive focus on migration issues, one of the key

With the exception of work undertaken by the INGOs noted above, which are moving towards advocacy on a more comprehensive agenda for international migration policy and the SID Process, most advocacy work is still largely segmented into sub-categories of migration. Further, these developments are nascent and far from complete. The lack of comprehensive focus and the dearth of consolidated activity on migration policy development are most striking when compared to other fields in which advocacy work plays a more visible and powerful role.

Explaining the dearth of activity

Two sets of factors are presented here to explain why international civil society action has been fairly limited for migration policy development. The first set concerns the issue area itself, the second rests on the nature of policy networks in this field. Those tied to the issue area include: (i) sensitivities and controversies of a comprehensive approach; (ii) migration's broad scope and inter-linkages; and (iii) funding challenges for policy and advocacy related activities.

The second set of factors is a reflection of the extent to which policy networks exist and operate between governments, international organizations (IOs), regional organizations, and civil society in the field of migration policy development. Among the factors accounting for this limited exchange, as argued here, are the fact that (i) States like civil society are only just now beginning to define their priorities in this field; (ii) much work is still taking place at the regional level; (iii) the overriding perception that migration-related NGOs are mainly operational; and (iv) the on-going reticence of States and IOs to include civil society in the decision-making process despite expressed commitments to do so.

Sensitivities and controversies of a comprehensive approach

States and IOs are only beginning to look at voluntary and involuntary movements as one phenomenon requiring greater cooperation and coordination at the international level. To date, the International Conference on Population and Development (ICPD) held in Cairo in September 1994 and the follow-up to ICPD five years later in New York, constitute the only international political *fora* at which internal and international migration were discussed. The fact that ICPD will not be celebrated by a full-fledged conference during its tenth anniversary year, or that proposals for an international conference on migration continues to fall on deaf ears reflects, at least in part, the reticence of States' to discuss migration in a comprehensive manner at the international level.

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elements of the Process is to "emphasise the distinction between refugees and other migrants by continuing to recognise the needs and protections of refugees while seeking parallel options and solutions for other forms of migrants"

This reticence can certainly be explained by the sensitive nature of the topic and the potential controversies of such an approach. Due to its link with international development, migration is viewed as an issue that, particularly in the past but still today, focuses on the North-South divide--the "haves and have nots" of the world. As poverty is deemed to be a primary cause of migration and emigration is considered one way of alleviating the pressures of high unemployment and underdevelopment, discussion on limiting or controlling migration flows can and does cause considerable tensions.

The issue of addressing voluntary and involuntary flows under the same conceptual framework is also a controversial one. The main concern is that by re-opening the debate on the asylum system by way of a broader discussion on international migration, the refugee protection regime will be undermined and asylum-seekers and refugees will risk loosing out on international protections that are already considered by most to be enshrined in customary international law. Indeed, until recently, in policy-making circles it was difficult to discuss refugee and migration issues in the same breath. It is only as the reality of the "migration/asylum nexus" becomes unavoidable that actors in this field are being obliged to do so.

The reticence of States to adopt a more comprehensive agenda accounts in part for civil society's absence from advocacy in the field of migration policy. As one migration expert explained recently, the only meaningful context in which to discuss a migration agenda is one based on existing international legal standards, that is (1) refugee protection instruments and humanitarian law instruments for refugees, asylum-seekers and forcibly displaced people on the one hand, and (2) human rights instruments such as the UN Migrant Workers Convention, on the other.

To try to move away from this legal foundation to a more general discussion on migration that is neither defined nor grounded in international law would negatively impact the protections afforded to vulnerable groups by the existing international legal framework. This position reflects that taken by INGOs as well. [14]

Migration's broad scope and inter-linkages

Another factor accounting for limited civil society activity on international migration policy, is that the issue area itself is ill defined, covers a broad scope and comprises extensive inter-linkages—inter-linkages whose implications and impact are still unclear.

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[14] The NGO Background paper on the Refugee and Migration Interface prepared by HRW, ICMC, WCC in consultation with other NGOs emphasizes this position. "We are concerned by the heavy emphasis in the paper prepared by the International Organization for Migration and UNHCR for the Global Consultations discussion on the asylum/migration interface on migration *control* mechanisms, rather than *protection* strategies for refugees and migrants alike, from an international human rights perspective. " See http://www. hrw. org/campaigns/refugees/ngo-document. HRW's refers to its "on-going commitment to ensure that all migration-related laws, policies and practices promote and protects the human rights of migrants, and safeguard the international refugee protection regime. " HRW, *The IOM and Human Rights Protection in the Field: Current Concerns*, November 2003, p. 1

The main challenges of defining objectives underpinning international migration policy include how to move beyond the obscure normative assertion that migration has "benefits for all" to concrete and workable solutions. It would also undoubtedly entail, when discussing the public good in this area, a focus away from "migration management," which is considered by many to be a loaded term carrying negative implications. [15]

The basis for further discussion on migration policy development should focus on identifying the main objectives and on appropriately framing the underlying questions. [16] The fact that this discussion is becoming a priority issue for States through policy-making circles is apparent through activities carried out in the context of the Global Commission on International Migration (GCIM) and the Berne Initiative Process, whose objectives include identifying public good(s) associated with international human mobility and reviewing possibilities for coordinated implementation. [17]

These are not easy tasks both because of the implications tied to the sensitive and potentially controversial nature of migration policy development but also because of the breadth of its scope and its many inter-linkages with other issue-areas. However, given the fact that other issue areas such as environment, human rights and development have been able to formulate agendas with established understandings and concrete areas for further discussion and agreement suggests that the same is possible for international migration.

Further, international migration's inter-linkage with other areas constitutes a challenge requiring further attention and study. International migration is tied to the mobility of goods and services and to broader considerations underpinning globalization including trade, sustainable development, environment, security (human and national), conflict management, poverty eradication, etc. Efforts such as those by Migrants' Rights International (MRI), for instance, to draw out the implications of the human rights/trade/migration inter-linkage are important ones; the task of coordinating activities such as these and establishing a comprehensive outlook and agenda are likely to be next important steps in building upon such achievements.

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[15] HRW reflects this view: "We are concerned that many stakeholders involved in the global migration discourse at regional and international levels focus narrowly on the need for 'managed migration' systems, and ignore the human rights dimension of migration". *Ibid*, p. 3

[16] Nelson emphasizes the importance of how an issue is "framed": "(s)uccessfully framing an issue-defining the frame of reference in which it will be seen-has been important to most NGO advocacy" Paul Nelson, *New Agendas and New Patterns of International NGO Political Action*, <u>*Voluntas*: International Journal of Voluntary and Nonprofit Organizations</u> Vol. 13, No. 4, December 2002, p. 380

[17] (To some extent also through discussions within the context of UNHCR Global Consultations, and IOM's Migration Policy and Research (MPR formerly MPRP) Migration Policy Dialogue)

Funding challenges

One challenge not to be underestimated is the extent to which policy/advocacy CSOs can mobilize financial support for their activities. As a development-based issue, most implications of international human mobility require long-term strategies. [18] Moreover, as for all policy and dialogue-centered work, quantifying the impact is often very difficult if not impossible. One scholar has described the difficulties of funding NGOs working in development-related fields as follows:

> One thing is clear—competition for funding has risen. One could argue, as is done in the corporate world, that competition breeds more effective organizations. But in the development world, where there is no clearly measurable product, the need for funding (which is not the same as money that comes from sales of products) can lead an NGO inadvertently to let image dominate substance and fundraising dominate program. [19]

Some civil society actors working on migration policy, consulted for the purposes of this discussion, have confirmed the difficulties associated with raising funds for this area of advocacy work. MRI, for instance suggested that migration policy advocacy work was based on "indirect" funding through support received for related fields, human rights in this case. [20]

Policy networks

When describing the relationship between States and CSOs in the field of migration policy development, it is important to stress that States are just beginning to discuss migration as a comprehensive area, one in which common interests can be identified and built upon.

Again, the Berne Initiative Process, and to some extent, the Global Commission on International Migration are a reflection of States' interest in approaching the area of migration policy development as one in which mutual benefits can be sought by all States based on strengthened cooperation and a deeper understanding of international migration and its various inter-linkages.

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[18] This is often a contentious issue between ministries dealing directly or indirectly with migration. Often, ministries responsible for return and readmission will seek to leverage such agreements with development aid. This approach is often at odds with development ministries that prefer not to make development assistance conditional on compliance with return and readmission agreements, emphasizing rather the need for long-term engagement in developing regions.

[19] Thomas W. Dichter, *Globalization and its Effects on NGOs: Efflorescence or a Blurring of Roles and Relevance?* Nonprofit and Voluntary Sector Quarterly; 1999; 28;4, p. 52

[20] Conversation with MRI Coordinator, 16 October 2003

Regional consultative mechanisms

Despite the increase in international attention to migration policy development, the locus of discussion—both policy-related and technical-- takes place mainly at the regional level through what are commonly referred to as Regional Consultative Processes on Migration ("RCPMs"). [21] This regional focus also potentially accounts for the lack of substantial policy networks between States and CSOs on international migration policy development.

RCPMs constitute *fora* for States to discuss migration priorities. In some RCPMs, NGOs are invited to participate in an observer capacity. Generally, however, RCPMs are considered state-centered activities. While the first such consultative mechanism was established across regions between what has been referred to as "like-minded" states[22], most RCPMs have a regional membership. RCPMs exist in most regions of the world (the Puebla Process, Manila Process, MIDSA, MIDWA, etc.)[23]

RCPMs play an important role in strengthening migration policy dialogue, identifying "common understandings" and strengthening regional co-operation through regional standards and approaches. However, in most regions, implementation and monitoring of regional agreements remains weak. And, although regional consultative mechanisms are nevertheless playing an important coordinative role[24], some critics suggest that RCPMs

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[21] For additional information, refer to *The Role of Regional Consultative Processes in Managing International Migration* IOM Migration Research Series, No. 3, The International Organization for Migration (IOM), Geneva, 2001

Informality of Regional Processes leads to a number of advantages including (1) informality-they are a process, not an institution, meaning that working toward an eventual final goal is an important aspect of the process; (2) openness-as agreement on all issues is not required, all options can be explored openly, thus increasing the number of possible solutions to issues; (3) efficiency-as there is a minimum of administration, direct communication is more easily possible between high level officials and experts…*The Role of Regional Consultative Processes in Managing International Migration* IOM Migration Research Series, No. 3, IOM, Geneva, 2001

[22] IGC refers to the "Inter-governmental Consultations on Asylum, Refugees and Migration Policies in Europe, North America and Australia" whose first meeting tool place in 1985, initiated by UNHCR, *Ibid*

[23] The "Puebla Process" refers to the Regional Conference on Migration initiated in 1996. With the Lima Declaration (1999) a consultative process was also initiated for South America, known as the South American Meeting on Migration, Integration and Development; The "Manila Process" refers to the IOM Regional Seminar on Irregular Migration and Migrant Trafficking in East and South-East Asia. In addition to two other consultative processes for Asia: APC (Inter-Governmental Asia-Pacific Consultations on Refugees and Displaced Persons), and the Bangkok Declaration on Irregular Migration; "MIDSA" stands for Migration Dialogue for Southern Africa, more recently, "MIDWA" for West Africa. Other processes include the CIS Conference and Follow-Up Process for Countries of the Commonwealth of Independent States and Relevant neighbouring Countries and the Conference of Uncontrolled Migration Across the Baltic Sea for Baltic, Scandinavian and some European countries, *Ibid*

[24] For a recent study of this topic, see for example Frédérique Channac, *The evolution of international decision-making processes concerning migration. A comparison between formal and informal multilateral fora*, 2003 (unpublished paper) Institute d'études politiques, Bordeaux

"coordinate restrictive policies at the highest possible level, while agreeing to protect migrants at the lowest possible level". [25]

A separate point worth considering is whether regionalization will in effect constitute a stepping stone towards strengthened international cooperation in this field. In the area of international corruption control, for instance, one researcher based on *Transparency International's* experience, points to how regional efforts to combat corruption were a necessary first step towards the internationalization of standards and approaches.

> Such regionalization of international corruption is not merely a pragmatic compromise between unilateral action and a global convention. Rather, regional controls set the stage for development of appropriate instruments and jurisprudence within a smaller group of countries, a necessary building bloc if international cooperation is to work. [26]

Whether internationalizing regional experiences will contribute to migration solutions remains to be seen. The SID Process and its Plan of Action places the work of regional mechanisms at the heart of its efforts to strengthen positive approaches and solutions to refugee and migration challenges. One of the Global Commission's activities is a set of five regional hearings over the course of 2004-2005, whose objective is to seek out regional priorities that can be reflected in the international recommendations on how best to proceed in this field and which will be addressed to the UN Secretary-General in the summer of 2005.

NGOs: still largely operational?

Another factor that may account for the limited exchange between States and CSOs is that most INGOs in this field remain operational in comparison with fields such as human rights where much of the work has been advocacy related (exposing human rights violations, challenging States' human rights records, reporting on these, etc.).

With respect to refugees and asylum-seekers, for example, NGOs provide basic needs (food, shelter, clothing), legal counseling during refugee status determination (RSD) procedures, and resettlement and reintegration assistance. For those NGOs working in a sub-field of migration such as countering trafficking in human beings, for instance, operational NGOs provide shelter and reintegration assistance to victims of trafficking, awareness-raising on the dangers of trafficking, and try to strengthen legal protections afforded to victims by lobbying for temporary residence permits, for example.

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[25] Final Report, Commission on Human Security, Chapter 3 "*People on the Move*", 2003, p. 47 http://www. humansecurity-chs. org/finalreport/chapter3. pdf
[26] Fredrik Galtung, *A Global Network to Curb Corruption: The Experience of Transparency International* in Florini (2000), p. 32-33

Relations with states

NGOs and INGOs are often afforded limited access by States and IGOs to formal *fora* for dialogue in this field. Ironically, at ICPD in 1994, Florini has been written that "NGOs were everywhere", and that in ICPD's final report, one full chapter was dedicated to NGO participation. [27] Since that time, however, she describes that due in particular to "nasty incidents" circa 1998, the UN and its member-states have become somewhat less welcoming of NGO participation in official political *fora*.

> Virtually every national government and international organization has at one time or another raised objections to what was characterized as the illegitimate usurpation of governmental authority or prerogatives, and governments and IGOs retain considerable power to fight back. Even IGOs such as the World Bank and the United Nations, which have been relatively welcoming, often seek to keep civil society groups 'in their place'- providing services but not included in formal decision-making processes…. [28]

Last year, at the WTO Ministerial Conference in Cancun, the limited access to government circles was also criticized. MRI describes in its report how the agenda setting for the meeting was decided unilaterally:

> The opening session was particularly important because it is when the ministers set the agenda and determine the work program for the Cancun round. Like any other international conference…determining the agenda and methodology of work are crucial matters arrived at through careful deliberation. (A) WTO (conference)…should be no different. Yet surprisingly, in its opening ceremony, the agenda, work program, and working group assignments were all decided in a few minutes, with the Chair … taking on the gavel and approving them without allowing enough time for replies from member states. Moreover, discussion of the agenda was made part of the high-level opening address in an auditorium that had no speaking facilities for the audience. Furthermore, the draft Ministerial text which the Chairman himself prepared, was automatically accepted as the working text. These kinds of behavior within the WTO are only some

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[27] Florini (ed.) 2000, p. 226
Interestingly, ICPD also produced a chapter on international migration, offering a comprehensive set of guidelines for national and international action in the field of international migration policy, management and co-operation. Chapter X still today constitutes the single *global* blue print outlining how States and concerned international institutions should address the multiple causes, consequences and long-term implications of international migration and human displacement. "Chapter X" (International Migration) Programme of Action, United Nations International Conference on Population and Development, Cairo, 5-13 September, 1994
[28] Florini (ed.) 2000, p. 214-215

of the various other transparency and process issues being questioned by many developing countries as well as by the NGOs. [29]

In HRW's paper submitted to the IOM Governing Council Meeting in November 2003, in which it calls into question migrants' human rights abuses in the context of the implementation of IOM programmes, it criticizes IOM in its role as secretariat of the Berne Initiative Process, for not drawing on the importance of nongovernmental expertise "in promoting a just migration system in conformity with international human rights and refugee protection norms", and calls on it to ensure that civil society actors are more directly engaged in this process. [30]

Though civil society is not afforded unobstructed access to political *fora* in particular when it comes to what are deemed to be sensitive issues, governments and IOs are unable to close the door to civil society participation in such discussions. This also applies to migration and refugee issues where, for instance, within the UN context, NGOs work with the UNHCR through the Partnership in Action (PARinAC) producing new mechanisms for cooperation at the regional and national levels[31], and also within high level working groups/action groups on asylum and migration, for instance, that have included and indeed counted upon civil society's input. [32]

Some perceive this opening as advantageous for States as civil society becomes or could become perceived as an integral partner in the fate of such issues. This perception would necessarily entail that CSOs are responsible for how such issues are addressed which would in effect distribute the burden of decision making and other responsibilities between official and unofficial actors. As described by one expert, governments delegate to civil society "as one way to avoid criticism (by) us(ing) new players, those that were criticizing the government in the first place…partnerships bring these people on board and then the government is on civil society's side". [33]

Others perceive this opening as unavoidable given the power of civil society and the moral authority with which it is associated (see below). Moreover, in a growing number of fields, NGOs work *with* governments and IOs to influence the behavior of one state. [34]

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[29] Genevieve Gencianos, MRI (Geneva), *Migration and Trade: A Report from Cancun*, Fifth WTO Ministerial Conference, Cancun, Mexico, 10-14 September 2003, p. 4

[30] HRW, *The IOM and Human Rights Protection in the Field: Current Concerns*, November 2003, p. 15

[31] http://www. unhcr. ch

[32] For instance, the Final Report of a High Level Working Group on Asylum and Migration created by the European Council in 1999 expressed appreciation for "the excellent cooperation inter alia with …. ICRC, Amnesty International, and a number of NGOs specialized in asylum and migration matters, such as …ECRE, …MPG". See http://presidency. finland. fi/netcomm/news/showarticle1473. html In addition, at the UNHCR ExCom, countries such as Denmark, the Netherlands and Sweden often include members of their national councils for refugees and/or national NGOs in their delegations.

[33] Professor Junki Kim in a course on *"NGOs and Governance"* at Duke University, October 2003

[34] On human rights, Risse states that NGOs can be the authors of international texts. He states "In this role, INGOs are not necessarily opposing governments. Rather, groups of states are closely cooperating with INGOs and relying on their expertise and knowledge. In the case of the Anti-Torture Convention, national governments such as Sweden worked closely with Amnesty and aligned with INGOs against other groups

In this context, NGOs' international political activity can be to "restrain(ing) the power of international rules and authorities over individual governments…"[35]

As a result of civil society's growing influence and despite their occasional reticence, States and IOs are unable to ignore the strength of civil society and its contributions to decision-making in all fields. The UN Secretary-General has stated that:

> The UN once dealt only with Governments. By now we know that peace and prosperity cannot be achieved without partnerships involving Governments, international organizations, the business community and civil society. In today's world, we depend on each other. "[36]

To this effect, UN agencies such as UNDP and the World Bank (WB) are just some of the institutions that are creating civil society units in order to work with a wide cross section of local and global CSOs. [37] The WB credits consultations with civil society with "improving the quality of policymaking, positively influencing the direction of country programs, strengthening national ownership of key reforms, and promoting public sector transparency and accountability…(in addition to) supplying essential 'local' knowledge' in the policy process and giving voice to the opinions and experiences of the poor". [38]

In this context, a project launched by the immigration branch of the Government of Canada is worth highlighting. In 1996, Citizenship and Immigration Canada launched the International Metropolis Project, based on a set of coordinated activities carried out by a membership of research, policy and civil society that share a vision of strengthened migration policy by means of applied academic research. The Metropolis Project brings together states, civil society, and academia to work collaboratively on issues of immigration and integration, always with the goal of strengthening policy and thereby allowing societies to better manage the challenges and opportunities that immigration presents. [39] Through its activities, it stresses successful migration management must include participation of all levels of government and other civic stakeholders, including NGOs. [40]

of states". Thomas Risse, *The Power of Norms versus the Norms of Power: Transnational Civil Society and Human Rights* in Florini (ed.) 2000, p. 185-186

[35] Paul Nelson, *New Agendas and New Patterns of International NGO Political Action*, <u>Voluntas</u>: <u>International Journal of Voluntary and Nonprofit Organizations</u> Vol. 13, No. 4, December 2002, p. 377

[36] http://www. un. org/partners/civil_society/home. htm

[37] (Civil Society Division at UNDP and the NGO and Civil Society Unit at the World Bank)

[38] World Bank, *Consultations with Civil Society Organizations, General Guidelines for World Bank Staff*, p. 3

[39] Through its work, it encourages a positive outlook on migration. "Regular migration programmes ought to be managed with the purpose of maximising economic and social benefits and not solely for reducing irregular entry. " See http://www. metropolis. ca

[40] Taken from Report of the Secretary-General to the UN General Assembly on "International migration and development, including the question of the convening of a United Nations conference on international migration and development to address migration issues", 3 July 2001

CSO's potential contribution to the debate

Main areas where civil society can strengthen its contribution in this field include: (i) defining the international agenda; (ii) information provision; (iii) using "soft power" to impose "moral authority"; (iv) monitoring and implementation; and (v) solidifying a "coalition of interests". An overriding consideration, one that will determine whether it can make such contributions is the legitimacy of civil society in this field.

Agenda setting

CSO's experience in other fields, such as environment for instance, has proven that it can play a central role in agenda setting. Civil society actors are considered to have been critical to the successes achieved at the Rio Summit (1992), and in conceptualizing the notion of sustainable development. In the human rights field, Amnesty International and other groups are credited as "decisive in putting the question of torture on the international agenda". [41]

And, as discussed above, while international migration is becoming a growing area of interest, there is no fixed international agenda to address this issue. In fact, a first step would surely entail defining the public good in this area. IOs and, in particular, IOM's mission statement revolves around the notion of "managing migration for the benefit of all. " As also discussed above, "managing people" as an overall objective, is considered by some to be controversial and indeed undesirable. Framed in this manner, this objective can be questioned from a human rights perspective, as there is an inherent hierarchy in "someone managing someone else".

Furthermore, the public good is one that is decided by some to the benefit of a few rather than truly "public" in nature. If we speak of the benefits of international migration as a "global public good," we must frame the relevant questions underpinning an agenda (or more broadly, a regime or framework) in this area to ensure that it corresponds to the definition of the "public good," i. e. existing for the benefit of everyone, "non-excludable" and characterized by "non-rivalry". [42]

Whether this is possible in an era of globalization where disparities seem ever-increasing is debatable. It would nevertheless require revisiting how the objectives are framed before developing an international agenda for human mobility and coordinating

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[41] Thomas Risse, *The Power of Norms versus the Norms of Power: Transnational Civil Society and Human Rights* in Florini (ed.) 2000, p. 177

[42] "Global public good", which has been defined as things that exist for the benefit of everyone, that are "non-excludable" and characterized by "non-rivalry", i. e. that in theory, their consumption by some is not to the detriment of the consumption by others. In an increasingly interlinked world (i. e. "globalized" due to the reduction in transportation and communication costs), it makes sense that global public goods such as the environment, health, culture, peace, be managed collectively. (See "*Global Public Goods: International Cooperation in the 21st Century*", UNDP 1999). The notion of global public goods and the subsequent need for collective action can also be applied to how the "rules" governing mobility (trade, services, people) are established and implemented. "*Global Public Goods: International Cooperation in the 21st Century*", UNDP 1999

implementation amongst its various stakeholders. Between States within the UN context, for instance, many normative aspirations exist but provide little indication of concrete steps to be taken in this area. [43]

Civil society can play a critical and timely role in this area. In some fields, civil society has gone beyond influencing to conceptualizing and authoring the agenda. This has been the case in the human rights field:

> …(N)ongovernmental actors participated in the negotiations and working groups drafting international agreements, both indirectly as members of expert groups and directly as members of official national delegations. In other words, transnational civil society is involved in treaty making. [44]

Moreover, civil society can and should influence the migration agenda so that it reflects existing international legal instruments that protect refugees, IDPs and migrants. For example regarding international economic, development and trade policy, NGOs have taken advantage of existing international norms to frame issues. As described with respect to advocacy against dam projects:

> Major dam projects are generally designed to produce electricity, provide irrigation, or control flooding, but international debate over these projects has been only secondarily over these objectives. Nongovernmental organizations have framed the issue as one of minority rights by focusing attention on poor communities' loss of land rights and livelihood, their inadequate compensation when resettled, and human rights abuses during dam construction. [45]

This is an important challenge in the area of migration where international legal norms are specific in some areas and less so in others, and where an inherent tension exists and is likely to continue to exist between State authority and responsibility to regulate the movement of persons across their borders on the one hand, and migrants' human rights, protection of refugees, integration of migrants, *et alia,* on the other. [46]

A second step might be to determine the scope of the issue area. In the international corruption control campaign, for example, a conscious effort was made to limit the focus to international transactions. Due to the multi-faceted nature of international migration

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[43] Statements such as the following advocate tolerance but provide few concrete solutions to migration challenges… "(I)f the issue is tackled properly, citizens of developed as well as developing countries will understand the benefits of migration in economic, social and cultural growth – far outweigh the problems it may bring. " *"Secretary-General Stresses 'Clear Need' for International Cooperation on Refugee, Migration Policy'"* UN Press Release SG/SM/8522, 22/11/2002

[44] Thomas Risse, *The Power of Norms versus the Norms of Power: Transnational Civil Society and Human Rights* in Florini (ed.) 2000, p. 185

[45] Nelson, p. 380

[46] MPRP, IOM, *International Legal Norms and Migration: an Analysis* (Series) International Dialogue on Migration No. 3, Geneva 2002

and its inter-linkages with a number of other areas, an international agenda would likely have to be sub-categorized. Such sub-categorizations exist in the other substantial fields such as environment, for instance.

Chapter X on "International Migration" of the ICPD Programme of Action has the following sub-division: international migration and development; documented migrants; undocumented migrants; and refugees, asylum-seekers and displaced persons. Further review of this approach would be required yet maintaining the distinction between voluntary and non-voluntary movements would still be critical to distinguish protections afforded and for other considerations. Some sub-categorizations should also include important inter-linkages considered to share a causal relationship with human mobility such as development/poverty eradication. (The Berne Initiative's "International Agenda for Migration Management" currently has 13 such categories.)

Information provision

An area that is crying out for greater attention by international CSOs is that of collection and dissemination on migration data and related information. Florini emphasizes that a key contribution of civil society players is the provision of credible information. [47] In few areas is information more critical than that of international migration policy development. Migration data contributes to informed debates on immigration and emigration policies; forms a partial basis for formulating, implementing and evaluating migration-related policies; assists in the protection of migrants and the implementation of efforts geared at fighting racism and xenophobia; allows the integration of the effects of migration into national development planning; and helps in targeting policies to reduce migration pressures. [48]

Despite the need for such information, a number of obstacles undermine efforts to collect timely and reliable data. Some of these obstacles would also apply to CSOs including technical capacities and operational problems associated with gathering compatible information across countries and regions.

One obstacle that could potentially be circumvented by CSOs, however, is the issue of trust and confidentiality which often impedes States' willingness to share information. [49] Moreover, CSOs are likely to have comparatively more flexibility and be able to mobilize quickly for collection and dissemination purposes. Though many regional bodies and the

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[47] Conversely, ".... the networks remain powerful only as long as they retain their credibility.... to the extent that transnational civil society networks provide inaccurate or misleading information (whether deliberately or inadvertently), they undermine their effectiveness. " Florini, *Lessons Learned* in Florini (ed.) 2000, p. 214

[48] Piyasiri Wickramasekara, International Labour Organisation (ILO), *International Migration Statistics: Specific Policy Needs-Labour Migration* delivered at the UN Workshop on Improving the Compilation of International Migration Statistics, 15-17 September 2003, Geneva

[49] Colleen Thouez, IMP, *Strengthening Migration Data Collection, Analysis and Exchange: Lessons Learned from IMP and the Migration Data Pilot Project for the "Issyk-Kul" Group* delivered at the IMP Meeting, July 2002, Istanbul, available at unimp@gve. ch

UN Statistics Division gather international migration statistics, an international CSO working on migration policy dialogue would play an important and complimentary role in this area.

Moral authority

Civil society can also play a key role in defining the "public good" not least because as it has been described, the public good: "somehow *represents (sic)* the 'public interest' or the 'common good' rather than private interests". [50]   In the international peace movement, advocates and activities characterize transnational civil society's role as "fulfill(ing) a legitimate function of responsible citizenship". [51] CSOs are also counted upon to assist in ensuring that government policies are in line with public needs. [52]

In the environment field, while the principles themselves are adopted by States, NGOs have been critical in advancing such principles, lobbying for their acceptance, and monitoring their implementation. Underlying principles in environmental frameworks include the "precautionary" principle or do no harm just in case, and "polluter pays". In the area of climate change, a treaty-specific principle based on "polluter pays" is that industrialized countries must act first. [53] Similarly, civil society should play a key role in defining the principle(s) guiding a migration agenda, and monitoring their compliance (see below).

CSOs' moral authority is closely tied to their role as provider of information and knowledge. For human rights, for instance:

> The influence of transnational civil society…stems from the power of moral authority and legitimacy, on the one hand, and the accepted claim to authoritative knowledge, on the other. [54]

Moral authority has been described as a form of "soft power" but whose influence can be considerable. This is particularly valid in an era of global interdependence which is creating a world in which State power is not the sole factor shaping international relations and outcomes. Because migration policy dialogue is inherently a discussion involving human beings many of whom find themselves in conditions of heightened vulnerability, this issue area constitutes one which would benefit greatly from the watchdog capacity and moral authority of CSOs. [55]

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[50] Risse in Florini (2000), p. 186

[51] Rebecca Johnson, *Advocated and Activities : Conflicting Approaches on Nonproliferation and the Test Ban Treaty* in Florini (ed.) 2000, p. 77

[52] Dichter 1999, p. 48

[53] Silvi Llosa, Fellow, Chemical Waste Management Programme, UNITAR, Interview, 26 October 2003

[54] Risse in Florini (2000), p. 186

[55] See for example, Colleen Thouez, IMP, *Human Security and Mobility* paper distributed a meeting on Human Security organized by the UN Commission on Human Security, Berlin October 2002, available at unimp@gve. ch

Monitoring and implementation

In all fields referred to throughout (human rights, environment, anti-corruption, development), part of civil society's influence has been its impartiality and its ability to stand alone monitoring States' activities and their compliance with international obligations. NGOs already play a central role in this respect with the protection of refugees, IDPs, migrants and other vulnerable groups. In some cases, monitoring mechanisms have been established where CSOs are the lead players or partners in ensuring compliance. One example is the Steering Committee of the Global Campaign for the 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (1990), which entered into force in 1 July 2003, and which currently has 25 ratifications.

If current discussions on migration policy lead to more formal arrangements amongst States guiding inter-state co-operation in this area, CSOs will have an important responsibility to ensure that human rights principles and other protections are respected.

Coalition of interests

Given the wide range of issues touching on international migration, a large number of actors have a vested interest in this field, including: local/national NGOs, labour associations, religious groups, employer associations, citizen groups, etc.

For NGOs working on migration issues, migration is still often perceived as a North-South issue especially by NGOs working in developing countries. Existing transnational networks provide support to national NGOs. MRI, for instance, provides support to local actors by way of "the development of grassroots organizations working for migrants' rights through strategic support, information sharing, network building and technical expertise directed towards linking grassroots civil society efforts with international processes and vice-versa. "[56] Further, international support to local groups can have a "boomerang effect," as "sustained transnational mobilization" provides the support and pressure needed by local actors, which can in turn lead to States' improving their practices through "policy change" or alternatively "regime change". [57]

If a "coalition of interests" were to emerge, it could potentially develop with the soft power necessary to ensure that principles espoused in the international agenda are advocated. This is not to say that differences in approach and priorities would be avoided. Differences are almost unavoidable and are not altogether negative.

In the environment field, for instance, the World Resources Report 2002-2004 publication, states: "…Some contention among civil society groups isn't bad…(as) the

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[56] Migrants' Rights International (MRI) "Profile" document available at www. migrantwatch. org

[57] Thomas Risse, *The Power of Norms versus the Norms of Power: Transnational Civil Society and Human Rights* in Florini (ed.) 2000, p. 192

contribution of civil society…is strengthened by a diversity of ideas, debate, and criticism…(but) discord and conflicting positions can mean lost opportunities to advance forward-looking policies and achieve…progress". [58] It would, however, carry more leverage vis-à-vis other actors in the international community that may at times try to keep policy making discussions behind closed doors away from the non-governmental sectors.

Conclusion

The field of international migration is one which is evolving rapidly and where States and other actors in the international community have begun to seek out a framework in which to address migration as a comprehensive issue encompassing voluntary and involuntary movements, based on the notion that States and other actors share common ground on many migration interests and concerns, and focusing on strengthened cooperation and coordination.

Civil society's influence in this field, compared to its role in other fields, is just beginning to take form. This delay is tied both to the nature of this field and to the relationship that exists between States, IOs and civil society.

Civil society can and should play a critical role in international migration policy development first and foremost to ensure that the migration agenda reflects existing international legal standards protecting refugees, IDPs and migrants. Its influence would also be critical in defining the agenda, lobbying key principles, developing its content, providing timely and reliable information, imposing its moral authority in this field and monitoring implementation of States' obligations.   This work can be accomplished through consolidating positions amongst INGOs/NGOs and developing coalitions of interest in this relatively nascent field of policy debate.

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[58] *Awakening Civil Society* (Chapter 4) in World Resources Report 2002-2004, p. 78-79
In other fields, Galtung describes a major rift concerning the international corruption control campaign and Johnson does so concerning the international peace movement, in Florini (ed.) 2000.