The Global Governance of Forced Migration (?)

Sophia Benz & Andreas Hasenclever
University of Tübingen/Germany

Presented at the ECPR Joint Sessions 2009
14-19 April, Lisbon, Portugal (Workshop No. 27)¹

¹ A draft version of this paper has been presented at the University of Oxford, Centre for International Studies and the Refugee Studies Centre, November 24th, 2008. The final version will be forthcoming as a chapter in Alexander Betts and Gil Loescher (eds.), Refugees in International Relations, Oxford University Press. This is a preliminary draft only. Citation requires prior permission of the authors.
Introduction

With the exception of refugee flows, international migration has been almost invisible on the global public policy agenda. Only since the beginning of the millennium, a growing interest in and awareness of migration issues can be observed (Newland 2005: 1). This reflects the pressing need for the international community to better understand and address this increasing trans-sovereign and complex phenomenon. This paper aims to contribute to the further understanding of migration in general and forced migration in specific.

The term forced (or involuntary) migration applies to all people who flee or are obliged to leave their homes or places of habitual residence because of events threatening to their lives or safety (Martin 2000: 4). Forced migration research distinguishes between the following partly overlapping types of forced migrants: refugees, asylum seekers, (conflict-induced) internally displaced persons (IDPs), development-induced displaced persons (DIDPs), environmental and disaster displacees and victims of human trafficking.

Empirical developments for all these categories of forced migrants are alarming. Decreasing numbers in refugees since the second half of the 1990s only recently reversed when figures went up again from an estimated 9.9 million at the end of 2006 to 11.4 million at the end of 2007 (see UNHCR 2005b: 115; UNHCR 2008: 6, 7). Large differences between regions in the proportion of hosted as well as originating refugees are accompanied by large differences within regions.

---

2 The decision to migrate is a response to a complex set of factors, involving elements of compulsion and choice. Thus, the boundaries of forced and voluntary migration are rather fuzzy. Typologies of migrants have nevertheless been presented e.g. by Anthony Richmond (1994) or Nick van Hear (1998) (Turton 2003: 8, 9).

3 The 1951 United Nations (UN) Refugee Convention defines a refugee as a person residing outside his or her country of nationality who is unable or unwilling to return because of a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group or political opinion (see Castels 2004).

4 Those who also move across borders, but whose claims for refugee status have not yet been decided.

5 According to the Guiding Principles on Internal Displacement of the UN Office for the Coordination of Humanitarian Affairs (OCHA), IDPs are persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural disasters, and who have not crossed an internationally recognized state border (Turton 2003: 15; see also Castels 2004).

6 DIDPs are deliberately moved and expropriated by their own governments in the national interest (for the sake of a wider public good) i.e. to make way for a large-scale development project such as a dam, airport, road, or urban housing project (see Turton 2003a: 6; Castels 2004).

7 E.g. people displaced by environmental change (desertification, deforestation, land degradation, water pollution, or inundation), by natural disasters (floods or earthquakes) and by man-made disasters (industrial accidents or radioactivity).

8 Trafficking in persons is “the recruitment, transportation, transfer, harboring or receipt of persons, by means of threat or use of force or other forms of coercion (…) for the purpose of exploitation” (UNODC 2006: 50). It is important to distinguish between smuggled migrants who are moved illegally for profit, but still remain (unequal) partners in a commercial transaction and victims of trafficking whose movement is based on deception and coercion for the purpose of exploitation (see Castels 2004; UNODC 2006: 51, 52).

9 Because the United Nations High Commissioner for Refugees (UNHCR) introduced some changes in the methodology, the 2007 figure is not fully comparable with those of previous years. However, if the pre-2007 methodology would have been applied, the global number of refugees still would have been increased by 422,000 compared to 2006 to a total of 10.3 million (UNHCR 2008: 5-7). For more information on the changes introduced to the 2007 statistics see (UNHCR 2008: 3, 7, 8). UNHCR refugee numbers do not include forced migrants from the Israel-Palestine conflict who fall under the mandate of the United Nations Relief and Works Agency for Palestinian Refugees in the Near East.

10 At the end of 2007, about one third of all refugees under UNHCR’s mandate were residing in countries in the Asia and Pacific region (two million in Pakistan). The Middle East and North Africa hosted 25% of the world’s
Unlike common belief refugees are overwhelmingly concentrated in the poorest countries and regions often in Asia and Africa\textsuperscript{11}. Similarly, a decreasing trend in the number of annual asylum applications in industrialized countries\textsuperscript{12} only recently reversed. “During 2007, a total of 647,200 individual applications for asylum or refugee status were submitted to governments and UNHCR offices in 154 countries. This constitutes a 5 per cent increase compared to the previous year (614,300 claims) and the first raise in four years” (UNHCR 2008: 13).\textsuperscript{13}

Although global refugee and asylum seekers numbers are enormous and their recent increase is concerning, it is foremost the number of conflict-induced IDPs that has been rising from an estimated 1.2 million (in 1982), to 16.5 million (in 1989), to over 20 million at the end of the millennium\textsuperscript{14}. Major increases during this period were mostly due to the conflicts following the break-up of the former Yugoslavia and the Soviet Union. By 2001 the global IDP figure stood at over 25 million and has since been oscillating around this mark with most internal displacement taking place outside Europe. From 2006 to 2007, the number of IDPs again increased by 6\% to over 26 million. This constitutes the highest year-end estimate since the first half of the 1990s (IDMC 2008). Although conflict-induced IDPs were displaced within at least 52 countries worldwide, almost half of them resided in Africa (IDMC 2008: 6).\textsuperscript{15}

Increases in IDP numbers are a result of higher (or at least continuously high) levels of new displacements and lower levels of return movements\textsuperscript{16}. Both developments are linked with changes in warfare or even the emergence of a new type of (non-state) internal wars (Castels 2004). Empirical observations by the Internal Displacement Monitoring Centre (IDMC) of the Norwegian Refugee Council support theses deduced from the concept of New Wars.

\textsuperscript{11} Between 2001 and 2005 Tanzania on average provided asylum to almost 868 refugees per 1 US$ GDP (PPP) per capita, followed by Pakistan and the DRC. If burden sharing is measured like this, Germany only occupies the 24\textsuperscript{th}, the United States (US) the 34\textsuperscript{th}, and the United Kingdom (UK) the 37\textsuperscript{th} position. Similarly, Armenia hosted 80 refugees per 1,000 inhabitants during this period, Germany only 13 (UNHCR 2005b: 99-101). Over 80\% of refugees remain within their region of origin; the majority is hosted by neighboring countries (UNHCR 2008: 1).

\textsuperscript{12} Even decreasing numbers need to be treated with caution. They might only indicate a tightening of immigration policies, changes in refugee law, a shift of refugee flows to other countries or an expansion of migrant trafficking, illegal migration or organized crime (see Castels 2004; Loescher 2001: 321).

\textsuperscript{13} This is primarily due to the large number of Iraqis seeking protection in Europe. High numbers of new asylum claims were also filed by people fleeing from Somalia, Eritrea, Colombia, the Russian Federation, Ethiopia and Zimbabwe (UNHCR 2008: 15). Europe remained the primary region of destination followed by Africa, the Americas and Asia and Oceania. The US (followed by South Africa) received most asylum claims as a single country (about 10\% of the total) in 2007. Other important destination countries for asylum-seekers are Sweden, France, the UK, Canada and Greece (UNHCR 2008: 14).

\textsuperscript{14} See: http://www.internal-displacement.org, 06/27/08 (Information on the Guiding Principles).

\textsuperscript{15} During 2007, 1.6 million people were \textit{newly} internally displaced across this continent - 600 000 alone in Somalia (IDMC 2008: 23). At the end of 2007, Sudan is the country with the largest number of IDPs (5.8 million), followed by Colombia (up to 4 million), Iraq (2.5 million), the DRC (1.4 million) and Uganda (1.3 million). The largest relative increase in the number of IDPs was observed in Iraq (IDMC 2008: 6, 18). UNHCR adds the Central African Republic (CAR), Chad, Yemen, Afghanistan and Sri Lanka as countries with either new internal, conflict-induced displacement or significant increases in IDPs during 2007 (UNHCR: 2008: 18). Only Lebanon and Nepal made significant progress in finding durable solutions for IDPs.

\textsuperscript{16} E.g. in 2007, 3.7 million people were displaced (which is 400 000 less than in 2006) but only 2.7 million returned (which is 900 000 less than in 2006) (IDMC 2008: 7, 12).
During the last decade and with a few exceptions internal displacement crises have been caused by (internationalized) *intra*-state instead of *inter*-state wars. Armed groups targeted and forcibly displaced civilians as a *deliberate* strategy to further their military, political or *economic* goals. Although governments are still the primary perpetrators of forced displacement, *non-state actors* forcibly displaced people in at least 18 of 28 countries with new internal displacement in 2007. Inter-communal violence, which was the driving force for internal displacement in about one third of these cases, was often accompanied by actions of security forces or other organized armed groups, too (IDMC 2008: 14, 15). Also in accordance with the New Wars argument, more and more refugees are fleeing *per civil war* (Toft 2007: 150, 152). Finally, the *long duration* of warfare prevents people from returning to their homes which results in protracted migration crises.

By the end of 2007 and in addition to the roughly 26 million conflict-induced IDPs, some 25 million people were internally displaced by natural disasters (UNHCR 2008: 2). Because these forced migrants do not fall under UNHCR’s mandate, they did not receive any protection and assistance from this organization. Their true number or demographic composition remains largely unknown. Similarly, the precise number of people compelled to move for large-scale development projects is not known, but presumed to be large. According to Castels (2004) the World Bank (WB), which funds many such projects, estimates that they alone displace on average 10 million people per year. IDMC speaks of “millions of people” who are displaced each year in Asia as a consequence of projects linked to urban development, the production of energy or natural resources extraction (IDMC 2008: 65). Finally, data is also lacking on the number of victims of human trafficking. Depending on the source, it is estimated that some 0.5 to 4 million people throughout the world are at any given time recruited, entrapped, transported and exploited by trafficking. Although trafficking mostly affects women and young girls in virtually every region of the world, UNODC explicitly refers to cross- and sub-regional differences in the magnitude (or reporting) of the problem, the purpose of trafficking (e.g. for sexual exploitation or forced labor) and in the gender and age composition of this population (UNODC 2006: 85-101).

In sum, most recent data indicate that the number of refugees and IDPs for whom UNHCR has a mandate rose by 2.5 million in the course of 2007, “reaching an unprecedented 25.1 million by the end of the reporting period” (UNHCR 2008: 2). In addition, UNHCR counts some 4.6 million Palestinian refugees and 25 million IDPs displaced by natural disasters (UNHCR 2008: 2). Based on these data UNHCR concludes that “forced displacement has grown in complexity and size in recent years” (UNHCR 2008: 2).

---

17 E.g. in Colombia and the CAR civilians were targeted in acts of collective punishment for providing real or perceived support to enemy forces, in Iraq, Sudan (Darfur) and Kenya such strategies attempted to clear areas of people with a certain ethnic, religious or political affiliation; in Colombia people were forcibly displaced by armed groups to free up their land for economic exploitation (IDMC 2008: 15).

18 The Trafficking Project of the UN Educational, Scientific and Cultural Organization (UNESCO) publishes a comparison sheet of estimates by various agencies at: http://www.unescobkk.org/index.php?id=1963, 06/19/08.

19 In 2006, persons from 127 countries, mostly from Central and South-Eastern Europe, the Commonwealth of Independent States (CIS) and Asia became exploited in 137 nations in Western Europe, Asia and Northern America. The UN Office on Drugs and Crime (UNODC) identifies Albania, Belarus, Bulgaria, China, Moldova, Nigeria, Thailand and Ukraine as the greatest sources of trafficked persons. Belgium, Germany, Israel, Italy, Japan, the Netherlands, Thailand, Turkey and the US are the most common destinations (UNODC 2007; http://www.unifem.org/gender_issues/violence_against_women/facts_figures.php?page=5, 06/20/08; UNODC 2006: 18, 20). However, data need to be handled with care due to a number of limitations such as poor and biased coverage (see UNODC 2006: Chapter 4).
Castles (2004) agrees that “forced migration is growing in volume and importance as a result of endemic violence and human rights violations”\(^{20}\). Although their concrete numbers remain largely unknown, victims of human trafficking and development displacees need to be added to the full picture. The later are also internally displaced which emphasizes that the majority of forced migrants flee for reasons not recognized by the international refugee regime.

The following will demonstrate that the international community responded to these empirical developments and new challenges by establishing, extending, and adjusting the (forced) migration regime. We focus on the evolution of the refugee regime which today appears to be the most advanced compared to e.g. the anti-trafficking or IDP regime. Despite major improvements, however, it remains unclear in how far global governance of forced migration is a matter of fact today. After introducing the concept of global governance, we therefore ask how ‘global’ governance of forced migration actually is. Herein two meanings of the attribute global are distinguished: governance of forced migration \emph{that is} global (referring to the spatial reach of the governance approach) and governance of forced migration \emph{in the} global (implying a multilevel, multidimensional governance approach). This analysis identifies severe gaps in the protection of forced migrants. More specifically, there persist \emph{gaps in geographical reach}, \emph{gaps in institutional mandates}, \emph{programmatic gaps} and \emph{participatory gaps}. Major obstacles to a truly global governance approach are a \emph{lack of knowledge and quality data} particularly on certain aspects and categories of forced migration, a \emph{lack of (national) capacity and (financial) resources} and a \emph{lack of will} due to hindering state interests. This leads to the final conclusion, that global governance of forced migration rather remains a vision than a description of the actual state of affairs.

\section{The Development of the (Forced) Migration Regime}

\subsection{UNHCR in the post-World War II and Cold War Era}

For centuries no groups, international policies or even a definition of the term “refugee” existed and nation states’ reactions to refugee crises remained entirely ad hoc. Only the establishment of the League of Nations and its High Commissioner for Refugees in 1921 in response to the massive displacement caused by the Russian Revolution in 1917 and the later persecution of Jews by the Nazi in Germany laid the foundation for the international refugee regime (Barnett 2002: 3; Barnett/Finnemore 2004: 76). However, the mandate of the High Commissioner remained rather narrow\(^{21}\) which constituted just one amongst many obstacles to the further development of the early regime\(^{22}\). After the League of Nations had been dissolved and the Second World War had displaced more than 30 million people, the Allies created the United Nations Relief and Reconstruction Agency (UNRRA) in 1944.

\footnote{See also Turton (2003: 8) and Crisp (2008: 3).}

\footnote{The 1933 “Convention Relating to the International Status of Refugees” limited aid to \textit{Russians} fleeing \textit{political} persecution and was followed by the 1939 “Convention on the Status of Refugees Coming from Germany”.}

\footnote{Mayor obstacles were the missing membership of the US and the Union of Soviet Socialist Republics (USSR) to the League of Nations, the failure or unwillingness to cope with Nazi Germany because Western governments viewed the refugee problem as an internal matter of the German government and because Germany was still a member of the League, the failure of the 1938 Evian Conference (where Germany refused to let Jews leave with their assets and where countries of resettlement refused to accept any financial burden), the economic upheaval caused by the Great Depression in 1931 or the meager ad hoc budgets of the High Commissioner (Barnett 2002: 5; Barnett/Finnemore 2004: 77, Loescher 2001: 24-25, 31-33).}
UNRRA regularized the status of World War II’s refugees, provided temporary emergency assistance to the new population flows and conducted large-scale repatriation - often without regard to the individual wishes of the refugees (Loescher 2001: 36; Chimni 1999: 3). With the eruption of the East-West controversy, Western countries were increasingly reluctant to return displaced persons to areas under Soviet control. Especially the US worked to create a new International Refugee Organization (IRO) established in 1948 that focused on resettlement rather than repatriation (Loescher 2001: 38). Because after the war many Western European countries suffered from depleted manpower they were relatively willing to receive refugees which further supported this change in policy (Barnett 2002: 6; Chimni 1999: 2). Soon later, Cold War tensions permanently ended any cooperation between the super powers on refugee issues and severely stymied the work of the established international organizations. Western countries supported refugees from the Eastern Bloc on ideological grounds and recognized their right not to be repatriated against their will. Contrary to this, the Soviet Union pushed for repatriation, opposed resettlement and saw the IRO as a tool of the West. Despite Soviet opposition, however, IRO continued to fulfill its mandate and to accomplish its goals.

Still, no country wanted to take the “hard cases” - the unemployable, the sick, elderly or handicapped. The fate of these and new groups of refugees from Eastern Europe, India, China or Palestine led the international community to realize that the refugee problem was not a temporary one. Therefore, the United Nations High Commissioner for Refugees (UNHCR) was established in 1950. UNHCR started as a temporal, non-operation agency that worked under the UN General Assembly. It’s mandate was restricted to protect individuals (not entire populations) who had been displaced because of persecution by their governments (not conflict or other violent circumstances) prior to 1951. “Protection” meant the provision of legal services only (Barnett 2002: 7; Barnett/Finnemore 2004: 81, 82). Again and “like its predecessors, UNHCR was a product of the Cold War (…) the USSR resisted the creation of the new body [and pushed] for repatriation rather than resettlement-oriented policies” (Barnett 2002: 7).

The USSR also never became a signatory to the 1951 UN Convention on the Status of Refugees, instead accusing it for protecting people associated with “fascist and anti-democratic regimes” (Barnett 2002: 7, 8). Still, this Convention finally regularized the status of refugees, set out “some of the most widely accepted international norms”, rights and obligations and, until today, remains the sole legally binding international instrument that provides specific protection to refugees (Barnett 2002: 7, 8). However, the refugee definition given in the 1951 Convention was even more restrictive than the definition given in UNHCR’s statute. It only covered those displaced in Europe prior to 1951 and was therefore criticized for its temporal and geographical limitations. In addition, it emphasized the fact that a refugee resides outside his/her home country respecting the principle of sovereignty and enforcing the inability of an international organization to look within a nation’s borders (Barnett 2002: 7).

---

23 Toft (2007: 143) states that from the start of the Cold War until 1989 states were willing to resettle refugees escaping the soviet bloc because they were few in number, relatively highly skilled and educated, and valuable as intelligence and propaganda resources.

24 Only in December 2003, the UN General Assembly granted UNHCR an unlimited mandate: “Initially established as a temporary office, with a projected life span of three years, UNHCR’s mandate has since then been extended every five years to respond to the world’s growing refugee problems. However, in the course of 2003, the United Nations General Assembly adopted a resolution that removed the time limitation on the continuation of the Office until the refugee problem is solved”(UNHCR 2004: 1).
During the 70s empirical developments forced UNHCR to expand and adjust its efforts, as increasing numbers of refugees were coming from developing countries. Again, the office did not only respond to shifting needs but was also driven by Cold War ideology and interest. Barnett (2002) clearly states that one of the reasons that UNHCR began to extend its influence into Africa was to block Soviet power in that area. Not surprisingly, UNHCR’s expansion was largely financed by the US (Barnett 2002: 9, 10).

Regional Organizations also began to pay more attention to refugee issues. The Organization of African Unity (OAU) and the Organization of American States (OAS) developed their own policies and expanded refugee definitions in 196925 and 198426. UNHCR responded with its Protocol Relating to the Status of Refugees, waiving “(…) the temporal and geographic limitations that obstructed the expansion of the refugee definition in the post-World War period, allowing more universal application” (Barnett 2002: 9). The General Assembly extended UNHCR’s mandate to protect forced migrants outside the official Convention refugee definition. For the first time, UNHCR assisted IDPs in Sudan in 1971 and started to focus on long-term care.

Thus, during the Cold War era the increasing complexity of refugee flows came in tandem with an expansion of UNHCR’s organizational size, mandate and policies and a shift of focus to the South. While the international body grew in both scope and potential, domestic acceptance policies, however, grew more restrictive. The commitment by states to take in refugees diminished in the mid 70s due to a decline in economic growth and increasing unemployment (Barnett 2002: 9, 10)27.

1.2. UNHCR in the post-Cold War Era

The end of the Cold War sparked political and ethnic conflicts throughout the world, increasing mass migration on a global scale (Barnett 2002: 10; Loescher 2001: 287). Today, especially the rapidly rising number of IDPs is concerning28. Borders became easier to cross given cheaper transportation and the disintegration of many of the rigid boundaries and territories upheld by Cold War politics. As a result, asylum claims also increased. These developments reinforced the shift of the refugee regime towards a North-South rather than East-West focus. Russia finally joined UNHCR, whose profile “was raised during the Yugoslavia crisis in the early 1990s when the UN Secretary-General asked the agency to coordinate humanitarian action (…) significantly broadening its scope and responsibility” (Barnett 2002: 11).

25 In 1969 OAU defined a refugee as a person who, owing to external aggression, occupation, foreign domination or events seriously disturbing public order in either part or the whole of his/her country of origin or nationality, is compelled to leave his/her place of habitual residence in order to seek refuge in another place outside his/her country of origin or nationality.

26 The 1984 OAS Cartagena Declaration defines a refugee as a person who has fled his/her country because his/her life, safety or freedom has been threatened by generalized violence, foreign aggression, internal conflicts, massive violation of human rights or other circumstances which have seriously disturbed the public order.

27 “The “threat” posed by refugees can be (…) construed along two parallel axes: (1) a socio-cultural axis in which the questions of culture, race, language and assimilation all leap to the fore; and (2) an economic axis, where incoming refugees are imagined (sometimes justifiably so) to strain a host country’s social services capacity [or] take over jobs that might otherwise have been available to lower-skilled locals at a higher wage” (Toft 2007: 143).

28 “Most of the (…) refugees since 1981 have taken flight (…) as a consequence of state failure, manifested most often by civil war. In 2003, for example, 20 countries were responsible for producing 100,000 or more refugees. Civil wars precipitated 16, or 80%, of these large-scale refugee flows” (Toft 2007: 146).
Hence, changes in Security Council actions, reflecting the UN’s new emphasis on Human Security and the emerging doctrine of Responsibility to Protect, greatly affected the international refugee regime. “The Security Council now perceives the refugee problem as a threat to international peace and security under Chapter VII of the UN Charter. Demonstrating this shifting approach, the Security Council’s Resolution 688 called for multilateral UN action to deal with the exodus of 1.8 million Kurds from Iraq in 1991. This was the beginning of the Security Council’s move towards humanitarian intervention and is significant in that it treated refugees and IDPs as equally deserving of protection” (Barnett 2002: 13). Security Council resolutions also declared refugee emergencies in Somalia, the Former Yugoslavia, Rwanda and Haiti to be threats to international peace and security (Hammerstad 2000: 392).

Changes in the demand for assistance and the subsequent extension of UNHCR’s mandate are also reflected in budgetary increases. In 1951, the UNHCR secretariat started with 34 employees and an annual budget of 300,000 US$. By 1993 UNHCR already had a staff of 2000 with a budget of more than $1 billion US$29. At the end of 2007 the figures stand at almost 6260 worldwide employees (including fixed-term contracts), an annual program budget of 1.46 billion US$, and annual expenditures of 1.34 billion US$. About 86% of UNHCR’s staff is working in 262 field offices in 116 countries30. UNHCR assistance is mainly financed through voluntary contributions by governments31, foundations and private donors. Only about 2% of funds come from the regular UN budget for administrative purposes32.

In summary, UNHCR’s rapid growth in budget, staff and mandate came in response to the increasing and progressively more complex refugee phenomenon but also reflects the Office’s striving for institutional survival and pre-eminence among humanitarian organizations (Loescher 2001: 348). Over the decades, UNHCR shifted from a refugee protection regime to a more broadly based humanitarian agency. Today, UNHCR focuses on security, containment and preemptive humanitarian action and assistance (including the strengthening of local civil society and democratic governance). In its search for more durable, long-term solutions UNHCR became more homeland-oriented and pro-active (see Barnett 2002; Hammerstad 2000: 396). The agency provides care for refugees on location and emphasizes international presence to encourage potential refugees to stay. Because refugee resettlement is no longer seen as a viable option, UNHCR’s repatriation policy, rendered obsolete by the Cold War, came back into force33. Finally, UNHCR no longer turns a blind eye to military controlled refugee camps and now includes IDPs within its scope of responsibility. Since the 70s, UNHCR assisted IDPs in more than 30 operations e.g. in East Timor, Kosovo, Columbia, Afghanistan and lately in Sudan/Darfur. With the establishment of the so-called Cluster Approach in 2005, a key aspect of the UN humanitarian reform agenda, UNHCR even took over a lead role in the protection of conflict-induced IDP34.

29 “From 1992 to 1993 aid from the top 20 donors grew 27%, from $982 million to $1246 million; and U.S. aid per capita grew by 40%, from $1.24 to $1.74“ (Toft 2007: 145).
30 UNHCR 2008a; 2007b.
31 In 2007, major donor countries were the US (212 million US$), Sweden (81 million US$), the Netherlands and the European Union (EU) Commission (both 68 million US$) (UNHCR 2008a).
33 See e.g. Turton 2003a: 13, 14; Chimni 1999: 4. From 1991 to 1996, 9 million refugees were repatriated compared to only 1.2 million between 1985 and 1990. Only 2% of UNHCR’s total annual budget was spent on repatriation programs prior to 1984; in the period of 1990 to 1997 this share stood at 14% (Loescher 2001: 280).
34 In 2005, the Emergency Relief Coordinator launched an independent review to assess the international response capacities of key actors to humanitarian emergencies. This review proposed the establishment of a Cluster Approach as a way of addressing gaps and strengthening effectiveness through partnership-building. The approach aims to ensure predictability and accountability by clarifying the division of labor among organizations.
Within this specific inter-agency initiative and beyond, UNHCR is working closely with Non-Governmental Organizations (NGOs) and takes special pride in its long history of partnership-building. However, in the mid-1960s UNHCR’s NGO partners numbered less than 20 of which half were large international NGOs. During the 1970s and 1980s more and more refugee oriented organizations and diverse partnerships emerged in response to major refugee crises. The largest increase in UNHCR’s NGO partners was observed in the 1990s when UNHCR recognized that the magnitude of challenges exceeded its own capacity. The High Commissioner called for a redoubling of the organization’s partnership efforts which led to the launch of the Partnership in Action Initiative in 1994. This initiative later evolved into the Framework Agreement for Operational Partnership which seeks joint and coordinated approaches in addressing refugee protection and assistance as well as dialogue on protection challenges.

Today, NGOs support UNHCR in refugee protection (e.g. the International Rescue Committee), emergency response through standby agreements (e.g. the Danish and Norwegian Refugee Councils or Save the Children), capacity building and joint training and advocacy and fundraising. Cooperation happens at all levels and UNHCR often plays a coordinating role. UNHCR-NGO partnerships are either operational (based on voluntary but close coordination without financial support by UNHCR) or implementing partnerships. In the later case, UNHCR provides funds to an NGO implementing projects in the field, based on a formal project agreement that is subject to UNHCR’s financial rules and regulations. Between 1994 and 2006, UNHCR gave 5.4 billion US$ to its partners. Most of these funds were received by international NGOs (43.4%), followed by governmental agencies (27.9%) and national NGOs (22.1%) for activities carried out mainly in Africa (45.7%) and Europe (28%) (UNHCR 2007a: 12). The number of NGOs with whom UNHCR had formal project agreements rapidly increased from 473 in 2000 to 694 in 2002. In 2005 and 2006 this number stabilized at 645 and slightly decreased to 624 at the end of 2007.

In addition to NGOs, UNHCR increasingly engages with the private sector. In 2005, UNHCR’s Council of Business Leaders was launched to generate further private sector support, including funds. Members of the Council are the top executives of UNHCR’s leading corporate partners e.g. Merck & Co, Inc., Microsoft, Nestlé, Nike and PricewaterhouseCoopers.

and better defining roles and responsibilities. The Inter-Agency Standing Committee (IASC), established in 1992, the primary mechanism for inter-agency coordination of humanitarian assistance and itself a unique forum involving the key UN and non-UN humanitarian partners, identified eleven areas of humanitarian activity. Of these UNHCR holds the Cluster Lead in Camp Coordination and Management, Emergency Shelter, Protection for conflict-induced IDPs and Disaster Management for other civilians affected by conflict (see http://www.humanitarianreform.org/humanitarianreform/Default.aspx?tabid=70, 06/22/08; http://www.humanitarianinfo.org/iasc/content/default.asp, 06/22/08; UNHCR 2008.

35 Already in 1951, numerous mostly European organizations with significant experience in assisting World War II refugees existed. Because UNHCR itself was not fully operational in these early days, it relied heavily on these organizations, especially in terms of direct financial or fundraising support (UNHCR 2007a: 8).


37 The council serves to catalyze innovative public-private partnerships, to explore synergies among UNHCR's corporate partners, to assist in maximizing sources of financial and other support (such as knowledge, expertise, access and reach), to champion UNHCR within the corporation and in the external business community and to raise public awareness of UNHCR and its cause (http://www.unhcr.org/partners/451253d14.html, 06/22/08).

38 “Microsoft and UNHCR have worked in partnership for at least five years developing solutions to re-unite refugees and providing education through computer learning centers [Already in 1999, Microsoft and its
Joint UNHCR-business projects include the global fund- and awareness-raising campaign "ninemillion.org" launched in 2006. This project is dedicated to giving the world's nine million refugee children greater access to education and sports programs. For this initiative, Microsoft offered advertising and editorial space on Microsoft online properties in 26 markets around the world. Microsoft also launched a "Click for Cause" initiative where every internet search made by using Microsoft's Live Search facility resulted in a financial donation by the company to the "ninemillion.org"-Initiative. UNHCR also partnered with Google for a new online mapping program that provides the opportunity to use Google Earth and Google Maps to zoom in on specific refugee situations and get information on humanitarian efforts on the ground. The proportion of UNHCR’s funds coming from the private sector was constantly increasing from 15 million US-Dollars in 2000 to 34.1 million at the end of 2007.

1.3. Beyond UNHCR: the (Forced) Migration Regime

UNHCR is of course part of a much broader network of funds and programs, specialized agencies, and commissions working on (forced) migration. Since the beginning of the millennium, the proliferation of dialog and debate on international migration not only brought the issue on the agenda of various UN and non-UN agencies but also linked it with other policy fields e.g. (economic) development, security/peacekeeping, transnational crime or human rights (Newland 2005: 13). Indicators for this trend are e.g. the appointment of the Special Rapporteur on the Human Rights of Migrants to the UN Commission on Human Rights in 1999 or the establishment of an International Dialogue on Migration in 2001 and the later creation of a Migration Policy and Research Program by the International Labor Organization (ILO). ILO and The Division for the Advancement of Women also decided to make migration the theme of the 2004 International Labor Conference and the 10-year review of the Beijing World Conference on Women and Development. Only in 2007, the International Conference of the Red Cross and Red Crescent Society for the first time put international migration on its agenda. The World Bank (WB) and other regional development banks also discovered that migrant remittances surpassed the world total of official development assistance and started research on how these funds might have a stronger impact on development.

corporate partners developed and donated 100 registration kits to UNHCR in response to the Kosovo emergency. A revised software using these registration kits was later deployed e.g. in Senegal, India, Ivory Coast and Zambia, registering thousands of refugees (UNHCR 2001: 26)] Nike and PricewaterhouseCoopers are helping improve refugee girls’ access to education. Merck has helped the agency introduce mobile health libraries in refugee camps in Tanzania while Nestlé is helping to improve a major water treatment facility in Ethiopia” (see UN News Center: UN refugee agency announces new initiative with business sector to boost aid, 27 January 2005, online available at: http://www.un.org/apps/news/story.asp?NewsID=13148&Cr=unhcr&Cr1=, 06/22/08).

42 UNHCR 2001; 2008a.
43 Other organizations working on (forced) migration are the World Trade Organization (WTO), the UN Secretariat and the General Assembly (e.g. the Population Division within the Department for Economic and Social Affairs, DESA), the Human Rights Council, the UN Conference on Trade and Development (UNCTAD), the UN Population Fund (UNFPA), United Nations Institute for Training and Research (UNITAR), the International Migration Organization (IOM) or UNODC.
Increasingly, informal consultations and *inter-agency* initiatives have been prompted\(^{44}\). Thus, in addition to public-private partnerships, public-public networks emerge that reach far beyond refugees and UNHCR. Examples are the International Migration Policy Program co-sponsored by UNITAR, UNFPA, ILO and IOM (Newland 2005: 13) or the Global Migration Group. The later brings together heads of 10 (UN) agencies\(^{45}\) to promote instruments, norms and more coherent, comprehensive and coordinated governance approaches\(^{46}\). Coordination of humanitarian efforts on behalf of displaced populations also happens through the Office for the Coordination of Humanitarian Affairs (OCHA) and the Inter-Agency Standing Committee (IASC)\(^{47}\). In 2006, the UN General Assembly also held a High Level Dialogue on Migration and Development. Representatives of UN member states, regional organizations, intergovernmental entities, NGOs, civil society and the private sector (Manpower Inc.) were present and engaged in informal interactive hearings\(^{48}\). Finally, in 2007, the first High Commissioner’s Dialogue on Protection Challenges took place. This two-day meeting was chaired by UNHCR and also brought together various UN and non-UN, state and non-state actors. Major points of discussion were protection gaps in mixed population flows, UNHCR’s mandate in the area of mixed movements and partnership-building\(^{49}\).

Outside the UN system, the Berne Initiative was started in 2001 to foster *inter-state* discussion on migration management. Similarly, the Global Forum on Migration and Development emerged as an informal, voluntary and multilateral process\(^{50}\). A working group ‘to explore the various dimensions of migration’ was also established by the UN Secretary-General. This lead to the Global Commission on International Migration which came up with recommendations on how to strengthen national, regional and global governance of international migration in 2005. Although a core group of 34 states served as an informal consultative body, the Commission acted as an independent body comprised of experts with diverse institutional backgrounds\(^{51}\). Newland (2005) sees the The Hague Process as the only one of the existing global processes outside the UN system that does explicitly include the private sector and civil society representatives\(^{52}\).

\(^{44}\) UNHCR cooperates with the UN Department of Political Affairs, the Department for Peacekeeping Operations, ILO, IOM, OCHA, the Office of the High Commissioner for Human Rights (OHCHR), the UN Children’s Fund (UNICEF), the UN Development Program (UNDP), the World Food Program, the World Health Organization (WHO), the International Monetary Fund, the WB and affiliated institutions (UNHCR 2004: 2).

\(^{45}\) These are: ILO, IOM, UNCTAD, the DESA, UNFPA, UNODC, WB, UNHCR, UNDP and OHCHR.

\(^{46}\) See e.g. http://www.un.int/iom/GMG.html 06/24/08.


\(^{49}\) Crisp (2008: 3) names this initiative “an unusual gathering” because unlike the UNHCR Executive Committee (ExCom), which comprises states only, the Dialogue was opened to multiple stakeholders – governments, UN organizations, NGOs, civil society and individual experts, “all of them participating on an equal basis” (http://www.unhcr.org/protect/473db6522.html,11/11/2008).

\(^{50}\) State representatives meet annually to foster cooperation, create multi-stakeholder partnerships, identify gaps, enhance dialogue and promote new models of policies and practices in the field of migration and its interrelation with development. The aim is to establish policy shifts based on the recognition that migration policy can no longer be made in isolation of development policies. The Forum loosely links with the UN, relies on the expertise of the Global Migration Group, consults with other relevant bodies and allows civil society to provide input on background papers (see http://www.gfmd-fmmd.org or http://www.gfmd2008.org, 11/11/2008).


\(^{52}\) This heavily and deliberately normative initiative was launched by the Society for International Development of the Netherlands in 1999 to foster dialogue on migration and refugee movements (Newland 2005: 13, 14).
Since the beginning of the millennium, decisive steps have also been taken in response to the increasingly evident problem of human trafficking. Most importantly, the UN Convention against Transnational Organized Crime and two of its supplementing protocols (the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children and the Protocol against the Smuggling of Migrants by Land, Sea and Air) came into force between 2003 and 2005. These documents constitute “the first serious attempts by the international community to answer the global challenge of transnational organized crime with a global response in the form of international law” (UNODC 2006: 49, 50). Already in March 1999, the UN Office on Drugs and Crime (UNODC) together with the UN Interregional Crime and Justice Research Institute launched the Global Program against Trafficking in Human Beings. This initiative works with member states and regional organizations to implement the Trafficking Protocol by providing technical training and legal advice. In 2002, GPAT also established UNODC’s Database on Human Trafficking Trends (UNODC 2006: 48, 49, 110). Since 2003, UNESCO’s Trafficking Statistics Project also contributes and improves data on the subject. Finally, at the International Conference against Human Trafficking in Vienna in 2007, UNODC, other UN agencies, governments and NGOs launched the Global Initiative to Fight Human Trafficking (UN.GIFT). Despite these recent (international) efforts, the anti-human trafficking regime, however, is only at its beginning.

The same holds for internal displacement, although there seems to be some progress. The availability of data is slowly improving. Since 1998, the Internal Displacement Monitoring Centre (IDMC) of the Norwegian Refugee Council has evolved into the leading international body monitoring conflict-induced internal displacement. Growing public interest and attention to the plights of IDPs is also visible in the significantly growing number of visits on IDMC’s website. The monthly number of documents downloaded from this site doubled between January 2006 and October 2007 and the number of available documents increased from 1481 to 13356 within the past eight years (IDMC 2007: 12, 13). Especially the publication of the Guiding Principles on Internal Displacement paved the way for significant progress. Already in 1992, the UN Commission on Human Rights asked its Representative on IDPs to examine the extent to which existing international law provides adequate coverage for IDPs and to develop an appropriate framework. With the support of legal experts, the Guiding Principles, setting out the rights and guarantees relevant to the protection of IDPs in all phases of displacement, were presented in 1998. Since then, international bodies have welcomed and explicitly referred to these principles, as did UN treaty bodies in their observations to states when monitoring the implementation of international law.

---

53 Previous instruments to fight trafficking in persons and forced prostitution, such as the 1949 Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others or the Convention on the Elimination of All Forms of Discrimination Against Women, failed to provide a definition of trafficking in persons and focused mainly on the punishment of traffickers (UNODC 2006: 50).

54 The data contained there largely comes from research reports produced by international organizations (32%), by governmental organizations (27%), but also by NGOs and research institutes (18%) (UNODC 2006: 38).


56 The Initiative is designed “to motivate governments, inspire international institutions, empower civil society, strengthen corporate responsibility, build regional alliances, galvanize international media support and mobilize resources to prevent and fight the crime of human trafficking. [The] strategy for achieving this starts with efforts to increase public awareness of the problem. The initiative aims to harness and synergize these efforts, get others to join them, and set in motion a broad-based global movement” (UNODC 2007).

57 The Commission on Human Rights (in 2005), the UN Security Council (Resolution 1286 on Burundi, 2000) or the UN General Assembly (Resolution 58/177, 2004) (see: http://www.internal-displacement.org, 06/27/08).
The Guiding Principles have also been incorporated into policies of multiple UN agencies, regional organizations and individual states. Very recent regional initiatives by the African Union (AU), which drafted a Convention for the Protection and Assistance of Internally Displaced Persons in Africa during 2007, are promising, too. The AU also joined the UN in the establishment of the International Conference on the Great Lakes Region in 1996. Ten years later, it’s eleven member states signed the so-called Great Lakes Pact, which contains several important instruments that aim to guarantee IDPs their rights (e.g. a Protocol on the Protection and Assistance of IDPs and a Protocol on the Property Rights of Returning Populations) (IDMC 2008: 40). While these regional initiatives are only in the process of emerging in Africa, the OAS was the first regional body to endorse and apply the Guiding Principles on Internal Displacement. Already in 1992, the OAS Inter-American Commission on Human Rights established the Permanent Consultation on Internal Displacement in the Americas. The International Conference on Central American Refugees (1989), the UN multi-agency Development Program for Displaced Persons, Refugees and Returnees in Central America (1988) and the San Jose Declaration on Refugees and Displaced Persons (1994) all focused on the protection, assistance and reintegration of uprooted populations in the region (IDMC 2008: 51). Finally, European governments continued to take responsibility for their internal displacement situations and worked to facilitate returns despite the fact that donor support continued to wane in 2007. Regional organizations e.g. the Council of Europe, the EU and the Organization for Security and Cooperation in Europe (OSCE) actively participated in these efforts (IDMC 2008: 88, 89).

Again, cooperative institutions such as the Inter-Agency Internal Displacement Division within OCHA or the Senior Network on Internal Displacement developed, various inter-agency tools were designed and institutions outside the UN system emerged.

58 UNHCR, UNDP, OHCHR and UNICEF (see: http://www.internal-displacement.org, 06/27/08).

59 The AU, the Economic Community of West African States, the Inter-Governmental Authority on Development in the Horn of Africa, OAS, OSCE or the Council of Europe (see http://www.internal-displacement.org, 06/27/08).

60 Angola incorporated the Guiding Principles into its law on resettlement. The Constitutional Court of Colombia cited the Principles as a basis for judgments in support of IDPs (2000-2001). The governments of Columbia, Burundi, the Philippines, Sri Lanka and Uganda have developed national policies based on the Principles. In 2004, the Congress of Peru adopted a law that establishes material benefits for IDPs and is based on the Principles. The US foreign aid agency also referred to the Principles when issuing a policy document to guide its assistance to IDPs (see http://www.internal-displacement.org, 06/27/08).

61 Angola, Burundi, CAR, Republic of the Congo, DRC, Kenya, Rwanda, Sudan, Tanzania, Uganda and Zambia.

62 E.g. the OSCE co-sponsored the conference on refugees, displaced persons and other forms of involuntary displacement in the CIS in 1996 although the results of this initiative have been mixed (see Martin 2000: 30).


The above described illustrates that up to now many joint initiatives inside as well as outside the UN system emerged to address more or less all types of forced migration. However, neither the increasing number of non-state actors nor the pure existence of new forms of partnerships tells much about their true significance or influence within the forced migration regime. This touches upon the main research question of this paper which, after the following brief introduction of the concept of global governance, asks, whether and to what extent governance of forced migration is truly ‘global’ today. It follows from this question that global governance is understood as an analytical concept and observable phenomena rather than a normative political program or vision of how societies should address the most pressing global problems.

2. From International to Global Governance of Forced Migration

Institutionalism argues that the technological revolution, globalization and the end of the Cold War contributed to the emergence of new (and to the intensification of existing) trans-sovereign problems that cannot be solved unilaterally (Brühl/Rittberger 2002: 7-19). States, still considered to be the central actors in world politics that seek to maximize their national (security and economic) interests, are assumed to have a common interest in solving or better managing these challenges. For this purpose, to coordinate their actions and to overcome problems in the provision of collective goods they create international institutions. Thus, in an international system characterized by complex interdependence and the absence of an overarching political authority international governance mechanisms emerge. These are defined as the output of non-hierarchical networks of interlocking international (mostly, but not exclusively, governmental) institutions (e.g. regimes, formally organized international organizations as UNHCR or informal and rather basic conventions such as sovereignty) that regulate the behavior of states and other international actors for the purpose of common action under conditions of anarchy (Rittberger 2000: 198).

Although international governance of forced migration is a matter of fact, today’s governance of forced migration might reach beyond this concept in terms of complexity. Advocates of the concept of global governance argue that international governance does not adequately capture new actors, spheres of authority and governance mechanisms above and below the state. Especially the increasing frequency and importance of public-private partnerships might support the thesis of an emerging new global governance approach to forced migration.

66 For a rather normative understanding see the Call for Action of the final report of the Commission of Global Governance (“Our Global Neighbourhood”) from 1995.

67 Such interest-based theories of international regimes that emphasize the role of international regimes in helping states to realize common interests are the mainstream of regime theories. There also exist power-based (or realist) theories of international regimes that explain conflict and cooperation by power and the distribution of capabilities among states as well as knowledge-based theories. According to the later, normative beliefs or ideas and knowledge form perceptions of international problems that demand for the establishment of regimes (Hasenclever et al. 1997).

68 A (forced migration) regime comprises 1.) principles (beliefs of fact, causation and rectitude that represent mutual understanding of problems and solutions), e.g. the Guiding Principles on IDPs, 2.) norms (standards of behavior defined in terms of rights and obligations), e.g. codified in the 1951 Refugee Convention, 3.) rules (concrete prescriptions for action that help to operationalize general norms) and 4.) procedures, e.g. refugee status determination procedures. While principles and norms are the “underlying normative core” of the regime, rules and decision-making procedures are more specific injunctions for appropriate behaviour (Krasner 1983: 2; see also Keohane 1989; Keohane et al. 1998).
The intensification and soaring complexity of forced migration certainly challenges states' autonomous problem-solving capacity as well as the capacities of rather specialized intergovernmental agencies. In addition, forced migration and attempts to govern it by states and inter-governmental organizations increasingly affect non-state actors, who in the past have not been granted adequate participatory rights in policymaking (Rittberger 2008). Today, these non-state actors are not only increasingly part of the problem (e.g. networks of organized crime involved in human trafficking or non-state actors displacing civilians in New Wars) but they are also increasingly part of the solutions (e.g. NGOs gathering data on IDPs and human trafficking and implementing projects on behalf of the UN or private businesses participating in UNHCR’s Business Council Initiative). As a consequence, power might diffuse and spread to non-governmental authorities.

More generally, regime theory and other mainstream International Relations (IR) paradigms contribute to the understanding of governance structures in our post Cold War world order. Nevertheless, no single existing paradigm offers the full picture. Emerging networks fundamentally challenge state-centered approaches and necessitate a re-conceptualization of the global order beyond that of pure anarchy. The state-centric paradigms are deficient in that they leave little room for transnational forces, ideas and institutions, except as instruments for power- and welfare-seeking nation states. From a realist perspective, global governance merely equates with state-centered multilateralism (Acharya 2008: 3, 4). As demonstrated above, institutionalism seems more adequate to capture the emergence of an international forced migration regime. However, this paradigm also has its limits due to a strong emphasis on continuity (path-dependency), a limited role for agency and a strong focus on formal, explicit and visible elements such as written rules and procedures (Lennox 2007; Acharya 200869). Nevertheless, all existing theoretical paradigms emphasize specific characteristics of global governance and therefore contribute to our understanding of ongoing processes. Realism points to the still important role of states and inter-governmental organizations as well as the importance of power and self-interest in IR70. Institutionalism contributes by focusing on institutions as agents of governance, by pointing to the prominent role of asymmetrical relations of power in the development and functioning of institutions or to various types of interdependences. The constructivist paradigm provides an understanding of how international institutions help to construct actors and their interests. Lastly, the pluralist paradigm provides for a “bottom-up” understanding of agency, that includes non-state actors and emphasizes the emergence of global networks or even a global civil society that mobilizes around issues nation states and market systems have failed to address. To varying degrees, aspects of classical IR theories therefore flow into the ongoing discussion on how to conceptionalize global governance.

---

69 Acharya (2008) identified three biases in mainstream IR theories (realism, liberalism and constructivism). Firstly, a power bias because structural power or the role of powerful actors is emphasized (even constructivism views norm diffusion and socialisation as being subject to the logic of power), secondly, a culture bias (ethnocentrism and Westerncentrism) and thirdly, a system bias (the tendency to privilege systemic forces, actors/agents and outcomes at the expense of regional, local or sub-systemic ones). Mainstream IR theories are mainly state-centric, while the concerns of Forced Migration Studies are overwhelmingly transnational. Therefore, one key challenge for mainstream IR theories is to bring the local into the centre-stage of their analysis (Acharya 2008: 7, 11).

70 See Snyder (2008) who also refers to a recent study by Rosenbaum and Salehyan that shows how economic motives have trumped normative ones in regard to changes in US asylum policy.
This is visible in the emergence of multiple variants of the theoretical paradigm. Dodgson et al. (2002: 7) distinguish between liberal-internationalist scholars of global governance\textsuperscript{71}, radical or critical scholars\textsuperscript{72} and cosmopolitan democrats\textsuperscript{73}. These and other approaches mostly differ in regard to normative questions e.g. whether global governance constitutes a desirable political steering instrument or whether it is rather the automatic consequence of globalisation and mirrors unequal power relations. In the later case, global governance is considered not to be entirely positive or desirable for every person/group. The (future) role and importance of state actors is also discussed as is the question whether strong state actors are a prerequisite for democratic and effective global governance. Similarly contested is the importance that can or should be assigned to non-state, civil society or inter-governmental actors (Fuchs et al. 2007)\textsuperscript{74}.

\section{The Concept of Global Governance}

In fact, up to now there is not yet a uniform definition of the concept of global governance. Since the concept has been introduced into the scientific discourse in the early 1990s\textsuperscript{75}, it has been defined and further developed for example by Gordenker/Weiss (1996)\textsuperscript{76}, Messner/Nuscheler (1997)\textsuperscript{77} or more recently Rittberger (2008)\textsuperscript{78} and Weiss/Thakur (2009)\textsuperscript{79}. We rely on a rather broad and early definition by Rosenau (1995) who conceives global governance “to include \textit{systems of rule at all levels of human activity (…) in which the pursuit of goals through the exercise of control has transnational repercussions}” (Rosenau 1995: 13).

\textsuperscript{71} The liberal-internationalist view as expressed by the Commission on Global Governance (1995) that sees “the purpose of global governance as ultimately moving towards a more liberal democratic global order in which states and IGOs have equal roles. Within such an order it is envisaged that power and influence will flow in a top-down manner, although states and IGOs may be held accountable via a global assembly composed of representatives from national and global civil society” (Dodgson et al. 2002: 16).

\textsuperscript{72} “Radical/critical scholars believe that the direction of global governance should be guided from the bottom-up” and place emphasis on the potential of actors from within (global) civil society (Dodgson et al. 2002: 16).

\textsuperscript{73} “Cosmopolitan democrats pursue a vision of global governance that embraces the diversity of people across national and other forms of identity within a shared political community (…) achieved (…) through consensus on universal principles (e.g. human rights), increased public scrutiny of existing IGOs, global referendums and an expanded international legal system” (Dodgson et al. 2002: 16-17).

\textsuperscript{74} Brühl/Rittberger (2002: 24-27) also touch upon these issues and introduce three different models of global governance: authoritative coordination by a world state, governance under the hegemonic umbrella (i.e. hierarchical though not authoritative coordination) and governance without world government (where order emerges as a result of horizontal self-coordination).

\textsuperscript{75} Major initial steps in the development of the concept were the publishing of “Goverance without Government” by Rosenau/Czempiel (1992), the publishing of the final report “Our Global Neighbourhood” of the Commission on Global Governance (1995) and the first issue of the journal “Global Governance” (1995).

\textsuperscript{76} These authors define global governance as “efforts to bring more orderly and reliable responses to social and political issues that go beyond capacities of states to address individually” (Gordenker/Weiss 1996: 17).

\textsuperscript{77} Messner/Nuscheler (1997) see a global rule of law and a global ethic as prerequisites for a functioning global governance system, which they define as “the creation of networks, from the local to the global level, based on a shared problem-solving orientation, a fair balance of interests and a workable canon of shared norms and values as a basis for institutional structures for the handling of problems and conflicts” (Messner/Nuscheler 1997: 36).

\textsuperscript{78} Rittberger (2008) defines global governance as cooperation between public and private actors aimed at dealing with or even solving trans-sovereign problems, that takes place in the absence of a world state and is based upon the self-imposed compliance with rules, implying global regulatory and (re-)distributive mechanisms (see Rittberger 2008: 1, 2).

\textsuperscript{79} Weiss/Thakur (2009) portray global governance as “the complex of formal and informal institutions, mechanisms, relationships, and processes between and among states, markets, citizens and organizations, both inter- and non-governmental, through which collective interests on the global plane are articulated, rights and obligations are established, and differences are mediated”. For an overview on definitions see Dingwerth/Pattberg (2006, 2006a).
This definition emphasizes the transnational and intentional character of global governance. In addition, a formal established legal or political authority is not a prerequisite for the effectiveness of these systems of rule and corresponding control mechanisms. Major differences between the concept of global governance and the concepts of transnational politics, international relations or international governance regard the nature of actors involved in world politics, their status or degree of authoritative power and the governance mechanisms they use.

3.1. The Nature of Actors in World Politics

Instead of a prior selection of relevant actors through assuming nation states to be the major players in world politics, global governance implies a non-hierarchical multi-actor perspective. States and intergovernmental organizations like the UN remain active and critical in the conduct of global governance, but they are only part of the full picture (Rosenau 1995: 13). Civil society actors, NGOs, the media, judicial actors, transnational corporations or the scientific community not only deserve equal attention in the analysis of world politics but are also equal in status when it comes to the constitution of rule systems. Thus, global governance accounts for significant agency beyond and below the state that, at all levels of analysis, assume governance functions in steering the global order.

3.2. New Spheres of Authority in World Politics

Because non-state actors possess and exert authority in world politics independently of sovereign nation-states, a global governance perspective allows for capturing the emergence of new spheres of authority (authoritative decision-making capacity) in world politics. This includes the exercise of authority by non-state and sub-state actors as diverse as private organizations for standard setting e.g. the Forest Stewardship Council or the International Accounting Standards Board, transnational advocacy networks exerting moral authority or even illicit authority exercised by transnational organized crime networks (Dingwerth/Pattberg 2006: 193).

3.3. Governance Mechanisms

Besides recognizing multiple, diverse and principally equal actors, the concept of global governance also emphasizes the existence of multiple and diverse governance mechanisms. While the concepts of international relations and transnational politics are closely linked to power relations and interest-based inter-state bargaining as the driving forces of politics, the study of global governance acknowledges the existence of many forms of social organization and political decision-making that are neither directed toward the state nor emanate from it (see Dingwerth/Pattberg 2006: 191, 192). Therefore, “(…) global governance refers to more than the formal institutions and organizations through which the management of international affairs is or is not sustained” (Rosenau 1995: 13). Again, no assumptions are made in regard to the hierarchy of these mechanisms which include intergovernmental negotiations but also formal and informal processes of horizontal self-coordination, long-term as well as temporary units (e.g. coalitions) between public as well as private actors across all levels of analysis.

---

80 See Fuchs 2002.
3.4. Inclusive vs. Exclusive Forms of Global Governance

Although non-state actors assume an increasingly important role in world politics, Rittberger (2008) rightly observes that the intensity of public-private cooperation and the extent to which private actors are involved in global norm-setting, implementation and monitoring processes varies greatly from issue areas to issue area. The author therefore distinguishes three different levels or forms of global governance. Firstly, **Exclusive Executive Multilateralism**, which is characterized by non-public negotiations and an at most informal access for non-state actors to decision-making processes within the respective international organizations. Secondly, **Open or Advanced Executive Multilateralism** when international organizations grant formal consultative status to certain (international) NGOs giving them the chance to raise their concerns and to offer expertise. However, nation states remain the main actors and gatekeepers deciding whom they grant formal access under what conditions. Thirdly, **Inclusive Multipartite Institutions** of global governance which provides not only public but also private actors with the possibility of membership even endowing them with formal participation, decision-making and voting rights in the policy-making process of international organizations (Rittberger 2008: 2, 3). The author applies a systemic-functionalist perspective in order to argue for a trend from exclusive to inclusive multipartite institutions of global governance\(^81\) or even the emergence of a heterarchical world\(^82\).

The above argued that the concept of global governance emerged from the discipline of IR as a reaction to the inadequacy of existing theoretical paradigms and concepts to explain and capture the current global world order and complexity of governance. Nevertheless, aspects of existing theoretical paradigms add to the ongoing discussion on how to conceptualize global governance. For example, the concept of global governance still sees the architecture of the global order as one of anarchy, however, not in a realist sense as a constant state of war. Instead, it is seen as an ordered system constituted by global governance - a dynamic system of (state and non-state) actors and (formal and informal) international institutions performing functions of governance that steer the global order. In line with rationalist theories and the concept of international governance, global governance sees state and inter-governmental institutions as central in this steering process. Nevertheless, global governance is characterized by the decreased salience of state and the increased involvement of non-state actors in norm- and rule-setting processes and compliance monitoring\(^83\). Furthermore, accountability and legitimacy in this global order is attained through accounting for and engaging actors in taking decisions that will affect them. While international governance sees states and inter-governmental institutions as the addressees and the makers of norms and rules, in global governance states and inter-governmental institutions as well as non-state actors are both the addressees and the makers of norms and rules. While international governance takes place at the national and the international levels, global governance is multilevel in nature and happens also at the sub-national, regional and local levels (Brühl/Rittberger 2002: 2).

---

\(^81\) Rittberger (2008: 7).

\(^82\) Rittberger (2008) sees the creation of inclusive, multipartite institutions of global governance as a constitutive element of an emergent heterarchical world order, characterized by the horizontal generation and implementation of flexible norms and rules (so that different problem-solving processes are designed and activated according to situational needs in a given issue area) and by the inclusion of a variety of public and private actors in world politics that are largely independent from each other yet mutually dependent (Rittberger 2008: 15, 16).

\(^83\) The fact that the position of states is not as dominant as it once was indicates that the global order, the distribution of power, authority and functions of states and other actors are contextual. They change and will be redistributed and reconstituted over time. Still, the distribution of power within the system of global governance at any given point in time greatly determines whose interests will most likely be served by the global order. Ideas and identities of actors are also critical in shaping the international system and institutions, and vice versa.
In comparison with regimes, global governance is a more “all encompassing concept” because it embraces formal and informal governmental as well as non-governmental institutions and mechanisms. Finally, global governance creates *intergenerational interdependencies* (not just temporal interdependence) that pose further governance challenges.

In summary, global governance comprises worldwide trans-boundary interactions and complex inter-linkages not only between a wide array of state and non-state actors but also among the international, national and sub-national policy levels. The concept also points to a greater variety of formal and informal governance mechanisms as well as the establishment of alternative spheres of authority independent from sovereign nation-states. “Thus, fundamental changes in the nature of core political concepts such as sovereignty and authority and hitherto unknown and unexpected actor coalitions that use new instruments of governance, thereby establishing new modes of governance, may justify the use of [the] new concept [of global governance]” (Dingwerth/Pattberg 2006: 197). In light of this, it seems legitimate to ask whether we observe these “fundamental changes in the nature of sovereignty and authority”, “hitherto unknown and unexpected actor coalitions” and “new instruments as well as modes of governance” within the policy field of forced migration. If yes, do we observe the emergence of “inclusive multilateralism” as described by Rittberger (2008)? If not, what are the obstacles to global governance of forced migration? The following approaches these questions by asking how global governance of forced migration actually is today. Following Latham (1999) and Dingwerth/Pattberg (2006), two different meanings of the attribute global shall be distinguished: governance of forced migration *that is* global and governance of forced migration *in the* global.

4. Global Governance of Forced Migration (?)

4.1. Governance of Forced Migration that *is* Global?

Governance *that is* global refers to the spatial coverage of any governance approach - the extreme (or ideal) case being a worldwide approach. One might add the qualitative criteria of *equal* protection for the *same* types of forced migrants all around the world. Global coverage and a high degree of homogeneity in forced migration governance however are hardly found in reality.

Differences in the severity of forced migration crises between countries and regions are due to the fact that causes (e.g. natural disasters or violent conflicts) hit countries or regions to a varying degree. Partly, however, these differences are also due to great variance in the extent and quality of protection, assistance and crisis management provided at all levels of analysis. For example, African countries held several early conferences on forced migration issues. Among these regional initiatives are the two International Conferences on Assistance to Refugees in Africa (ICARA I and II) of 1981 and 1984, that “had little lasting legacy and disappointed many of the African states and donor states” (Betts 2004: 2).

---

84 Interaction at one level of analysis cannot be separated from interaction at other levels of analysis. Global governance research, therefore, is particularly interested in how far, for example, international norm-setting affects civil society activism or vice versa.

85 This is in line with Rosenau (1992: 12-13) who sees global governance as a distinct set of arrangements and patterns, all encompassing, diverse, organic, ever changing, “embracing every region, country, international relationship, social movement, and private organization”.

86 Examples are the Arusha Conference on the Situation of Refugees in Africa (1979) or the International Conference on Refugees in Sudan (1980).
The Office of Emergency Operations in Africa (OEOA) was also established in 1984 in response to drought and famine displacing almost 10 million people in mostly conflict-affected East African countries. Besides fundraising, OEOA’s aim was “to bring a higher level of political visibility and organizational coherence to UN relief efforts in Africa which had, until this point, taken a more country-by-country approach” (Martin 2000: 25). However, the resource mobilization process remained unsuccessful. Donors turned out to be “far more responsive to needs for food aid and logistical requirements (…) than to the funding of supplies, drinking water and sanitation facilities, cash and essential agricultural and pastoral inputs”. In addition, OEOA failed to establish effective information gathering systems, to maintain close and regular contacts with the media, to direct attention and stimulate international response to the African emergency and to recognize the importance of the private sector, non-governmental organizations and popular movements (Martin 2000: 26). Only recent initiatives by the AU to protect and assist IDPs are promising. At the national level, governments’ policies of obstruction and refusals to acknowledge internal displacement crises and IDP’s special needs, the denial of access to humanitarian agencies or even the targeting of humanitarian aid workers prevented initiatives to protect IDPs specifically in Ethiopia, Zimbabwe, Sudan (Darfur), Chad and Somalia. Although national authorities of other African countries demonstrated willingness to provide better protection to IDPs, their efforts remained ineffective due to lack of resources and experience in tackling humanitarian crises.

Despite early and quite successful regional initiatives to assist displaced populations in the Americas, many countries within this region are also still struggling to adequately address the needs of their IDPs. IDMC reports that even in those American countries where conflicts had ended with Peace Accords many years ago, “structural and social inequalities persisted and the implementation of provisions to enable durable solutions to displacement crises was poor. It hinged on political will as well as capacity, and both were still broadly lacking in 2007” (IDMC 2008: 43). In addition, most international attention and support on forced migration issues in the Americas is concentrated on one single country, Columbia.

87 For example, Ivory Coast drafted a national strategy to facilitate the return of IDPs in 2007, but remained silent on the option of voluntary resettlement elsewhere in the country. In mid-2006, the Ministry of Solidarity and War Victims took the lead role on IDP issues, while the government set up a number of bodies to coordinate IDP protection and assistance activities – a lack of resources limited their effectiveness. In Chad the government allocated funds to aid IDPs, but no legislative or institutional framework was put in place to ensure their protection. In October 2007, the government of Uganda launched the Peace, Recovery and Development Plan for Northern Uganda (PRDP), while at the same time the implementation of the National IDP Policy of 2004 was still struggling with lack of funds. This lead to limited assistance packages to returning IDPs and the absence of compensation to landowners on whose land the IDP camps were situated (IDMC 2008: 39, 40).

88 One successful effort of policy coordination at the regional level is the Conference on Refugees, Displaced Persons and Returnees in Central America (CIREFCA). There was “considerable political will to make the peace process work and resolution of problems of forced migration was seen as a pivotal element of peace”. CIREFCA strove for broad consensus and intensive dialogue, and it’s Plan of Action was carefully worked out by the seven countries of the region, major donor states, UN agencies and regional NGOs. CIREFCA also resulted in substantial financial contributions and successfully linked emergency relief, rehabilitation and development efforts through quick impact projects. UNHCR and UNDP cooperated closely (Martin 2000: 28).

89 Limited political will to fund a reparation budget, to set up criteria to identify victims, and register those IDP eligible for compensation hindered progress in Peru and Guatemala. In 2007, Columbia’s National Reconciliation and Reparation Commission tasked to compensate victims of the conflict failed to decide whether IDPs were eligible and lacked funds and procedural clarity. The original causes of displacement remained unchanged. During 2007, IDPs’ situation also worsened in Mexico, while in El Salvador, Honduras, and Haiti, there were not even attempts to establish the numbers of IDPs, let alone to initiate effort to compensate them for violations of their rights (IDMC 2008: 48-51). Collective responses by citizens, often supported by (international) NGOs or church-based groups, ran counter to the financial and political interests of armed groups and came under threat e.g. in Columbia and Guatemala (IDMC 2008: 50).
In the Middle East, national responses to internal displacement also remained uneven and often ineffective due to lack of capacity, the absence of political will\(^90\) and, most importantly, insecurity. Restricted access and threats to humanitarian aid worker remained major obstacles\(^90\). At the regional level, the League of Arab States addressed internal displacement only indirectly because it touches upon politically sensitive issues such as the prevailing crisis in the Occupied Palestinian Territories or reconstruction in Iraq.

Restricted access for humanitarian aid workers (e.g. in Pakistan, Sri Lanka and Myanmar) as well as insufficient national responses or even the refusal to acknowledge the existence of an IDP problem also characterize the situation in Asia. According to IDMC most Asian governments limited their actions to ad-hoc humanitarian interventions and did little to improve their human rights record. Instead, governments continued to be the main agent of displacement. Some countries are struggling with corruption or weak administrative capacity which resulted in a wide gap between policy commitments and their implementation on the ground\(^92\). In addition, there were no regional IDP initiatives during 2007 as internal displacement continued to be viewed as a strictly internal matter\(^93\). UN involvement on behalf of IDPs in Asia remained restricted to Nepal, Timor-Leste, Sri Lanka, Afghanistan and to a lesser extent the Philippines and Indonesia. Addressing internal displacement in Myanmar, Bangladesh, India, Thailand, Laos or Uzbekistan was impossible mainly because of the governments’ opposition (IDMC 2008: 77). However, at least in four Asian countries the UN Cluster Approach could be applied to assist natural disaster displacees in 2007.

These and other severe response failures at the national level, particularly in some of the most affected countries, as well as no, limited or only recent progress at the regional level in Asia, the Middle East and Africa stand in sharp contrast to the improving situation of IDPs in some single countries and in Europe (IDMC 2008: 88, 89). Newland (2005) even notes that the EU has produced a comparatively high level of joint governance of migration issues in general (Newland 2005: 6).

In summary, the severity of internal displacement situations ranges from those IDPs caught in conflict and facing major security and humanitarian risks\(^94\), to those who are not in a life-threatening situation but still experience recurrent obstacles in accessing their economic, social, cultural, civil and political rights\(^95\), to the case of Cyprus, where IDPs are hardly distinguishable from non-displaced persons (IDMC 2008: 16, 17). Especially the extent to which IDPs receive support from their national governments greatly varies.

\(^{90}\) For example, further displacement in the Occupied Palestinian Territories due to the construction of the West Bank Wall remained without any response by the Israeli government (IDMC 2008: 62).
\(^{91}\) This holds e.g. in Yemen or Iraq (IDMC 2008: 62, 63).
\(^{92}\) Timor-Leste demonstrated goodwill but remained unsuccessful, “mainly because of its incapacity to address key obstacles to return” (e.g. protection concerns, land and property disputes or reconstruction of damaged or destroyed houses). Indonesia struggled due to “widespread corruption and embezzlement of humanitarian funds and devolution of responsibility for IDPs to ill-equipped and ill-resourced provincial governments”. Afghanistan also faced limited capacity, while India’s response was inconsistent and dependent on requests for support from state authorities (IDMC 2008: 77). The only positive example is Nepal where a revised IDP policy was issued in line with international standards together with a relief package of $5.6 million in 2007 (IDMC 2008: 76, 77).
\(^{93}\) The Association of South East Asian Nations decided to set up an intergovernmental human rights commission in July 2007, despite strong opposition from several of its members (e.g. Myanmar). Thus, IDMC doubts the potential effectiveness of this body operating within a consensus-based organization on the principle of non-interference (IDMC 2008: 77).
\(^{94}\) E.g. in the CAR, DRC, Ethiopia (Gambella), Iraq, Pakistan, Somalia and Sudan (Darfur) (IDMC 2008: 17).
\(^{95}\) E.g. in Colombia, Indonesia (West Papua), Mexico or Zimbabwe (IDMC 2008: 16).
It has been shown that some choose not to meet their responsibilities, while others demonstrate goodwill but lack capacity and resources to do so. This relates to great variance in national and regional norm-setting. While some countries have adopted legislation providing for the creation of a ‘national status’ for at least certain groups of IDPs, many did not. In addition, the degree to which the process of return or local integration of IDPs meets national and international standards (e.g. in regard to informed consent to return) greatly varies. National and regional standards also differ for other types of forced migration. For example, UNHCR refers to one of its regional studies “highlighting the great differences that exist between countries in addressing human trafficking” (UNODC 2006: 48). By 2006, only 93 countries worldwide had prohibited trafficking as a matter of law and relatively few cases of human trafficking are prosecuted successfully. Only sometimes national jurisprudence sees trafficking as persecution (Botts 2008: 10). Alongside other differences in national standards of treatment of asylum-seekers this results in significant differences in recognition rates between countries. Similarly, during the past decade more than 1 million refugees were granted citizenship by their asylum country while national laws in many other countries do not permit refugees to become naturalized (UNHCR 2008: 11).

The extent of internal and external non-governmental support to IDPs also differs between countries and regions. In some cases of state collapse (e.g. in DRC and Somalia) the international community provides vital state functions, including the provision of assistance and protection to IDPs, while in other places governments severely restrict international involvement, insisting on the principles of state sovereignty and non-interference (IDMC 2008: 19, 21). The degree to which national and international NGOs are present, able and allowed to advocate on behalf of forced migrants and to deliver assistance depends on the political system. Barriers to such activism are especially high in closed and repressive authoritarian systems e.g. in Myanmar.

Finally, protection and assistance provided by regional and international inter-governmental organizations also varies in coverage. Even UNHCR has not been truly international until the last quarter of century. “International’ organizations that developed to deal with the refugee problem focused exclusively on European and later Cold War issues. Refugees existed in other parts of the world, but these flows were generally ignored by a Euro-centric state system that concentrated on humanitarian action closer to home” (Barnett 2002: 15). Others state that UNHCR only evolved into “a truly global organization” during the decade following the agency’s expansion into Africa in the 1960s under Sadruddin Aga Khan (Loescher 2001: 10).

---

96 IDPs were least likely to receive support from their governments in Bangladesh, Israel (as occupying power in the Palestinian Territory), Myanmar, Pakistan, Somalia, Sudan and Zimbabwe, while the governments of Azerbaijan, Bosnia and Herzegovina, Ivory Coast, Croatia, Georgia, Lebanon, Liberia, Turkey and Uganda made fairly consistent efforts to improve the IDP situation and support IDP rights (IDMC 2008: 19).

97 The national status determines whether IDPs are registered, benefit from social, economic, and legal assistance or the implementation of durable solutions. Countries that have adopted legislation providing for the creation of a national IDP status are Azerbaijan, Bosnia and Herzegovina, Colombia, Croatia, Georgia and the Russian Federation (see http://www.internal-displacement.org, 06/28/08).

98 Angola serves as a negative example (IDMC 2008: 27).


100 E.g. “the recognition rate for Iraqi asylum-seekers in Greece shows zero, while in Germany roughly two thirds of Iraqis were recognized as refugees. In the United Kingdom (...) only 15 per cent of all substantive decisions related to Iraqi asylum claims resulted in refugee status. In Sweden, out of a total of 9,876 positive decisions on Iraqi claims, 98 per cent were granted a complementary form of protection” (UNHCR 2008: 17).

101 These countries include India, Algeria, Pakistan, Rwanda and Zimbabwe.
The breakup of the former Soviet Union at the beginning of the 1990s further extended the reach of the international refugee regime by opening up an “entirely new region” (Loescher 2001: 277). Today, UNHCR at least in theory has a global mandate, encompassing all but the Palestinian refugees. However and despite its global mandate, in practice UNHCR does not reach all those falling under its mandate. There also exist differences in treatment of refugees by the agency. For example, UNHCR Evaluation Reports found wide discrepancies between Middle Eastern countries in refugee status determination procedures conducted by the agency due to a lack of a management authority to ensure consistency in the Office’s global approach to protection issues (Loescher 2001: 326).

Geographical bias also exists in regard to UNHCR’s protection of and assistance to IDPs. “It was only in areas deemed strategically vital to the growing East-West confrontation that the issue of (…) internally displaced (…) obtained the attention and resources of the nascent UNHCR. In India after 1947 and in China after 1949, massive refugee flows were left almost entirely unaddressed” (Toft 2000: 142). Even after the East-West confrontation ended, UNHCR only intervened in “high profile IDP emergencies” where donors guaranteed generous funding (e.g. Northern Iraq and Bosnia) but kept a cautious distance in numerous other humanitarian emergencies involving IDPs. An example would be the crisis in Chechnya were states avoided to directly challenge Russia, a major power and veto-wielding permanent member of the UN Security Council (Loescher 2001: 295, 336). The Kosovo or East Timor crises also had no overriding geopolitical or strategic importance for Western states. Only after heavy public pressure the international community decided to intervene. The international community then focused its attention and resources on these cases while hidden humanitarian emergencies and displacement crises in Africa were “virtually ignored” again because Western powers lacked any strategic interest (Loescher 2001: 327, 335).

However, at least in terms of membership, today’s international refugee protection regime is rather ‘global’. Still, as of 1 November 2007, only 141 UN member states are also members to the 1951 UN Refugee Convention and its 1967 Protocol committing themselves to the protection of refugees and the principle of non-refoulement without geographical and temporal limitations (UNHCR 2007d). In March 2006, almost all and exclusively West-, South-, and Southeast Asian countries have not yet acceded to the UN Refugee Convention or its Protocol. Other international conventions, e.g. the UN and ILO Conventions on the Rights of Migrant Workers or the Trafficking Protocol of the UN Convention against Transnational Crime suffer from even lower numbers of signatories and ratifications and/or long ratification processes.

102 Barnett (2002: 14, 15) reports that what started as pure ignorance turned into a racial problem, which is “omnipresent in the refugee regime”. “Into the 1980s and 1990s Africans never received the same publicity as refugees from the East who were considered to have the right political mentality and were often skilled workers - thus considered easier to integrate into their new society”. Europeans are also less careful when dealing with the return of African asylum seekers. Racial discrimination in the governance of forced migration and decline in protection standards also happen in Africa. The author even links this to democratization. “Governments and political parties are encouraging nationalistic and xenophobic policies, and as in the West, national problems are often blamed on problems caused by asylum seekers”.

103 See: http://www.unhcr.org/publ/PUBL/3ddcb8a34.pdf, 07/05/08.

104 ILO Conventions No. 97 (1949) and 143 (1975) have been ratified by 42 and 18 states only. The UN Convention on the Rights of Migrant Workers and their Families took 13 years to come into force and only had 25 ratifications in 2004 (Newland 2005). Up to now, the Trafficking Protocol has been signed by 117 and
Newland (2005) speaks of a lack of normative consensus on migration issues while Turton (2003) also sees a “lack of basic minimum internal coherence” in the current discourse of forced migration that reaches beyond the inter-governmental level. He refers to the gulf that seems to have opened between the ways in which policy makers and advocates conceptualize forced migration. While the former treat asylum as a loophole to be closed, the later see it as a right to be protected and all asylum seekers as people escaping from immediate danger. “In other words, the two sides appear to be talking past each other, rather than communicating by means of a set of shared meanings” (Turton 2003: 15). In fact, it took decades until the international community could agree on the very basic concepts of human trafficking and IDPs. The outcome is an IDP category that some describe as even more “hazy and imprecise” than the category of development displacees (Turton 2003: 15). The fact that regional organizations came up with their own, extended definitions shows that strictly speaking there not even exists a globally accepted definition of refugees. The participants of the High Commissioner’s Dialogue on Protection Challenges also emphasized “the importance of (…) achieving a common understanding of the terms and concepts used when we speak about “mixed migration” or “persons in need of protection (…) [but also] the need to revisit and update terminology based on developments in law and practice” (UNHCR 2007e: 4-5). The design of international legally binding rules certainly requires trans-boundary consensus and norm-based coordination of activity which seems especially difficult to achieve in the policy field of forced migration. Without any agreement on basic concepts not to speak of agreement on goals or strategies, it is difficult to see how a governance approach can ever be worldwide or global. In addition and as long as states are the sole arbiters of status and protection of forced migrants, it is difficult to see how international standards can be applied more even-handedly (Loescher 2001: 352). Today, governance of forced migration covers the world’s regions at best unevenly.

4.2. Governance of Forced migration in the global?

The above equates ‘global’ with ‘worldwide’ and refers to the restricted spatial reach of governance of forced migration. Contrary to this, governance of forced migration in the global refers to an all-embracing governance approach - the extreme (or ideal) case being an approach that coordinates activity at all levels of analysis while also covering all dimensions of forced migration. A truly global governance approach in this sense equally relates to refugees, IDPs and other types of forced migrants, to women as well as men, to those fleeing new warfare as well as those fleeing traditional inter or inter-state warfare. It covers the human rights as well as the material assistance dimension of protection. It embraces local, national, regional as well as international actors. Obviously, this is not happening today. The literature mentions “governance and protection gaps” resulting from “gaps in institutional mandates” or “gaps of coverage”, “programmatic gaps” or “gaps in the sequence of assistance” and “participatory gaps”.

As indicated above the international refugee protection regime is not only the most global in terms of spatial reach but also the most legally dense and developed forced migration regime105.

---


105 According to Stavropoulou (2008) the refugee protection regime consists of formal and informal norms, rules and decision-making procedures built on and around international refugee and human rights law. Standards are set through the 1951 Refugee Convention and the 1967 Protocol, regional instruments, the Travaux Preparatoires, UNHCR ExCom conclusions, General Assembly resolutions and international and regional human rights treaties and instruments. Rules of procedure are e.g. given in the Handbook on Refugee Status
A refugee is a person known and of concern to international law and there exists a broad base of treaties and customary international law. Thus, “the international community has a locus standi [i.e.] a sufficient legal interest entitling it to intervene, through its mandated agency, UNHCR, on behalf of refugees outside their country” (Goodwin-Gill 1999: 20). Such a strong body of legally binding norms and an instrument comparable to the UN Refugee Convention specifically designed to protect and assist IDPs do not exist. Although the Guiding Principles on Internal Displacement formed the framework for a number of legally binding standard-setting initiatives, the Guidelines themselves remain non-binding. There is also no specialized international agency to protect and assist IDPs (Castels 2004; Turton 2003a: 7; Martin 2000: 18). Rather, UNHCR resisted an expansion of its mandate to fully include IDPs. The agency is only willing to play an expanded role when the links between refugees and IDPs are strong and when serious protection problems require the Office’s expertise. UNHCR’s involvement with IDPs is also contingent upon a request from the General Assembly, the Secretary General, the Economic and Social Council (ECOSOC) or another UN organ, upon the consent of the state concerned and upon the availability of resources. Initial guidelines did not clarify the scale, scope or duration of UNHCR’s involvement on behalf of IDPs. Loescher (2001: 354) therefore speaks of a lack of clarity regarding the allocation of responsibilities and mechanisms for addressing the needs of IDPs and a lack of predictable response as no UN agency can be counted upon to respond automatically when there is a crisis.

Even the above-mentioned UN Cluster Approach, within which UNHCR took over the lead role in the protection of conflict-induced IDPs, will be implemented in cases meeting the UN criteria for complex emergencies only. Non-emergency situations with nevertheless significant numbers of IDPs and protracted displacement crises remain beyond its scope. By the end of 2007, the Cluster Approach was activated in only ten countries affected by conflict-induced displacement, hosting only nine of the 26 million conflict-induced IDPs worldwide. IDMC expects the Cluster Approach to be applied to a maximum of around 20 countries considered by the UN as conflict-related humanitarian emergencies (IDMC 2008: 20; see also UNHCR 2008: 18). Again, the major powers, including the US, have been highly selective about whether and to what extent to get involved in humanitarian emergencies (Loescher 2001: 349, 350). This selectivity and conditionality result in limited and inconsistent coverage, leaving large numbers of IDPs with little or no protection and assistance. Thus, and although UNHCR moved to include IDPs within its scope of responsibility, IDPs are still largely ignored within the refugee regime or fall between institutional cracks.
Development displacees are another group larger than official refugee populations, for whom there is no protective regime. Effective legal guidance is also comparatively sparse and urgently needed on those whose protection needs arise during transit (e.g. trafficked persons) and on very specific issues such as the restitution of property especially in informal ownership settings. People fleeing new types of warfare also seem to fall outside of the existing protection and assistance regime or are at least less well protected and assisted. In these wars, deliberate violence against and displacement of civilians is committed by non-state actors. Yet, countries such as France, Germany, Italy, Sweden, Norway and Switzerland do not recognize non-state persecution when assessing refugee applications (Barnett 2002: 13). This illustrates that today’s regime neglects the protection and assistance needs of entire groups of forced migrants due to a lack in clarity or gaps in institutional mandates. Generally speaking, those whose protection needs arise from reasons other than conflict or state persecution and those who do not meet the definition of true refugees are less well protected or do not receive the same range of benefits.

In addition, programmatic gaps emerge if certain groups of forced migrants are not protected and assisted properly although the mandate to do so exists. Barnett (2002) addresses this issue for the category of female refugees. Because it was difficult for women to move due to structural conditions, cultural patterns or reluctance to leave children and families behind, the general profile of a refugee was that of an educated or skilled young man. “However, the shifting forms of persecution and causes of refugee flows that characterized the later stages of the Cold War meant that by the 1980s women and children had begun to form a majority of the refugee population. While men stayed behind to fight, women escaped civil conflict and their war-torn societies” (Barnett 2002: 16). Especially rape has created rising numbers of female refugees and IDPs, who also tend to stay longer in camps due to the same cultural and structural factors that had formerly caused them to stay at home. Today, women represent about half of most of the populations falling under UNHCR’s responsibility. These changes in the gender composition come along with changing demands in the provision of safeguards, physical and psychological counseling, how shelters are run or food is distributed. UNHCR started to institutionalize gender sensitization in the field, but there is still no legally binding instrument on the specific needs of female refugees. Refugee regime eligibility criteria typically focus on public forms of persecution, ignoring private forms, such as rape or oppression due to non-compliance with dress codes, loss of virginity or refusal to enter into a contracted marriage. This prevents many women from receiving or even seeking refugee status (Barnett 2002: 16, 17). During the 1990s a few governments issued non-binding guidelines to govern their domestic policy. UNHCR’s ExCom also published a Conclusion in 1993 allowing women to use the ‘well founded fear of being persecuted’ to encompass distinctly female forms of persecution such as sexual violence (Barnett 2002: 17). Yet, in 2008 the very same committee remains “deeply preoccupied” by current and persisting protection problems and continuing sexual and gender based violence and exploitation.

---

109 See Barnett (2002: 11-12); Martin (2004: 304); Castels (2004); IDMC (2007: 9) or Betts (2008: 21). Crisp (2008: 6) summarizes the outcome of the 2007 Dialog on Protection Challenges by stating that protection gaps in regard to stranded migrants, trafficking victims or environmental and disaster displaces are known and need to be addressed. “There was a broad consensus that the (...) UNHCR notion of ‘people who are in need of protection’ can no longer be restricted to refugees” (Crisp 2008: 7). For the High Commissioner’s summary of the Dialogue see UNHCR (2007e: 1, 2). He proposes the establishment of an informal inter-agency working group to identify existing gaps and measures to achieve better cooperation and partnership-building.

110 At the end of 2007, women represented 47% of the refugees and asylum-seekers and 50% of IDPs protected/assisted by UNHCR. However, average figures hide variances and extreme cases (UNHCR 2008: 12).

Some also argue that the central importance of human rights protection of displaced populations is frequently neglected. This programmatic gap relates to UNHCR’s policy shift from resettlement to early repatriation, the extension of the agency’s mandate to an ever increasing number of forced migrants and the increasing provision of emergency relief. Protection has been sidelined in favor of a more pragmatic and operational approach and “humanitarian emergencies came to be perceived chiefly in terms of logistics” (Loescher 2001: 363). Even more so, UNHCR was ill equipped for new tasks often conducted in conflict zones. Protection failures further diminished the agency’s effectiveness. Finally, during the 1990s, traditional concerns such as legal and human rights or humanitarian needs of individual refugees became subsumed within a security discourse (Hammerstad 2000: 395).

Another kind of programmatic gap (also referred to as transition gap) emerges when an emergency phase ends and long-term development and institution-building projects have still to be established. The later initiatives often exclude forced migrants because they tend to concentrate in areas with economic potential or only work with host governments (Martin 2004: 303; Loescher 2001: 356). Today, UNHCR increasingly fosters partnerships with development agencies to raise awareness of the need to incorporate displacement issues in development planning. Yet obstacles to international cooperation remain.

Finally, the governance of forced migration suffers from participatory gaps. Affected populations themselves are often excluded in the planning and implementation of initiatives. Loescher (2001: 363) criticizes that even UNHCR too infrequently has structured dialogue and communication with refugee populations or their leadership, who have little or no means of influence or resources. The agency admits that “one of the most vital of UNHCR partnerships is with the people it helps – refugees. Though perhaps the area with the greatest potential, it may also be the one that has been least developed to date”. Only in October 2008, ExCom urged UNHCR to maintain and strengthen the practice of consulting NGOs and people of concern in the selection of themes. Martin (2000: 17) goes even further when stating that mechanisms to elicit the participation of affected populations in the decision-making process are “generally inadequate” and that forced migrants tend to be excluded from inter-agency coordination groups. IDMC is one of few institutions pressing for more inclusive approaches. The Center suggests to include IDP representatives e.g. in peace negotiations and actively engages representatives of displaced communities in its own awareness raising campaigns and training of trainers workshops (IDMC 2008: 16-21). IDMC also recently complained that especially national and local actors remain largely excluded from efforts to develop protection capacities on the ground (IDMC 2007: 15).

112 In 1991, UNHCR lacked the resources and emergency capacity to meet the acute needs of Kurds fleeing from Northern Iraq to Turkey as well as of IDPs in Northern Iraq (Loescher 2001: 289). Although Bosnia transformed UNHCR into the world’s largest relief agency, the tasks also overwhelmed the agency. “Throughout most of the conflict, the UNCHR committed approximately one-quarter of its staff and one-third of its total resources worldwide to providing assistance in the Balkans” (Loescher 2001: 296). Rwanda is mentioned as another relief effort that demonstrated the inadequacy of providing protection in the midst of ongoing civil conflict.

113 E.g. the forcible repatriation of Rohingya to Burma or the UNHCR’s signing of a return agreement without safeguards with Tanzania in 1996 (Loescher 2001: 313, 339, 15)

114 See Betts (2004) for more information on difficulties with (and opportunities for) cooperation as part of the Convention Plus Initiative and its Targeting Development Assistance (TDA) for Refugee Solutions strand.


117 IDMC collects and disseminates direct voices and stories of IDPs to deepen the understanding of the impact of displacement (IDMC 2007: 20).
The above-mentioned UN Cluster Approach has been designed to close such gaps. Nevertheless, IDMC explicitly refers to this initiative when stating that “authorities and civil society actors are still not fully considered as protection partners by international protection cluster actors” (IDMC 2007: 15). A first critical assessment of the Cluster Approach published in the aftermath of the earthquake in Pakistan in October 2006 adds that “local NGOs regarded cluster meetings as meetings of an elite group of foreigners, which, though helpful, did not pay sufficient attention to the ideas and issues raised by local NGOs. The vast majority of NGOs, both local and international, felt that cluster meetings, which were always held in English, should have had an Urdu interpreter present, to enable local NGOs to be involved. Even those who spoke English among the Pakistani NGOs said that they had difficulty in following all the UN acronyms” (ActionAid 2006). IDMC concludes that “it will take time before UNHCR and its partners fully adapt to their new cluster responsibilities and the principles underlying the broader humanitarian reform process, including genuine partnership between UN bodies and non-governmental organizations” (IDMC 2007: 10).

Loescher (2001: 370) agrees that within the refugee regime in general “NGOs (…) will have to assume a larger share of responsibility”. Even if they are included, their involvement remains limited and tightly controlled. UNHCR thoroughly selects its NGO partners, dictates formal project agreements and regularly monitors and reviews their work (UNHCR 2007a: 15). The agency determines which program areas are open for joint initiatives while emphasizing that “(…) some aspects of protection are directly related to the performance by UNHCR of its mandate and cannot be devolved on others” (UNHCR 2007a: 9). In addition, and although UNHCR proudly announces that around 75% of its implementing partners are local or national NGOs, most of its partnership financing still goes to international NGOs. Between 1996 and 2006, local or national NGOs only received slightly over 20% of partnership funds while over 40% of the money went to international NGOs (UNHCR 2007a: 12). A larger proportion of funds also went to governments. In line with this, IDMC critically notes that especially in the Americas most international attention and support on forced migration issues is still channeled through state institutions (IDMC 2008: 43).

The question of extent or quality of involvement also concerns the distribution of formal decision-making power. In this regard, it remains to be said that UNHCR’s governing body (ExCom), which decides on policies and budget allocations, consists of member states only (UNHCR 2004: 2). Each year, ExCom adopts a set of conclusions and decisions which contribute to the development of international refugee law and are considered to be "soft law." Since 2004 NGOs are able to feed into the conclusions process through written comments and meetings held prior to the drafting meetings. Yet it is only ExCom members that participate in the actual negotiations of the text. NGOs are not even allowed to explain, elaborate or defend the suggestions and comments put forward. In the 59th session of the ExCom only 25 NGO observers were present.

NGOs are implementing projects on behalf of UNHCR, they participate in debates and try to influence standard-setting initiatives, they contribute to the gathering, improvement, analysis and dissemination of data and international standards (e.g. the Guiding Principles) and they support and monitor the development and implementation of legally-binding instruments at the local level.

---

However, in their advisory and advocacy role, they at best exert moral authority. Despite the fact that UN programs and initiatives on forced migration issues very much and increasingly rely on the expertise and resources of NGOs, nation states remain the gatekeepers and sole decision-makers within the decisive institutions. These power imbalances between state and non-state actors hinder a truly global governance approach.

Similarly, the role of the private sector remains limited, mostly to funding and fundraising. In addition and although their absolute amount increased, private funds only constitute a very small and not significantly increasing proportion of UNHCR’s total budget. Large increases in UNHCR’s private funds only came in response to major migration crises (the Tsunami in 2005 and the Kosovo Crisis in 1999), rendering long-term planning difficult or impossible. A recent study on business-philanthropy partnerships (which looked at 20,000 companies and 550 NGOs, UN agencies, foundations and others with which companies had partnered) also indicates that forced migration does not rank among the most popular issue areas for public-private partnership building. One third of the examined partnerships at the global level related to environmental protection, while almost 40 percent of those at the local level were in the education sector. Companies were asked to assess their partnerships with NGOs and UN bodies according to four criteria – accountability, adaptability, communication and execution. As a result UNHCR was only ranked 16th (though the third highest UN agency) in terms of the extent and value of business partnerships. Because human trafficking has become “big business” and many of us (mostly unwittingly) buy the products and services produced by forced migrants, there is great potential for the design of anti-human-trafficking initiatives that include the private sector as well as consumers. However, despite the fact that “the international community has been discussing this issue for ten years” and “has an idea of what should be done” respective and inclusive initiatives such as the above-mentioned UN.GIFT have only recently been established. Even the The Hague Process which is praised for its inclusiveness remains “chronically underfunded and understaffed” (see Newland 2005: 13, 14). Whether these and other initiatives are nevertheless the starting point of extensive public-private partnership-building on forced migration issues remains to be answered. At this point in time, other policy areas (e.g. environmental protection or public health) seem to be more attractive to the private sector and more open to share authoritative power with non-state actors.

120 ILO is an exception. This standard setting body has “a unique tripartite structure in which representatives of labor union confederations, employers’ association and governments play an equal role in decision-making” (Newland 2005: 9).
122 The UN and others estimate the total market value of illicit human trafficking at 32 billion US$. “About $10 billion is derived from the initial “sale” of individuals, with the remainder representing the estimated profits from the activities or goods produced by the victims of this barbaric crime” (UNODC 2007).
123 Antonio Maria Costa (Executive Director, UNODC), cited in UNOCD (2007).
124 Prominent examples are the Global Compact or the Global Fund to Fight HIV/AIDS, Tuberculosis and Malaria. In order to establish the later, a Transitional Working Group was formed which consisted of nearly 40 private and public representatives from developing and developed countries. This institution developed the Fund’s constitutional guidelines, including its mission statement, institutional structure and governance procedures and held regional forums and thematic discussions to engage the broader public sphere. Today, the Global Fund involves multiple stakeholders within both the deliberation and decision-making process. The governing Board includes NGO representatives (from developing and developed countries), one person living with HIV/AIDS, Tuberculosis or Malaria, nine regional seats, six national seats (major donors), one private sector seat, one private foundation seat and four non-voting advisory seats representing the WHO, WB, UN Programme on HIV/AIDS and a Swiss member. All votes are distributed evenly and each member is constitutionally guaranteed an equal chance to place items on the agenda and equal time to debate any issue. In
Even a closer look at UNHCR reveals mixed results in regard to the agency’s degree of authoritative power and autonomy within the refugee regime. Some accord the agency considerable “moral authority”, “delegated authority” and “expert authority”\textsuperscript{125}. In the past, UNHCR used this authority to greatly expand the groups of people it assisted, the kinds of assistance it could give, to overcome temporal and geographical restrictions in its mandate, to shape the agenda of ExCom or to obtain the capacity to independently raise funds. High commissioners also claimed the right to provide authoritative interpretation of refugee law and to diffuse it. UNHCR itself adopted a more liberal interpretation of the term “protection” to include material assistance and used its authority to shape the meaning of other basic terms e.g. “voluntary repatriation”\textsuperscript{126}. After the end of the Cold War and despite the fact that states and ExCom were also exhorting UNHCR to favor repatriation, the agency “on its own” shifted away from its “exilic bias” toward a more favorable view of repatriation - even if circumstances in the country of origin are not ideal. Still, UNHCR refused to go as far as states wanted and insisted on balancing repatriation and refugee rights\textsuperscript{127}. This supports the claim of a certain degree of authoritative power and autonomy from state interests. According to others, however, a new thinking about repatriation within UNHCR combined with state pressure for early repatriation. Some even see UNHCR “bowing to the demands of its donor states”, increasingly engaging in forced repatriation or violating the core principle of non-refoulement\textsuperscript{128}. Certainly, high commissioners “were hardly passive agents waiting for state authorization” but instead pushed for the above described extension of their mandate, changes in policies and UN resolutions to legitimate these changes. UNHCR’s autonomy and authority in world politics has grown, the Office has become a purposeful actor in its own right with independent interests and capabilities and has not been solely an instrument of state interests\textsuperscript{129}. Still, UNHCR policy and practice has been driven by both - the Office acting independently or evolving in ways not expected nor necessarily sanctioned by states and by state interests (Loescher 2001: 6). Many instances clearly demonstrate the boundaries of UNHCR’s authoritative power, even a loss of authority and autonomy or at least a strong influence of state interest and dependence from government funding\textsuperscript{130}. 

---

\textsuperscript{125} See Loescher (2001: 1); Barnett/Finnemore (2004: 73).  
\textsuperscript{126} See Barnett/Finnemore (2004: 73, 77, 90, 93, 118); Loescher (2001: 26)  
\textsuperscript{128} See Loescher (2001: 17); Martin (2000: 23), Hammerstad (2000: 393-394); Toft (2007: 154) and Chimni (1999). The later accusation links with Weiner (1998: 437, 438) who sees UNHCR facing dilemmas, in which the choice of one norm is at the cost of another. An example would be the provision of protection and assistance to forced migrants in militarized camps, where this assistance directly or indirectly also benefits rebels, human rights violators, puts migrants at risk and prolongs wars. Similarly, UNHCR also needs to cooperate with the host state and respect the norm of state sovereignty in cases where these states close camps, force refugees to return home and violate the principle of non-refoulement.  
\textsuperscript{129} Barnett/Finnemore (2004: 90-91); Loescher (2001: 6).  
\textsuperscript{130} E.g. at the height of the Cold War, the US considered refugee policy too important to permit the UN to control it and simply created two US-led organizations (the International Committee of European Migration and the US Escape Program). The US was also vital to create specialized UN agencies to deal with refugees from strategic conflict areas (the Middle East and the Korean Peninsula) which it also funded much more generously. This undermined UNHCR’s scope of mandate and authority (Loescher 2001: 7). Especially in its early days, “the denial of American financial and diplomatic support directly affected the UNHCR’s ability to define an independent role and to implement its goals and programmes” (Loescher 2001: 8). Until today, governments earmark a large proportion of funds for programs that are of political or strategic interest to them (Loescher
In summary, non-state actors have long been part of the scene and unknown or unexpected actor coalitions as well as new instruments of governance emerge within the policy field of forced migration. Nevertheless, the above does not support fundamental changes in the nature of sovereignty and authority. Even in those cases where non-state actors participate, the extent or quality of involvement remains limited. Thus, the issue of meaningful participation and responsibility remains problematic. Besides these gaps in participation, gaps in institutional mandates, programmatic gaps and gaps in spatial reach have been identified. While at least in some countries and some regions certain categories of forced migrants are protected and assisted, others are not. While in some countries and regions a large number of local, national, and international actors are involved in the governance of forced migration, their activism is repressed, their members are threatened and their access to forced migration populations remains severely restricted in other countries and regions. Because the degree and quality of protection and assistance provided to forced migrants greatly varies between countries, regions, levels of analyses and types of forced migrants, today’s governance of forced migration cannot be regarded truly ‘global’, neither in terms of worldwide reach, nor in terms of a multi-level, multi-dimensional approach.

5. Obstacles to Global Governance of Forced Migration

We conclude with identifying major obstacles to a truly global governance approach. Firstly, a lack of knowledge and quality data on forced migration can be observed. Data on disaster and development displacees are very scarce. The same holds for IDPs in new warfare situations, where partial or complete state collapse renders monitoring of displacement difficult or impossible. Protracted displacement crises also “often gradually disappear from the international agenda” (IDMC 2007: 8)\textsuperscript{131} Slow but steady increasing numbers of displaced people fleeing long-term but only small-scale violent conflicts often between non-state or communal groups also fail to attract the attention of the media, the general public, aid organizations and private donors\textsuperscript{132}. Since 1998, IDMC has been collecting data on some 50 countries worldwide with internal displacement situations caused by armed conflict or generalized violence only. Data on the most basic demographic characteristics of IDPs, such as numbers, locations, sex or age are mostly lacking\textsuperscript{133}. This makes it difficult to meet the specific needs of particular vulnerable groups, e.g. displaced women.


\textsuperscript{132} Such kind of displacement recently happened in Mexico, Burundi and Zimbabwe. “In Ethiopia, many small-scale conflict situations were [also] still unrecognized at the end of 2007” (IDMC 2008: 49, 24, 39).

\textsuperscript{133} See IDMC (2007: 9). In 2007, demographic data were reported to UNHCR for about 20 of the 25 million people of concern to the office. While such data was available for 70% of refugees and 89% of returnees, it was available for only 7% of IDPs and 10% of “others of concern” to UNHCR. In Asia and the Americas, demographic data are available for about three quarters of the population falling under UNHCR’s responsibility, while in Africa and Europe it was reported for about half and one quarter of the population (UNHCR 2008: 11).
Very little is also known on *intra*-regional trafficking especially between developing countries\textsuperscript{134}. UNODC even states that sound, empirical data on human trafficking in general remain elusive\textsuperscript{135} even though the organization itself maintains the UN Trafficking Database. Up to now, however, this database only covers the period from 1996 to 2003 and “may currently fail to appropriately reflect the severity of trafficking in persons” due to geographical bias caused by systematic differences in the political emphasis and in national legal definitions e.g. of human trafficking and child trafficking. Vast differences also exist in the availability and quality of official statistics, in reporting, in structures for victim identification, referral, assistance and repatriation as well as in the extent of bi- and multilateral cooperation (UNHCR 2006: 46). This illustrates that even if data are available, their coverage and quality remain poor. Steps are needed to harmonize definitions and methodology in data collection in order to have consistent and comparable statistics. For this purpose, UNHCR started an internal review of classifications, definitions, statistical instruments and processes in 2006 (UNHCR 2008: 5).

Secondly, a lack of (financial) resources and (national) capacity hinders a truly global governance of forced migration. For instance, UNHCR’s attempt to respond to increasing numbers of forced migrants and to fulfill its extended role of a general humanitarian emergency organization was not always reflected in budgetary increases. Although UNHCR’s annual budget has grown significantly since its beginning, the agency experienced “a major financial crisis” by the end of the 1980s (Loescher 2001: 12-13). Only in the early 1990s there was a significant increase in the budget (Barutuciski 1999: 2). Then, the new security importance of refugee movements combined with an increased media coverage and public attention. Still, another crisis in assistance funding followed when funds dropped by 21 per cent from 1992 to 1997. Between 1996 and 1999 UNHCR’s total budget decreased from $1.256 billion to 911.6 million (Loescher 2001: 321, 350). Initially, the Office even faced difficulties in responding to the Kosovo crisis in 1999. However, the lack of resources was even more severe in regard to refugee crises happening in African countries of little strategic importance (Loescher 2001: 13). “By mid 1999, the UN had received (…) less than half the $800 million it had sought for urgent help for 12 million displaced people in Africa (…) By mid-2000 donor governments largely ignored the pleas (…) for assistance to Congo-Brazzaville, the Democratic Republic of the Congo and Uganda” (Loescher 2001: 336). If funds are available, they are unevenly distributed. “In 1999 the UNHCR spent about $0.11 per refugee per day in Africa, and spent ten times that amount - an average of $1.23 per refugee per day - in the Balkans” (Loescher 2001: 322). In regard to UNHCR programs, “governments are generally less willing to fund IDP emergencies than refugee emergencies” (Loescher 2001: 356).

Other international organizations working on forced migration issues face similar budgetary constraints. “IOM’s budget and staff do not match its broad mission. It has been held to a ‘Zero Net Growth’ standard in recent years, even as its programs and ambitions have grown” (Newland 2005: 8). UNODC’s Executive Director also identifies the lack of resources as one major obstacle to effectively address human trafficking (UNODC 2007). Outside the UN system, think tanks and research institutions are stressing the need for significantly more funding, too. For instance, IDMC’s “resources, internal structures and staff have been significantly overstretched over the past years” (IDMC 2007: 5, 10).

\textsuperscript{134} See UNODC (2006: 119, 120); or Olaf Juergensen cited in Pagliani (2008: 25).
\textsuperscript{135} UNODC (2006: 37).
In addition to a lack of financial resources, especially local actors often suffer from a lack of *immaterial* resources such as expertise or political, administrative and legal capacity to effectively protect and assist forced migrants. Some even argue that many countries or entire (sub)-regions lack any precondition for the establishment of and compliance with an effective global governance regime (Dingwerth/Patberg 2006a: 390-391). This specifically refers to the Third and Fourth World comprising the developing countries and failing or failed states\(^{136}\). These are difficult or impossible to govern and too weak to enforce domestic laws, not to mention international instruments (Weiner 1998: 435). Where political, legal and social institutions have broken down, governance is left to (illicit) non-state actors that are able to establish spheres of authority. In many instances (e.g. in CAR, DRC, Burundi and Ivory Coast) these actors took advantage of insecurity and lawlessness and specifically terrorized IDPs and other vulnerable groups (IDMC 2008: 28)\(^{137}\). In addition, in weak or failed states governance of forced migration misses the capacity and resources otherwise provided by local or national civil society.

A *lack of will* due to hindering state interests turns out to be the third and most basic obstacle to truly global governance of forced migration. Especially insistence on the principles of state sovereignty and noninterference is blocking both, a worldwide as well as a multilevel, multidimensional approach. In 1998, Dennis McNamara, then Director of International Protection at UNHCR, spoke of a “gap between the institutional responsibilities entrusted to UNHCR by the international community and the often limited obligations formally accepted by states” (McNamara 1998: 5, 6). Weiner (1998: 435) sees compliance with international norms and law as “heavily dependent on the will of states and on their relative power to stand up against international pressures” while Barnett (2002: 19) concludes that refugees are a problematic area for a cosmopolitan model of global governance due to the inherent power of states to control their own borders and thwart international efforts. The fact that the protection of *internally* displaced is about humanitarian intervention in sovereign but troubled states renders the governance of this type of forced migration even more difficult (Turton 2003a: 7). Insistence on the principles of state sovereignty and noninterference severely restricted international involvement on behalf of IDPs e.g. in India, Algeria, Pakistan, Rwanda or Zimbabwe. Because under international law it is the responsibility of states to protect their own citizens within their own territory, UNHCR can seldom intervene for the purposes of IDP protection. Some might hope for the Security Council to play a larger role. However there, the very same state interests also result in political tensions, divisions and drawn-out negotiations e.g. over the deployment of effective peacekeeping missions. In the case of Darfur, divisions in the Security Council “limited the ability of the international community to act decisively to prevent displacement and respond to acute protection crises” (IDMC 2008: 21). Others criticize that if it occurs, international coercive action under Chapter VII of the UN Charter is used by Western governments to serve their political and economic interests (Snyder 2008). Through this measure, states merely try to prevent (potential) refugee flows or contain them within their countries and regions of origin because they are unwilling to grant asylum (Hammerstad 2000: 393).


\(^{137}\) The lack of state capacity to enforce the rule of law and the absence of effective policing led to violence against IDPs in northern Uganda. IDPs seeking to reclaim the land from which they had been displaced in southern Sudan also experienced violence which can be liked with the lack of institutional capacity to provide services, job opportunities and governance. The militarization of refugee camps further threatens the security of IDPs e.g. in Chad and Somalia (IDMC 2008: 28) and can be added to the list of national (and international) protection failures due to “a lack of either the will or capacity to separate the armed elements” by the country of refuge (McNamara 1998: 9).
That touches upon the ‘securitization’ of the migration issue in general and of asylum practices in specific as observed after the end of the Cold War and after 9/11\(^{138}\). It is argued that this rather hinders a global governance approach, because it strikes fears and mistrust in receiving countries rendering cooperation on (forced) migration issues even more difficult. Betts (2008) agrees that in the current political climate and context of state concern with migration and security, governments are reluctant to negotiate binding norms through a UN framework, especially if these relate to the rights of non-citizens (Betts 2008: 13). According to him, this is evident not just in voting patterns in UN organs, but also in the growing use of informal regional consultative processes that bypass multilateral forums or the limited number of signatories and ratifying states e.g. for the UN Treaty on the Rights of Migrant Workers (Betts 2008: 5, 13, 14).

Newland (2005: 1) also refers to low ratification rates of respective ILO Conventions when stating that governments tend to delay or even avoid dialogue if migration issues negatively affect their economic interests. She adds that because many major receiving countries in the North and West have stronger protections under their domestic laws than these treaties offer, the normative content of the treaties seems not necessarily the primary obstacle. Instead, few states are willing to submit themselves to the requirements of the treaties because of the rather cumbersome administrative and reporting requirements (Newland 2002: 4). The author extents this cost argument even further and states that due to demographic and economic factors immigrant labour is a necessity for many receiving countries. Most refugees entering Western labour markets provide valuable skills and “asylum seekers are a useful source of labour that fuels Western countries’ burgeoning informal economies. Particularly unauthorized immigration plays an important role in maintaining competitiveness and labor-market flexibility; precisely because the unauthorized are not protected, they form a labor reserve that can be expelled from the labor market with fewer political and economic repercussions than when citizens lose their jobs” (Newland 2005: 4).

In order to bypass costly obligations, states also restrictively interpret existing international law. For example, UNHCR’s views victims of deliberate population displacement to fall within the ambit of the 1951 Refugee Convention even if displacement was carried out as an instrument of warfare to eliminate entire groups of people because of their ethnicity. States, however, did not always share this interpretation. “Some states contend that if warring parties terrorise a whole community - even as part of ethnic, religious, racial, social or nationality-based violence - none of the victims is a refugee unless he or she has been singled out for special treatment. Others (…) argue that the [Refugee] Convention does not cover those persecuted by ‘non-governmental actors’ - in other words, at least one side in civil war” (McNamara 1998: 6, 7). Similarly, the principle of non-refoulement has been interpreted by Western governments to apply only to persons meeting the Convention’s persecution criteria. “People fleeing generalized violence from civil war or intercommunal strife (…) have customarily not been protected by non-refoulement (…) Many national policy-makers also claim that non-refoulement does not apply to persons seeking asylum if they are encountered before they actually enter a state’s territory” (Loescher 2001: 352).

\(^{138}\) In the introduction of the 2006 UNHCR report on the state of the world’s refugees the agency informs that since 9/11 state security concerns have come to dominate the migration debate, at time overshadowing the legitimate protection needs of individuals. According to this report, the attacks “played into the hands of politicians who have ridden the anti-foreigner sentiments” and “fuelled xenophobic attitudes”. Increasingly refugees and asylum seekers are perceived as “harbingers of insecurity rather than victims of it (…) At times, the post-11 September context has been used to extend the scope of exclusionary provisions of the Convention, allowing for refugees to be denied access to status determination procedures. In other cases, refugees have been subject to expulsion” (UNHCR 2006b: Introduction).
In summary, the international forced migration regime remains caught in a difficult position between traditional notions of respect for territorial sovereignty and the need for international responsibility and humanitarian action. Many governments still have to accept that their claims to territorial sovereignty are tied to their responsibility to protect their own citizens. Others are unwilling or reluctant to incorporate international obligations into their national policies or try to frame issues to cater to their own economic and political interests. From a realist perspective, short-term state goals often prevail over long-term collective interest (Barnett 2002: 21). In order to overcome collective action problems in norm-setting and enforcement, UNHCR tries to credibly link the refugee issue with states’ (material) interests in related areas such as development, security, migration or peace-building (Betts 2008; Loescher 2001: 6). No matter how effective this approach might be, it once more emphasizes and reinforces the great dependence of the forced migration regime from state interest. In addition, external factors also influence state behavior. Some argue that both, the Cold War and 9/11 motivated states to be engaged in refugee and asylum debates at the multilateral and bilateral levels if anything for national (security) interests instead of pursuing international cooperation aimed at overcoming collective action failures in the provision of a global public good (Betts 2004: 14-18). Others conclude that especially the end of the superpower rivalry has made it possible for (Western) states to employ refugee policies that more closely mirror their economic instead of ideological interests (Hammerstad 2000: 393). This undermines a truly global governance approach because it “creates circumstances conducive to a highly selective allocation of assistance to refugees [resulting in] gaps in the provision of protection” (Betts 2004: 18).

Conclusion

This paper concludes that global governance of forced migration seems to be more of a vision than a description of the actual state of affairs. Today we neither observe governance of forced migration that is global or worldwide in terms of spatial reach, nor do we see governance of forced migration in the global that (equally) embraces all levels of analysis, all categories of forced migrants and all dimensions of forced migration. More specifically, today’s governance of forced migration suffers from gaps in geographical reach, gaps in institutional mandates, programmatic gaps and participatory gaps. Governance approaches still fail to adequately include local and national actors, such as affected populations and (mostly national or local) NGOs. The role of the private sector is also limited.

---

139 In order to explain the disincentives of states to take collective action in matters of asylum, Suhrke (1998) applies a game theoretical approach. The author states that “unlike situations which incline states to co-operate for defense, states have the capacity to ward off refugee ‘threats’ with unilateral action. Unlike international environmental regimes which typically address the causes of a problem, asylum regimes address only the symptoms. This makes the costs of participation in formalized sharing schemes over time uncertain and beyond the control of individual states”. Similarly, Weiner (1998: 436) compares economic norms with international human rights norms. The later are less readily enforceable because neither the international benefits of adherence nor the costs of violation are as powerful as in the case with norms on trade and investment (Weiner 1998: 436). However, Thielemann (2003) warns that the creation of burden-sharing instruments in the area of forced migration at least among EU member states should not exclusively be seen in cost-benefit terms. Small countries (e.g. Denmark) do not necessarily free-ride on the efforts of larger states but instead exhibit a norm-based approach and carry a disproportionate share of burden.

140 Toft (2007: 139) agrees: “During the Cold War, state interests were subordinated to the refugee interests for two reasons. First, refugees were few in number and tended to be educated, skilled, and informed (valuable). Second, the WWII experience of the Holocaust in Europe led to the institutionalization of concern for the fate of persecuted groups at the expense of state interests. After the end of the Cold War, however, a number of the Soviet Union’s allies and successor states began to fail, and these state failures, combined with unprecedented access to information about living conditions abroad, led to refugee flows that impacted powerful states”.

States remain the gatekeepers and decisive actors within this policy field. Although more inclusive institutions might help to close several of the above mentioned gaps\textsuperscript{141}, we at best observe ‘Open or Advanced Executive Multilateralism’ at the intergovernmental level. Major obstacles to a truly global governance approach are a lack of knowledge and quality data particularly on certain aspects and categories of forced migration and a lack of (national) capacity and (financial) resources. In addition, a truly global governance approach is perverted by state’s interests. This has been referred to as a lack of will to agree on, implement and comply with domestic, regional and international norms, rules and procedures, to intervene on behalf of forced migrants and to share or transfer authoritative power. These obstacles explain why in certain countries and regions, at certain levels of analysis and in regard to certain types of forced migration there is no, limited or only slow reaction to forced migration crises.

In order to better understand the current state of affairs in the governance of forced migration, we differentiated along two axes. We first asked whether we observe governance of forced migration \textit{that is} global and (equally) covers all countries and regions or whether there remain severe gaps in geographical reach. Secondly, we asked whether we observe governance of forced migration \textit{in the} global i.e. a governance approach that covers all categories of forced migrants, all levels of analysis and all dimensions of forced migration. These two dimensions produce the following four-fold taxonomy:

\textbf{Figure 1:}

\begin{figure}
\centering
\includegraphics{figure1}
\caption{Some types and dimensions of forced migration at some levels of analysis are protected everywhere:}
\begin{itemize}
\item gaps in mandates
\item programmatic gaps
\item participatory gaps
\end{itemize}

\begin{itemize}
\item gaps in spatial reach
\end{itemize}

\begin{itemize}
\item gaps in mandates
\item programmatic gaps
\item gaps in spatial reach
\end{itemize}

\begin{itemize}
\item participatory gaps
\item gaps in mandates
\item programmatic gaps
\item gaps in spatial reach
\end{itemize}

\begin{itemize}
\item gaps in spatial reach
\end{itemize}

\begin{itemize}
\item gaps in mandates
\item programmatic gaps
\item gaps in spatial reach
\end{itemize}

\begin{itemize}
\item gaps in mandates
\item programmatic gaps
\item gaps in spatial reach
\end{itemize}

\begin{itemize}
\item gaps in spatial reach
\end{itemize}

\begin{itemize}
\item gaps in mandates
\item programmatic gaps
\item gaps in spatial reach
\end{itemize}

\begin{itemize}
\item gaps in spatial reach
\end{itemize}

\begin{itemize}
\item gaps in mandates
\item programmatic gaps
\item gaps in spatial reach
\end{itemize}

\begin{itemize}
\item gaps in spatial reach
\end{itemize}

The “current state of affairs”, which leaves room for improvement along both axis, fits into the lower left corner of Figure 1. Given constraints in resources, a step-wise improvement process seems reasonable: one strategy might be to first close gaps in spatial reach, so that in every country and region the same but not all types and dimensions of forced migration are addressed. This lifts the current state of affairs to the upper left corner of Figure 1.

\textsuperscript{141} See also Rittberger (2008: 13, 14, 15).
However, gaps in mandate, programmatic gaps and participatory gaps persist or are even reinforced by further exporting this imperfect approach. These gaps need to be eliminated in order to arrive at truly global governance (see upper right corner of Figure 1). An alternative strategy first eliminates gaps in mandates, programs and participation in those countries that are already reached by today’s governance approach. The current state of affairs then moves to the lower right corner of Figure 1. Because gaps in spatial reach persist, governance then needs to be spread for worldwide coverage and truly global governance of forced migration.

A more inclusive form of governance of forced migration might be achieved through the extension of soft law mechanisms e.g. *non-binding* guiding principles (see Betts 2008). Such mechanisms help to interpret and apply *existing* legal and normative obligations (codified in international human rights and humanitarian law) and to clarify the inter-organizational division of labor among implementing agencies. Despite some limitations, this seems promising. Soft law mechanisms build upon existing norms which avoids difficult negotiations on new formal norms. In addition, soft law processes leave room for non-state activism and therefore constitute a more “bottom-up” approach. Prior experiences also exist as non-state actors have already been included in norm-setting processes that resulted in the drafting of the Guiding Principles on IDPs or informal consultations leading to ExCom Conclusions. More inclusive governance approaches in other policy fields might also provide lessons learned. These cases demonstrate that arriving at inclusive ‘bottom-up’ approaches is not an easy task. Due to the reluctance of states to share or even delegate formal regulatory authority over forced migration, the emergence of an alternative, more ‘top-down’ governance approach, however, is also unlikely. Newland (2005) names this unwillingness ironic, because states have never had full sovereign control over migration and have lost much of what little they had in the era of globalization (Newland 2005: 3). She concludes that especially in times where governments are finding it increasingly difficult to regulate international migration, “the debate about international governance should be framed not in terms of ceding sovereignty but rather in terms of reclaiming it and exercising it collectively” (Newland 2005: 17).

---

142 Soft law processes take place “at states’ own pace and discretion” (Betts 2008: 13-14). Consensus-finding takes years (it took from 1992 to 1998 to develop the Guiding Principles on IDPs and they are still in the process of becoming hard law). Due to it’s non-binding nature, states are not obligated to implement soft law. Enforcement and compliance problems remain and those unwilling to participate are completely out of reach.

143 Brown (2008) describes a situation similar to the current state of the forced migration regime that led to the establishment of the already mentioned Global Fund to Fight HIV/AIDS, Tuberculosis and Malaria. Although the Fund is highly inclusive (see footnote 123), unequal political influence and power between donor and non-donor representatives, as well as a lack of inclusion of the local level and those outside the Global Fund Board remain problematic. Brown (2008: 12-16, 18) identifies institutional mechanisms that might help to ensure and safeguard meaningful participation and deliberative processes. Similarly, Wigell (2008) discusses unsuccessful multi-stakeholder initiatives (the failed attempt to forge a Multilateral Agreement on Investment) as well as comparatively successful cases (the World Commission on Dams, the Forest Stewardship Council and The Global Fund to Fight Aids, Tuberculosis and Malaria). He identifies factors that contributed to the failures and successes of these initiatives in enhancing the effectiveness and efficiency of global governance. Recommendations on how to best manage multi-stakeholder cooperation are given that might also help to improve global governance of forced migration.

144 Martin (2004: 314) and Newland (2005: 14) discuss how unlikely the creation of a powerful and well-resourced supra-national authority - a World Migration Organization or an UN High Commissioner for Forced Migrants - is. The alternative to the creation of a new agency would be the designation of a lead agency among existing organizations. Again, Newland (2005: 14, 15) remains pessimistic. The failures of prior inter-agency cooperation on (forced) migration issues support her concerns (see Loescher 2001: 292; 353, 354, 279; Martin 2004: 302, 310, 312, 313; 2000: 33). Instead of a supra-national solution, Goodwin-Gill (1999) suggests a regional mechanism. Others, however, also doubt the success of such an initiative (see Martin 2000: 34).
### List of Abbreviations

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Full Form</th>
</tr>
</thead>
<tbody>
<tr>
<td>AU</td>
<td>African Union</td>
</tr>
<tr>
<td>CAR</td>
<td>Central African Republic</td>
</tr>
<tr>
<td>CIREFCA</td>
<td>Conference on Refugees, Displaced Persons and Returnees in Central America</td>
</tr>
<tr>
<td>CIS</td>
<td>Commonwealth of Independent States</td>
</tr>
<tr>
<td>DESA</td>
<td>Department for Economic and Social Affairs</td>
</tr>
<tr>
<td>DIDP</td>
<td>Development-Induced Displaced Person</td>
</tr>
<tr>
<td>DRC</td>
<td>Democratic Republic of the Congo</td>
</tr>
<tr>
<td>ECOSOC</td>
<td>Economic and Social Council</td>
</tr>
<tr>
<td>EU</td>
<td>European Union</td>
</tr>
<tr>
<td>ExCom</td>
<td>UNHCR’s Executive Committee</td>
</tr>
<tr>
<td>IASC</td>
<td>Inter-Agency Standing Committee</td>
</tr>
<tr>
<td>IDMC</td>
<td>Internal Displacement Monitoring Centre of the Norwegian Refugee Council</td>
</tr>
<tr>
<td>IDP</td>
<td>Internally Displaced Person</td>
</tr>
<tr>
<td>ILO</td>
<td>International Labor Organization</td>
</tr>
<tr>
<td>IOM</td>
<td>International Migration Organization</td>
</tr>
<tr>
<td>IR</td>
<td>International Relations</td>
</tr>
<tr>
<td>IRO</td>
<td>International Refugee Organization</td>
</tr>
<tr>
<td>NGO</td>
<td>Non-Governmental Organizations</td>
</tr>
<tr>
<td>OAS</td>
<td>Organization of American States</td>
</tr>
<tr>
<td>OAU</td>
<td>Organization of African Unity</td>
</tr>
<tr>
<td>OCHA</td>
<td>UN Office for the Coordination of Humanitarian Affairs</td>
</tr>
<tr>
<td>OEOA</td>
<td>Office of Emergency Operations in Africa</td>
</tr>
<tr>
<td>OHCHR</td>
<td>Office of the High Commissioner for Human Rights</td>
</tr>
<tr>
<td>OSCD</td>
<td>Organization for Security and Cooperation in Europe</td>
</tr>
<tr>
<td>UK</td>
<td>United Kingdom</td>
</tr>
<tr>
<td>UN</td>
<td>United Nations</td>
</tr>
<tr>
<td>UNCTAD</td>
<td>United Nations Conference on Trade and Development</td>
</tr>
<tr>
<td>UNDP</td>
<td>United Nations Development Program</td>
</tr>
<tr>
<td>UNESCO</td>
<td>United Nations Educational, Scientific and Cultural Organization</td>
</tr>
<tr>
<td>UNFPA</td>
<td>United Nations Population Fund</td>
</tr>
<tr>
<td>UNHCR</td>
<td>United Nations High Commissioner for Refugees</td>
</tr>
<tr>
<td>UNICEF</td>
<td>United Nations Children's Fund</td>
</tr>
<tr>
<td>UNITAR</td>
<td>United Nations Institute for Training and Research</td>
</tr>
<tr>
<td>UNODC</td>
<td>United Nations Office on Drugs and Crime</td>
</tr>
<tr>
<td>UNRRA</td>
<td>United Nations Relief and Reconstruction Agency</td>
</tr>
<tr>
<td>US</td>
<td>United States</td>
</tr>
<tr>
<td>USSR</td>
<td>Union of Soviet Socialist Republics</td>
</tr>
<tr>
<td>WB</td>
<td>World Bank</td>
</tr>
<tr>
<td>WHO</td>
<td>World Health Organization</td>
</tr>
<tr>
<td>WTO</td>
<td>World Trade Organization</td>
</tr>
</tbody>
</table>
References:


38


Hasenclever, Andreas; Mayer, Peter; Rittberger, Volker 1997: Theories of International Regimes, Cambridge: Cambridge University Press.


Loescher, Gill 2001, The UNHCR and World Politics: A Parilous Path, New York: Oxford University Press


