THE PAUCITY OF INTERNATIONAL PROTECTIONS
Global Migration Governance in the Contemporary Era

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Abstract: The September 2016 UN New York Declaration for Refugees and Migrants was welcomed with much enthusiasm, as the 193 UN member states agreed to meet yet again to negotiate a Global Compact on Safe, Orderly and Regular Migration. In the year that followed, the process of consultations and negotiations laid out in Annex II of the Declaration moved ahead at full steam. By September 2017, the UN had held five informal thematic sessions and an informal interactive stake-holder meeting; issued multiple summaries, informational notes, and issue briefs; and planned a "stocktaking meeting" for December 2017 in Puerto Vallarta, Mexico (IOM 2017). What will be the substantive outcome of this process? Will the Global Compact provide more and better interstate cooperation on migration, or will states largely ignore it, as they have ignored the three multilateral migration treaties that came before it? We argue that the structure of international cooperation on migration suggests the latter outcome is more likely. This structure consists of five elements: the patterns of migration flows in the post-World War II period, which divide states into countries of origin and countries of destination; the status quo of customary international law that privileges countries of destination; exogenous shocks that trigger changes in the costs of the status quo; the institutionalization of the international system that permits countries of origin to project their preferences onto the international stage; and finally, the ability of countries of destination to ignore these preferences. Examples illustrate the application of the theoretical model.

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INTRODUCTION

The September 2016 UN New York Declaration for Refugees and Migrants was welcomed with much enthusiasm, as the 193 UN member states agreed to meet yet again to negotiate a Global Compact on Safe, Orderly and Regular Migration. In the year that followed, the process of consultations and negotiations laid out in Annex II of the Declaration moved ahead at full steam. By September 2017, the UN had held five informal thematic sessions and an informal interactive stake-holder meeting; issued multiple summaries, informational notes, and issue briefs; and planned a "stocktaking meeting" for December 2017 in Puerto Vallarta, Mexico (IOM 2017). What will be the substantive outcome of this process? Will the Global Compact provide more and better interstate cooperation on migration, or will states largely ignore it, as they have ignored the three multilateral migration treaties that came before it? We argue that the structure of international cooperation on migration suggests the latter outcome is more likely. This structure consists of five elements: the patterns of migration flows in the post-World War II period, which divide states into countries of origin and countries of destination; the status quo of customary international law that privileges countries of destination; exogenous shocks that trigger changes in the costs of the status quo; the institutionalization of the international system that permits countries of origin to project their preferences onto the international stage; and finally, the ability of countries of destination to ignore these preferences.

Globalization in the latter half of the 20th century has knit together economies and societies across national boundaries. This process of globalization has been underpinned by a dense institutionalization of state interactions, yet the degree to which migration flows fit this

pattern is highly contested. Alexander Betts (2011) points to a "tapestry" of global governance whereas James Hollifield (2000) claims the migration regime is missing. Empirically we observe a number of bilateral agreements between states; labor migration is sometimes incorporated into regional agreements; and multilateral treaties have been negotiated at the International Labor Organization (ILO) and at the United Nations (UN). Informal forums and dialogues abound.

In this article, we make sense of these disparate views and the variegated empirical landscape. First, we disaggregate international population movements into three types – forced, voluntary, and travel – and focus specifically on voluntary migration flows.[1] Second, we describe the patterns of migration over the last sixty years as characterized by non-reciprocal flows from poorer, less stable countries of origin to wealthier, more stable countries of destination. This pattern tends to generate bilateral externalities that are usually resolved with bilateral agreements rather than regional or multilateral agreements. Third, we argue that the current status quo of customary international law privileges the wealthier and more stable countries of destination – receiving states – and therefore anticipate that international cooperation will be modest. There are three conditions under which agreements may be reached: when exogenous shocks raise the costs of the status quo for countries of destination; when countries of origin are able to leverage their power in preexisting international institutions; and when migration flows are reciprocal. We provide examples to illustrate our claims.

The article proceeds by first delineating the domain of our theoretical framework, voluntary international migration, and the definitions and assumption from which we proceed. We then present a bargaining model of interstate negotiations that provides for observable

[1] Voluntary international migration accounts for 90% of individuals living outside their country of birth (UNDP 2009).

implications. We illustrate the reach of the model by examining the European migrant crisis, the International Convention on the Protection of the Rights of all Migrant Workers and Members of their families (ICRMW), and the freedom of movement provisions in the Gulf Cooperation Council (GCC). We conclude by pointing to the opportunities for action at the state and local level.

SCOPE, DEFINITIONS, AND ASSUMPTIONS

Voluntary migration. Some of the confusion surrounding issues of global migration governance stems from a failure to disaggregate the different types of movement across international borders. According to Rey Koslowski (2011), the entire picture of global migration governance can be divided into three sub-regimes: the travel or mobility regime, the voluntary migration regime, and the forced migration or refugee regime.

Our focus is on voluntary migration, which encompasses 90% of migrants (roughly 185 million people in 2008) (UNDP 2009). This focus presumes a clear distinction between "voluntary" and "forced" migration, yet we know that migrants often have multiple motives for moving and that the legal definition of "refugee," found in the UN Convention Relating to the Status of Refugees, is so narrow as to leave many migrants unprotected from violence and other threats to their existence.[2] However, this legal fiction is actually important in practice, and migrants are classified according to the legal criteria every day. Most of the individuals caught up in "migration crises," such as the 2015 European migrant crisis, are classified as migrants rather than as refugees, even when they are fleeing war-torn countries, meaning that receiving states can decide to accept or reject them, depending on state preferences. If migrant rights

[2] Alexander Betts (2014) utilizes the term "survival migration" to encompass a broader notion of "forced" migration where human lives are at risk.

activists and the international community more broadly hope to reduce the human tragedies involved in many migration flows, understanding the prospects for cooperation on voluntary migration is central.

International Cooperation. There is no standard definition of international cooperation employed in the scholarly literature. However, as the research agenda has deepened over the past three decades, we find that many scholars now focus on international agreements as the marker of international cooperation (Koremenos, Lipson, and Snidal 2001). International agreements come in many forms (bilateral, regional, or multilateral) and can be formally binding or simply a memorandum of understanding that does not bind states to the letter of the text. They can create institutional structures or be self-implementing and enforcing. They define a set of behaviors to which state parties agree. International agreements bind states to action that is not unilaterally determined. We take up this position and, for the purposes of this article, define international cooperation as a formal or informal agreement among two or more states that binds states to adopt a joint solution to an issue area that requires action on the part of the signatories.

In contrast to much of the global governance literature, which explicitly incorporates the activities of non-state actors, both domestic and international, we focus solely on agreements between states as the locus of our theoretical and empirical inquiry for two reasons. First, it allows us to simplify our framework while still incorporating the effects non-state actors; they are incorporated into the analysis by way of delineating the costs of the status quo, and changes to it, for states. Those activities are then reflected in the negotiating outcomes should states choose to initiate international negotiations. Second, the practices adopted by non-state actors exist only when those actors have both the preferences and resources to implement those practices, with no scope for enforcement of any type. Although it is not impossible for non-state

actors, such as firms or international organizations, to adopt and implement such governance practices, such practices appear largely absent in the international migration arena.

Migration Patterns. We observe that migration patterns in the post–World War II era are characterized by both non-reciprocity and by unique receiving country patterns (UNDP 2009; Hatton 2007, Sykes 2012). These characteristics affect the degree of cooperation and the "shape" of cooperation, bilateral, regional or multilateral.

There are complex reasons why individuals choose to migrate (Castles, de Haas, and Miller 2014). However, barring state barriers to egress and entry, the general pattern in the contemporary era is from poorer and less stable states to wealthier and more stable states (UNDP 2009). Wealth and stability are relative so that some states in the "Global South" are receiving states and about half of all voluntary migrant flows are among countries of the Global South. We characterize this movement as non-reciprocal flows between "sending" or source states and "receiving" or host states. This characteristic is unique to migration in the depth and breadth of international economic flows. The United Nations Development Program (UNDP 2009) reports that 37 percent of migrant flows are from developing countries to developed countries while only 3 percent move in the other direction. Sixty percent of migrants move within the Global North and within the Global South. And seventy-five percent of all migrants enter a country with higher human development than their country of origin. These figures confirm that the flow of migrants among states is dominated by unidirectional flows. With the exception of movement within regional organizations such as the European Union by citizens of member states, this general pattern is reflected in individual countries (United Nations Department of Economics and Social Affairs 2013).

If migration is non-reciprocal, why would this pattern of migration generate a barrier to international cooperation? Axelrod (1985) pointed out the importance of reciprocity to the evolution of cooperation; it is based on the ability to retaliate. If states receive reciprocal flows, then efforts to cooperate can evolve with a Tit-for-Tat strategy, producing higher payoffs for both parties. The Tit-for-Tat strategy adopts a position of cooperation on the first move and then copies the opponent's strategy thereafter. This means that when a state refuses to cooperate, it is punished in the next move. However, should it cooperate in the future, then forgiveness is demonstrated and this allows cooperation to ensue. The World Trade Organization, for example, has created a decentralized enforcement mechanism that allows states whose economies have been hurt by unfair trade practices to retaliate against the trade of the opposing state. The absence of reciprocity represents a stumbling block to cooperation on migration, as cooperation then requires linkage to some third issue.

We argue that the central feature that shapes the type of international cooperation that arises is the fact that migration patterns are not only directional but country specific as well. These patterns are well known to migration experts, and flows can be reasonably well modeled based on geography, historical ties, and wage differentials (Hatton and Williamson 2003a, 2003b). One example is provided in Table 1, which illustrates the top "third country" immigrant groups to the largest recipient states in the European Union in 2003. There is virtually no overlap in the migration source countries despite the fact that these are wealthy members of the European Union, which has adopted free movement among its members (there are 18 unique observations among the 20 data points; Turkey and China are each listed twice). This pattern suggests that any market failures or externalities that are generated by migration are dyadic in nature. For example, if there is a large population of undocumented Algerians in France, this does not concern

Germany, the United Kingdom, or Sweden. The solution to this problem revolves around cooperation between France and Algeria. So, we argue, cooperation does exist but it is structured by the nature of the flows, and hence the stocks of migrants, which privileges bilateral cooperation and disadvantages multilateral cooperation.

Table 1 Top non-EU migrant admissions, 2003 (selected EU countries)

France	**Germany**	**United Kingdom**	**Sweden**
Algeria	Turkey	Pakistan	Iraq
Morocco	Russia	India	Thailand
Tunisia	Ukraine	South Africa	Serbia
Turkey	United States	Nigeria	China
Congo	China	Afghanistan (2006)	Somalia

Source: Migration Policy Institute 2012.

In contrast, reciprocal flows are defined by the exchange of migrants between two countries. In the limited number of cases where migration flows are reciprocal, states have been able to generate multilateral cooperation on migration—such as in the Nordic Union or the European Union. But this type of cooperation is the exception rather than the rule.

State preferences. We take the perspective that states are the primary actors in the international system, although we acknowledge that other non-state actors can play an important role in shaping international collaboration.[3] This position is not controversial in the literature on international bargaining (Odell 2000; McKibben 2015). After all, we are interested in agreements that states sign, and this is one method of abstracting from the empirical reality to model the processes taking place. When examining the interests of states in the international system relative to migration, we divide states into two categories: "sending" states and "receiving" states.[4] Just as John Odell (2000) refers to "market conditions" as central to understanding state preferences

[3] Non-state actors include, but are not limited to, domestic and international non-governmental organizations (NGOs) as well as "policy entrepreneurs." Intergovernmental organizations (IGOs), by definition, are creations of governments.

[4] The vocabulary for these two types of states includes the dichotomies of sending/receiving, source/host, and origin/destination. We employ these dichotomies interchangeably to provide some variation in vocabulary.

on trade and how those preferences change, we refer to market conditions that separate states into those states that attract immigrants and those states that generate emigrants.[5] Of course, this is a simplification of the migration profile of states in the international system. All states in the international system send migrants as well as receive migrants. Some states are also geographically positioned to act as "transit" states between sending and receiving states. Yet all states have a net migration flow that weighs the number of emigrants against the number of immigrants and, we argue, serves to help understand the types of interests they pursue relative to migration issues. States may transition between a sending and receiving status; when they do, we argue that their interests shift as well.

The second attribute that we want to point out is the power characteristics of sending and receiving states. By definition, states that attract voluntary migrants are wealthier and more stable than countries of origin. Therefore, we attribute to receiving states greater levels of external power resources—military power, diplomacy, and economic power. These attributes serve to reinforce the preferences of powerful states in the international system.

THE BARGAINING FRAMEWORK

The status quo ante, state preferences, and power. Our bargaining framework begins with the status quo and the preferences of sending and receiving states. To illustrate, we can think about the accepted behavior of states in customary international law related to exit and entry of individuals. Table 2 summarizes customary international law in the area.

Table 2 Customary law in international migration

[5] The international trade literature looks to the abundance and scarcity of factors of production relative to other states in the international system and labels some countries as labor abundant and capital scarce (with a comparative advantage in labor intensive production) and other countries as capital abundant and labor scarce (with a comparative advantage in capital intensive production). These classifications are uncontroversial (Odell 2000).

Departure	Admission
Right to leave any country except when restrictions are provided by law, necessary to protect public order and consistent with other fundamental rights	Right to return to one's own country
	Non-refoulement (of those facing persecution as defined in the UN Refugee Convention (1951, 1967)
	Family reunion of children
	Prohibition of arbitrary detention
	Access to consular protection
	Prohibition of collective expulsion

Source: Chetail 2014, 71.

This can be depicted by a two-dimensional issue space as shown in Figure 1. The most basic rule governing admissions is state sovereignty; the state has the right to turn away individuals seeking entry. This right has been abridged in several ways in customary international law. For example, states are required to allow their own citizens to enter, should they leave the territory of the state. A second abridgement of the right is associated with the 1951 refugee convention that requires signatories to not refoule (turn away) refugees. This requires states to evaluate asylum claims of individuals seeking entry to determine whether they meet the refugee definition. In the two dimensional issue space, the status quo on this dimension would reflect a point close to but not equivalent to total state sovereignty. Conversely, states are required by customary international law to permit their citizens to leave their country, save for concerns with public order. Thus, on the second issue dimension of state sovereignty over exit, the status quo would be reflected by low levels of state sovereignty.

This represents one specific two-dimensional issue space. Generically, each migration issue area has a two (or multidimensional) issue space and a specific status quo ante. We point out that the win-set of the status quo, the policies that both states would prefer to the status quo,

is empty if one party prefers the status quo. As illustrated in Figure 1, State A prefers the status quo and State B prefers a position in the policy space that is different from the status quo.

//Figure 1 near here//

Because we have defined receiving states as states with relatively more power and more stability, if State A is a receiving state and prefers the status quo, there is a strong likelihood that negotiations to change the status quo will not come to fruition, even though State B is dissatisfied with the status quo. This relationship holds, we argue, both on a bilateral basis and a multilateral basis. That is, States A and B can represent two individual states in the international system or can represent a coalition of all receiving states and all sending states. We conclude, therefore, that when powerful states prefer the status quo ante, international cooperation is less likely to occur. In light of this theoretical framework, we argue there are three conditions under which states will enter the international arena to bargain and to reach an agreement: the presence of exogenous shocks that raise the costs of the status quo; when sending states locate an international institution whose decision rules privilege their number; and when reciprocal flows modify the costs of cooperation. We elaborate each condition below.

1. Exogenous shocks. Although powerful states may generally prefer the status quo, exogenous events may change the costs of the status quo and modify the preferences of powerful states. Exogenous events come in many forms. Domestic political actors may create political costs for the government. In the realm of international migration, there are a number of anti-immigrant actors—political parties and interest groups—that may be able to embarrass the government and create electoral costs that the government finds unacceptable. Migrant rights

organizations and domestic media outlets may bring attention to migration issues in a way that modifies the government's political calculus. International state and non-governmental actors may also be important in increasing the costs of the status quo to the government in power. Even market forces may create rising costs of the status quo. Peaks and valleys in the state's economic cycle may generate higher demand for migrants that is unattainable through the status quo system or increase calls to reduce the migrant population through methods that are unacceptable in the status quo system.

Migrants themselves are also actors. They can mobilize within a polity in a way that creates challenges to the government in power. Or they can increase the costs to the government of the status quo by moving across international borders. Regardless of the source of the exogenous pressures or shocks, as the costs of the current status quo rise, the preferences of the powerful states may change. In this case, the powerful state is likely to initiate negotiations. An example of powerful receiving states entering the international arena in search of an agreement to reduce the costs of the status quo is the European Union, in light of the European migrant crisis. Negotiations with Turkey, the main transit country during that crisis, began in late summer 2015 and only concluded in March 2016. Thus, we argue that when the costs of the status quo ante rise, receiving states are more likely to initiate international negotiations.

Once a powerful state initiates international negotiations, the distribution of power may shift based on each state's best alternative to a negotiated agreement. The concept of "best alternative to a negotiated agreement" is central to the bargaining literature and reflects the idea that parties to the negotiation will examine their alternatives and choose the alternative with the highest payoff. If an alternative to a negotiated agreement provides a higher payoff, then the state

will select that alternative. If the negotiated agreement provides the highest payoff, then the agreement will be chosen.

When receiving states experience an exogenous shock, the rising costs of the current status quo make no agreement costly. Time is not on the receiving state's side; the state's leaders need a resolution that reduces their costs. They may have tried unilateral solutions to address the rising costs as alternatives to a negotiated agreement, but these solutions have been ineffective. They need an agreement. On the other side of the negotiating table, the sending or transit state may well be better satisfied with the status quo than the receiving state. That is, although the sending or transit state prefers a policy position different than the status quo, their position is closer to the status quo than to the position desired by the receiving state. Their best alternative to a negotiated agreement that reflects the preferences of the receiving state may well be the status quo. In this case, they will not choose a negotiated agreement unless they are compensated for their compliance. The availability of alternatives to the negotiated agreement enhances the bargaining power of the sending state. As the receiving state's cost rise, the sending state can extract higher side payments and/or a change in the international rules governing migration.

To continue the same example mentioned above, when the European Union was confronted with a large, and potentially unending, stream of migrants flowing through Turkey in 2015, it negotiated an agreement with Turkey to stop migrant departures—a change to the status quo. In the initial agreement in November 2015, Turkey was able to obtain three billion euros but ultimately realized that it could extract yet larger side payments. The second agreement, which took effect in March 2016, upped the ante to six billion euros—payments promised by the European Union to Turkey to help offset the costs of housing Syrians fleeing civil war within Turkey itself (European Commission 2016).

2. Institutional power. Weak states, however, are not totally without resources (Odell 2006). One of the resources they have garnered in the international system is the power of numbers achieved through institutional rules. An example is the United Nations where sending states, individually less powerful than the receiving states, can vote on provisions in the General Assembly and adopt instruments by majority vote, instruments that the receiving states may not prefer. However, this resource is limited in the sense that states are unbound by treaties that they choose not to ratify. So when the less powerful states can agree on a policy and locate a forum that provides them with institutional power, negotiations may proceed and even result in an international agreement. However, the powerful states are not compelled to ratify the treaty.

On issues of international migration, we argue that if sending states prefer a policy different than the status quo and can organize a coalition that allows them to employ institutional rules to initiate negotiations, then sending states may be able to obtain an international agreement. However, sending states are unlikely to have the power resources to persuade receiving states to modify their opposition to the treaty proposals to change the status quo. An example of this type of event is the negotiation of the UN ICRMW between 1980 and 1990. This form of weak state power can be summarized as follows: When less powerful sending states act as a coalition and find a forum that provides institutional power, bargaining is more likely to occur. However, when an agreement is negotiated without the support of powerful receiving states, those states are unlikely to ratify any negotiated treaty and will not be bound by the treaty provisions.

3. Reciprocal flows. We have described most flows as non-reciprocal, yet there are some exceptions to the rule, cases of reciprocal flows. Specific conditions among a set of states encourage reciprocal migration flows and allow states to improve efficiency in labor markets as

well as minimize the potential costs of migration through freedom of movement. Similar levels of wealth, wages, and social benefits ensure that flows will tend toward reciprocity.[6] Full employment mitigates social welfare costs for the state. Linguistic, cultural, and historical similarities also facilitate movement by decreasing the costs of integration for citizens of both home and host societies.

Where flows are reciprocal, freedom of movement enhances labor market efficiency. When the demand for labor is high, unmet labor market needs can be fulfilled by immigrants; when the demand for labor is low, unemployed workers can find work abroad. Efficient labor markets generate full employment that reduces the demands on the state for social welfare and enhances state revenue through taxes. Under these conditions, international cooperation may be possible. The translation of this set of preferences into policy is conditional on similar standards of living and on "full" employment.

International freedom of movement is extraordinary in the sense that, with or without border checks, citizens of member states have permission to reside and to take up employment without regard to quotas or labor market conditions of the national labor force. The states party to such agreements relinquish sovereignty over immigration for a select group of countries, as Britain discovered much to its dismay when immigration from the ten new EU member states in 2004 exceeded expectations by a factor of ten to one (Sherwood 2014). This policy is exceptional in that only European states and Australia and New Zealand, along with the Gulf Cooperation Council and the Organization of Eastern Caribbean States (OECS), have adopted *and implemented* freedom of movement.

[6] Although the term freedom of movement implies that citizens of member states party to such an agreement can move and live at will, freedom of movement in the international sphere is generally constrained in some way.

Our argument is complicated by attention to the institutional structures within which these bargains take place. Institutions can constrain states' future actions, requiring them to accept free movement even when conditions are not met; this, we argue, was the road to Brexit.[7] Alternatively, institutions can be flexible and allow states to renege on free movement when conditions change, as was the case with the Trans-Tasman Travel Arrangement between Australia and New Zealand (Krasner 1976).

To summarize, we anticipate few instances of inter-state cooperation on issues of voluntary migration because powerful receiving states are often privileged by the status quo. However, when exogenous shocks increase the cost of the status quo, receiving states may initiate negotiations to modify the status quo through bilateral agreements, providing side payments to entice the sending states to enter into agreement. Alternatively, sending states may locate institutional forums with membership and decision rules that provide them with the ability to negotiate multilateral agreements; in these cases, sending states may initiate negotiations and conclude a multilateral agreement. However, that agreement will have little impact because receiving states will not ratify the agreement. Finally, where similar conditions create the possibility of reciprocal flows, states may negotiate freedom of movement. However, low flows are anticipated because of limited incentives to move. Below, we provide illustrations of these three scenarios. We refer interested readers to our book for a systematic evaluation of the theoretical arguments (Money and Lockhart, forthcoming).

EXOGENOUS SHOCKS AND BILATERAL COOPERATION: THE EUROPEAN MIGRANT CRISIS

[7] Brexit is the moniker for British exit from the European Union, as the result of a referendum called in June 2016.

The European migrant crisis provides an illustration of the application of the model. In the second half of 2015 and the first quarter of 2016, more than one million irregular immigrants made their way to European Union countries, most through Turkey. Many migrants came from Syria, fleeing the growing violence, but migrants also came from other parts of the Middle East, Africa, and Asia, as well as from poorer and less stable parts of Europe.

In the first instance, this flood of migrants has exacted a heavy toll on the European Union and its member states. The costs of processing more than a million asylum claims is staggering, as is the cost of food, clothing, housing, and healthcare in the interim and, for those successful claimants, the continued cost of integration. The political price has also been high, with the rise of new anti-immigrant right-wing parties in Europe and the growing success of already established anti-immigrant right-wing parties. The imminent withdrawal of the United Kingdom from the European Union, cemented by the June 2016 referendum, was fueled in part by anti-immigrant sentiment stirred by the European migrant crisis. These costs elicited action on the part of the European Union to negotiate an agreement with Turkey. We describe the trajectory of the negotiations below.

One method of reducing the costs associated with migration has been bilateral readmission agreements (BRAs). These agreements require that states accept the return of not only their citizens but migrants who have transited their country to reach the destination country. Relative to migration flows, there are few BRAs in existence; the vast majority are negotiated between individual EU member states and countries with significant migrant flows to those states. In contrast, the European Union itself was only authorized to negotiate a small number of readmission agreements that would engage all member states. One authorized agreement was

with Turkey. However, because not all states were implicated in flows from Turkey, an agreement was not forthcoming until migrant crises raised the costs of the status quo.

The Commission received its negotiating directive for Turkey based on an EU Council meeting of 28 November 2002. Negotiations commenced in May 2005 and continued for 18 months but ground to a halt in December 2006. It was only in response to the first European migrant crisis – flows from Turkey through the Western Balkan route and the Eastern Mediterranean route beginning in 2008 – that the negotiations restarted ("European Migrant Crisis" 2016). Unilateral action continued apace with Greece ultimately constructing a wall on the land border between Greece and Turkey that was not marked by the flow of the Meriç River. In 2009 a new draft text was prepared and forwarded to the Turkish negotiators. This new agreement was signed on 13 December 2013 and entered into force on 1 October 2014. The agreement provided for reciprocal readmission, including third country nationals and stateless persons. However, the readmission of third country nationals, central to the 2015 European migrant crisis, would only commence on 1 October 2017 (European Commission 2012, European Union 2013). [8]

In response to the crisis, which mounted in the second half of 2015, the European Union first negotiated the EU–Turkey Joint Action Plan, dated 29 November 2015. According to the European Commission (2015), the objective of the action plan was "to supplement Turkey's efforts in managing the situation of massive influx of persons in need of temporary protection." The three dimensions of the plan included addressing the root causes of the Syrian influx; supporting Syrians and their host communities in Turkey; and "strengthening cooperation to

[8] For third country nationals with whom Turkey had a readmission agreement, the provisions of readmission took effect immediately. However, Turkey had few readmission agreements other than with European countries. Moreover, individual readmission agreements negotiated between individual EU member states and Turkey remained in force.

prevent irregular migration flows to the EU" (European Commission 2015). The action plan notes the mobilization of 4.2 billion euros to support Syrian refugees in Turkey, in light of the 7 billion euros already expended by Turkey. Turkey agreed to police its borders to prevent the flow of irregular migrants toward the European Union. Nonetheless, the flows continued and a new agreement with new incentives was needed to stem the tide.

That agreement came in the form of the EU–Turkey Statement on 19 March 2016. This agreement brought the readmission of third country nationals into immediate effect more than 18 months in advance of the official EU–Turkey readmission agreement date. The statement indicated that, "All new irregular migrants crossing from Turkey to the Greek islands as of 20 March will be returned to Turkey." More importantly, Turkey again agreed and then acted to prevent the smuggling of third country nationals from its territory. The price paid by the European Union was considerable and only agreed to in light of the high costs, financially and politically, of the more than a million irregular migrants that entered European Union territory during 2015 and 2016. The European Union agreed to speed up the disbursement of the 3 billion Euros promised in the Action Plan and to provide an additional 3 billion Euros to support the Syrian population in Turkey after the initial funding was spent.[9] More importantly, the European Union agreed to accelerate the visa liberalization road map and to lift the visa requirements for Turkish citizens at the latest by the end of June 2016 (Kirişci 2014). The Turkish accession process to the EU would also be "re-energized" (European Commission 2016).

Visa-free travel for Turkish citizens is indeed a significant price to pay. Turkey is a country with more than 70 million citizens—larger than any European Union country save

[9] There is a discrepancy between the EU–Turkey Joint Action Plan, which mentions 4.2 billion euros, and the EU–Turkey Statement that indicates a prior commitment of 3 billion euros to which the agreement offers an additional 3 billion euros. These are both official documents of the European Union (European Commission 2015, 2016).

Germany. The road map, however, does require Turkey to implement in a full and effective manner the readmission agreement; manage the borders and the visa policy in such a manner as to effectively prevent irregular migration; have secure travel documents; establish migrant and asylum systems in line with international standards; have functioning structures for combating organized crime with a focus on migrant smuggling and trafficking in human beings; have in place and implement adequate forms of police and judicial cooperation with the EU Member States and the international community; and respect the fundamental rights of the citizens and foreigners, with a specific attention to persons belonging to minorities and vulnerable categories (European Commission 2016).[10]

The European migrant crisis fits well with our theoretical expectations. The European Union was authorized to negotiate a union-wide agreement with Turkey in 2002 but those negotiations went nowhere until flows from Turkey mounted and multiple EU member states were affected. Then a readmission agreement was negotiated, but the side payments were insufficient to actually achieve the readmission of third country nationals. The rise in irregular migration to Europe began in earnest in the second half of 2015, with more than one million migrants arriving on EU shores during the following months. Europe stepped up its pressure on Turkey to arrest the flows, promising 3–4 billion Euros to support Syrians in Turkey in the October 2015 Joint Action Plan. That payment was insufficient to elicit the needed cooperation, and the European Union upped the ante to an additional 3 billion euros and a promise of visa-free travel in the EU–Turkey Statement.

[10] In light of the July 2016 coup attempt in Turkey, the European Union postponed the implementation of the road map.

INSTITUTIONAL POWER AND SENDING STATE PREFERENCES: THE ICRMW

Migrant rights is an issue where receiving states prefer the status quo of national sovereignty whereas sending states pay growing attention to the rights of their nationals abroad. This is reflected in the paucity of bilateral, regional and multilateral agreements on migrant rights. Two multilateral ILO treaties have been negotiated but ratification is sparse: ILO Convention No 97 of 1949 has been ratified by only 51 states and ILO Convention No. 143 of 1975 has received even fewer ratifications, currently 23. This evidence fits well with our theoretical frame. Here we trace the third multilateral treaty negotiations that illustrate the efforts of sending states to project their preferences on the international stage. The ICRMW expands the rights of both documented and undocumented workers beyond the workplace. Although the rights of documented workers exceed those of undocumented workers, the convention incorporates virtually all the rights included in the nine other "core" human rights treaties into a single document dealing with foreign residents (Cholewinski 1997; Nafziger and Bartel 1991; Niessen and Taran 1991).

The story of the shift in migrant protection from the ILO to the United Nations General Assembly is well known and comes directly out of unhappiness with Convention No. 143 (Böhning 1991).[11] Both sending and receiving countries were unhappy about some aspects of Convention No. 143, but the impetus for change came from the developing world. Receiving states, in contrast, preferred to retain the ILO as the primary venue on worker rights.

Mexico and Morocco were the primary promoters of a new multilateral migrant rights convention. Both states had significant populations of undocumented migrants in the United

[11] There is a large secondary literature on various aspects of this convention. Our discussion draws on Böhning 1988, 1991, n.d.; Cholewinski 1997; Cholewinski, de Guchteneire, and Pecoud 2009; Edelenbos 2009; Hasenau 1988, 1991; Hune 1985; Lonnroth 1991; Mattila 2000; Nafziger and Bartel 1991; Niessen and Taran 1991; and Taran 2000.

States and France, respectively, and were unhappy about the ban on undocumented migration and illegal employment contained in Part I of Convention No. 143 (Böhning 1991). They led the charge to change the venue for negotiations on migration from the ILO to the UN General Assembly. The General Assembly of the United Nations was viewed as a more favorable environment for several reasons. UN conventions allow for ratification with reservations whereas ILO conventions do not, which promised a better ratification record than reflected in Convention No. 143. According to Böhning (1991, 704), developing countries also wanted to avoid the ILO because: "1. The ILO would not propose anything that contradicted No. 143, which promised to close off remittances from undocumented workers; 2. The UN General Assembly had an automatic developing country majority which the ILO, with its tripartite representation, did not; 3. The ILO gave prominence to independent trade unions, which many developing countries did not like." According to Lonnroth (1991), these states also wanted to "to achieve a moral condemnation of some of the states of employment."

Central to our argument, we focus on the automatic sending country majority in the General Assembly, which meant that sending states would be able to endorse any negotiated convention without the support of receiving states and therefore would not have to compromise with receiving states on the text of the convention. In terms of our analysis, this is not a developing country coalition per se. Some states in the "Global South" have become receiving states, including the Gulf oil states starting in the 1970s and some East Asian "newly industrializing countries" beginning in the 1980s. Nonetheless, since the early 1950s, the vast majority of sending states are located in the "Global South" and, once they gained independence, they began to outnumber receiving states in the UN General Assembly (Money and Lockhart forthcoming).

Taking up the issue in the UN General Assembly was not a done deal. The emphasis was on spelling out the basic rights of migrant workers who are undocumented or in an irregular situation, and sending states argued that these basic rights lie primarily in the fields of civil and political rights or economic, social, and cultural rights rather than strictly labor rights as is the case of the ILO. Morocco and Mexico worked for several years before obtaining a majority in the General Assembly to support General Assembly Resolution 34/172, which was adopted in December 1979 and established a working group to elaborate a new UN convention on the rights of migrant workers.

The General Assembly working group on migrant workers was formed in October 1980. The Mexican ambassador to the United Nations was initially elected to chair the working group, a position he retained throughout the decade-long negotiations. The initial working draft was submitted by Mexico and Morocco, reflecting their leadership role and the priority they gave the issue. They were supported by the G77, including states with large emigrant populations. However, receiving countries in the working group were unhappy with the initial draft, which they viewed as condoning illegal migration and employment. Given that they could not stop the working group from moving forward, a coalition of countries from the northern rim of Mediterranean and Scandinavian governments with social democratic parties worked to provide an alternative draft.[12] This coalition came to be known as the MESCA group, and their draft became the working draft. While attentive to the fundamental human rights of migrants, regardless of their status in the host state, these states had for a "key objective . . . to discourage employers from seeking and hiring workers who are undocumented or in an irregular situation" (Böhning 1991, 702). The General Assembly finally adopted the International Convention on the

[12] These countries included Greece, Italy, Portugal, and Spain and Finland, Norway, and Sweden.

Protection of Rights of All Migrant Workers and Members of Their Family in 1990, after a full decade of negotiations. However, Böhning (1988, 135) points out that the extension of rights achieved in the ICRMW is nominal.

As of 2017, no major recipient state has signed or ratified the convention, whereas 51 countries of emigration have become party to the convention and an additional 16 states have signed the convention. Adherence to the convention has not produced much in terms of additional protection on the ground for migrant workers, documented or undocumented.[13] In light of the poor ratification and nominal oversight of the states party to it, it would be difficult to call the Convention a success.

This overview of the ICRMW is consistent with our hypotheses. When the status quo is preferred by powerful states, the status quo is likely to remain unchanged. When less powerful states prefer a change in the status quo, their ability to negotiate a multilateral treaty relies on their institutional power to achieve a majority. However, their meager power is insufficient to bring receiving states on board, so that these agreements remain poorly ratified. Over the nearly 100 year history of formal multilateral institutions, few migrant rights conventions have been negotiated, despite an institutional context that acknowledged the significance of migrant rights. And, once negotiated, very few receiving states have signed onto the agreements. Most wealthy states that signed onto Convention No. 97 were sending states at the time of their ratification, even though their status has changed since then.

RECIPROCAL FLOWS: THE GULF COOPERATION COUNCIL (GCC)

[13] See Edelenbos 2009 for an overview of the operational components of the Convention.

The most prominent example of freedom of movement is the European Union and the precursors to that agreement in the Nordic Union and the Benelux Union. The Trans-Tasman Travel Arrangement between Australia and New Zealand also permits freedom of movement. Given the similarities of conditions among the member states, these examples fit with our theoretical framework. However, there is another example from the Global South that has been widely overlooked that illustrates well our theoretical propositions: the GCC.[14] The GCC states are better known for the recruitment of workers, both high and low skilled, from other Arab states and, more recently, from Asia, as well as the concerns over the treatment of those workers, particularly low-skilled workers. The freedom of movement of citizens of member states has received little attention.

The cooperation among the six GCC member states (Bahrain, Kuwait, Oman, Qatar, Saudi Arabia, and the United Arab Emirates) on labor mobility fits well with our model. Similarities in wealth, language, and culture, combined with low unemployment and a strong demand for labor, led to the negotiation of a freedom of movement clause in the economic agreement that accompanied the creation of the GCC in 1981. The GCC member states have periodically adapted their regulations to account for the changing structure of national labor markets. Similar to the European Union (prior to the accession of Central and Eastern European states in 2004), freedom of movement has not generated high levels of labor mobility. Wage differentials are insufficient to attract large flows in any direction.

The Arabian Peninsula was peopled by Semitic tribes over the centuries, but the rise of Islam as a religious and political movement united the Peninsula in the 7th century. The

[14] The Organization of Eastern Caribbean States is the only other example in the Global South of an implemented freedom of movement agreement. A number of regional organizations in Africa and in Latin America that have introduced freedom of movement in principle, but none is fully implemented (Money and Lockhart forthcoming).

intervening centuries brought innumerable conflicts among the various tribes and religious branches of Islam as well as between the Arab population and the Ottoman overlords. The establishment of independent states during the 20th century set the stage for regional cooperation. Talks among the smaller Gulf oil states began in the early 1970s but it was not until 1981 that the Charter for the Gulf Cooperation Council was signed by the states of Bahrain, Kuwait, Oman, Qatar, Saudi Arabia, and the United Arab Emirates. The Charter begins with an acknowledgement of their common heritage; the states proclaim themselves "fully aware of the ties of special relations, common characteristics, and similar systems founded on the creed of Islam which bind them" (*Charter of the Gulf Cooperation Council* 1981). There has even been an effort to promote a regional identity, the *Khaleeji* identity (Babar 2011). Yet this common heritage did not prevent the exclusion from the GCC of the seventh Arabian Peninsula country, Yemen. Central to our argument, the wealth disparities and potential for unilateral flows from Yemen prevented the inclusion of this country in the GCC and in the free movement provisions. Moreover, freedom of movement has not been extended to citizens of other Arab states which, according to many sources, reflect "centuries of common history, religion, and language [that] have resulted in a high degree of cultural, political and social integration in the Arab region" (Nassar 2010, 11; see also Babar 2011).

The shock that disrupted the status quo ante was the growing oil wealth of the Gulf countries, especially after the oil price shocks of the 1970s, which catapulted these countries from low to high human development status in just two decades. The oil shocks of 1973 and 1979 transferred enormous amounts of wealth to these states, which then undertook vast development projects that required significant amounts of labor to implement. However, the populations of these states were small with low labor participation rates. In 1970, the entire

region comprised only 7.8 million people, and labor market participation rates were between 30 and 40 percent. Moreover, formal employment was concentrated in the public sector. Thus there was an enormous need for labor to complete the development projects that would diversity these oil economies (Winckler 1997). Responding to this demand for labor, the national strategies were twofold: the first was to increase natality and education—to grow their own labor force; the second was to import labor, at least in the interim. These strategies attest to the low unemployment despite the lack of systematic records of unemployment rates during this period, a fact which is confirmed by Winkler (1997, 2010). The import of labor included Arabs, especially Palestinians. But the GCC states ultimately turned to Asians to fill low-skilled labor positions. The Asian population working in the GCC states rose from 342,589 in 1975 to 3,258,500 ten years later, in 1985 (Winckler 1997).

In this midst of this economic explosion, the six Gulf oil states negotiated the charter that created the Gulf Cooperation Council. At the same time, the six countries also adopted an economic agreement providing an impetus for economic integration. The Free Trade Agreement took effect in 1983. Article 8 provides for "freedom of movement, work, and residence" as well as "the freedom of engagement in economic activity."

It is difficult to confirm with certainty that freedom of movement is fully implemented. Nonetheless, several sources appear to agree that freedom of movement is partially or fully implemented (Babar 2011; Haftel 2012).[15] The implementation of the policy was slow. A protocol was signed in 1993 that ensured equality treatment of GCC nationals, initially in the private sector where nationals were generally employed in very low numbers, followed by a protocol to facilitate employment and free movement. The guarantees of equal access were

[15] Ibrahim (2010, 124) provides a note of caution, pointing to "the weak translation of these legislations and policies into effective execution."

extended to the public sector in 2000. In 2001, the six states negotiated the Unified Economic Agreement to deepen economic integration. As the population increased and was educated, reflecting earlier policy choices of the state governments, young GCC nationals began to enter the job market; states created labor market "nationalization" policies to ensure that they found employment. The 2001 Unified Economic Agreement ensured that GCC nationals were treated equally in terms of "nationalization targets," goals for employment of nationals. This was followed in 2004 by the extension of social insurance to GCC nationals. Thus, the GCC Supreme Council appears to have taken very seriously efforts to ensure freedom of movement. Nonetheless, as is characteristic of other regions with freedom of movement, where living standards and wages are similar, the impetus to move is slight. As of 2013, only 35,000 nationals of GCC countries were living in a member state different than their country of origin (GCC 2914).

Our story of the construction of the GCC economic agreement that incorporates freedom of movement points to rising costs associated with labor market shortages that potentially could be filled by citizens of member states. The similarities in wealth when regional cooperation was first established are substantial, despite the small population base, which distorts differences in income. The status of Arabian Peninsula countries is provided in Table 3.

Table 3 Gulf Cooperation Council countries

Country	**GDP/pc/PPP 1985–1988**	**Population 1981**	**GNI/pc/PPP 2013**	**HDI 2013**
Bahrain	$9,490	373,000	$32,072	0.813
Kuwait	$9,310	1,448,000	$85,826	0.813
Oman	$9,290	247,000	$42,191	0.781
Qatar	$11,800	1,217,000	$119,029	0.850
Saudi Arabia	$9,350	10,521,000	$52,109	0.839
United Arab Emirates	$19,440	1,092,000	$56,068	0.825
Total GCC population		14,898,000		
Average across GCC	$11,447		$64,549	

Yemen (non-GCC)	$2,410 (1992)	8,344,000	$3,945	0.499

Source: United Nations Development Program 1990, 2001, 2014

In 1985–88, the poorest GCC country (Oman) had a GDP per capita that was 48% of that of the wealthiest (the United Arab Emirates); taking the regional wealth average, which discounts the outlier UAE, the ratio rises to 81%—comparable to the ratios found in regional freedom of movement countries in Europe. What is interesting to note, in addition, is the place of the seventh Arabian Peninsula country that is not blessed with oil wealth. Yemen, the odd country out, had a GDP per capita that was only 12% of the GDP per capita of the wealthiest country. Moreover, even with their populations swollen by an enormous influx of international migrants, Yemen's population was more than half of the GCC's combined population in 1981. Admitting Yemen, even with the common history, language, and culture, would have generated substantial one-way migratory flows over which individuals states desired unilateral control. Thus, Yemen was excluded. In later periods, wealth disparities among GCC countries broadened, as oil revenues are subject to economic shocks and because populations are small. Yet a second measure of similarities of living conditions, the Human Development Index, suggests highly similar standards of living (UNDP 2009). Yemen remains the outlier on the Arabian Peninsula and an outcast of the GCC and its freedom of movement provisions. It is interesting to stumble across the little-known policy of freedom of movement in the Global South and to see that it, too, fits well with the theoretical frame generated by the analysis of those dimensions of regionalization in the Global North that privilege freedom of movement.

CONCLUSIONS

Unlike other dimensions of globalization, voluntary international migration is not underpinned by a dense network of international treaties, institutions, or even informal norms.

National sovereignty remains the most prominent feature of the international landscape. Caution is required, though, as our model applies only to voluntary migration. Other aspects of international population movement – the travel regime and the refugee regime – do not necessarily reflect these same dynamics.

Voluntary international migration in the past 70 years has been underpinned by the pattern of flows from poorer, less stable countries to wealthier, more stable countries, dividing the globe into sending and receiving states and generating externalities that are predominantly bilateral in nature. We have argued that the status quo ante of customary international law frequently privileges the more powerful receiving states, thereby generating little desire for international cooperation. We describe three conditions likely to generate international negotiations and subsequent cooperation. First, when costs of the status quo ante increase, receiving states broker deals with the sending states that generate the costs; here, sending (or transit) states can extract quid pro quo payments. Note, however, that these agreements tend to restrict rather than facilitate the movement of migrants, unlike similar agreements on trade and foreign direct investment that tend to enhance flows. Second, when sending states locate an international forum where decision rules favor their larger numbers, they negotiate agreements that project their preferences onto the international stage. Receiving states actively negotiate to minimize their commitments but, almost without exception, fail to ratify the agreements that result. This mitigates the impact of these international agreements. Finally, where the standard of living is comparable, thereby generating reciprocal flows, labor market shortages or other exogenous shocks may generate freedom of movement provisions in order to enhance labor market efficiency. We have provided illustrations of each of these phenomena and refer

interested readers to a more in depth analysis in *The Structure of International Cooperation on Migration* (Money and Lockhart forthcoming).

So what, then, should we expect to see emerge from the consultations and negotiations over the Global Compact on Safe, Orderly and Regular Migration? Our analysis generates a pessimistic outlook. It is likely that an agreement will be negotiated, but it is also likely that any agreement will be ignored by the states whose implementation is required to bring the agreement to life. However, we are not uniformly pessimistic. Migrant protections can be improved everywhere, but there remains substantial variation among the fates of migrants globally. This variation can be attributed in large part to local conditions. Thus, we suggest that, given the low likelihood of international cooperation on voluntary migration, mobilization should focus at the national and local level. If domestic advocacy groups can use the Global Compact on Migration as a focal point for their own organizing, they may find it to be a useful tool in creating domestic pressure on states to enact national laws that protect migrant populations without presenting the challenge to national sovereignty the international obligations do. But, we do not foresee an increasingly institutionalized migration regime emerging from the process.

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Figure 1. Customary International Law on Departure and Entry