Regional Migration Governance:
A Comparative View

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The United Nations Research Institute for Social Development (UNRISD) is an autonomous research institute within the UN system that undertakes multidisciplinary research and policy analysis on the social dimensions of contemporary development issues. Through our work we aim to ensure that social equity, inclusion and justice are central to development thinking, policy and practice.

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Introduction

In the context of international migration governance, the regional level has gradually gained prominence in recent decades. Intra-regional migration has constantly grown and existing historical, institutional and cultural links make cooperation at the regional level easier than on a global stage. Consequently, multiple regional organizations around the globe have adopted legal instruments in order to facilitate the movement of persons across the borders of their member states. Yet, too little is known about what regional migration governance is about, why the movement of people should be governed at the regional level and how it currently looks like from a comparative perspective.

The purpose of this paper is threefold: First, to open the discussion about the meaning(s), dimensions and forms of *regional migration governance* (What is regional migration governance?), which has rarely been defined as compared to related notions such as global migration governance. Second, theoretical and practical arguments are presented to make a case for regional migration governance, while outlining also some of the major challenges when comparing such regional schemes (Why is the regional level suitable to govern the movement of people?). The third part will provide the reader with an overview on how the movement of people is governed in different world regions.[1] A focus is placed here on intra-regional movements of people (How does regional migration governance look like across different world regions?). The last section concludes and raises questions for further research and study.

What is Regional Migration Governance?

Regional migration governance has become a frequently used term in both academic and policy circles, although its meaning and reach have rarely been defined. One possible clarifying approach is to focus on its two distinctive components. The meaning of *migration governance* has mostly been discussed in the context of an emerging *global* governance of migration (Betts 2010 and 2011; Koser 2010; Koslowski 2011). As indicated by Betts "governance relates to rules, norms and practices, that constrain or constitute behaviour, and it is generally distinguished from 'government' by the absence of a single overarching authority. By definition, it is something that goes beyond a purely State-led form of regulation" (Betts 2010:6). In this sense, it relates to all possible governance *levels* and *actors* (state and non-state) involved in the process of negotiation, implementation, enforcement and monitoring of regulations (*Idem*). In the field of migration, this basic definition is however exposed to certain pitfalls. First of all, the distinction between migration and non-migration governance is not always straightforward. Many rules and regulations impact the movement of people without being officially labelled migration governance. They are rather "embedded" in related policy fields such as trade, human rights or international maritime law (Betts 2011:14). The same is true for actors whose mandate does not include migration issues *per se*, though their actions may well impact cross-border movements. Second, it is disputable whether certain aspects such as security, development or international travel should be included at all under the heading of international migration.

While much has been written about the *global* character of migration governance (both descriptive and normative), the attribute "*regional*" has received less attention. This is all the

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[1] The data referred to in this paper was collected as of December 2012.

more surprising as the concept of "region" is polysemous and needs to be "unpacked" (Langenhove 2012) along different conceptual dimensions.

In the field of international migration, the regional governance level is perceived as being situated between national policy-making and global attempts to closer inter-state cooperation. As indicated by the Global Commission of International Migration "the governance of international migration should be enhanced by improved coherence and strengthened capacity at the *national* level; greater consultation and cooperation between states at the *regional* level, and more effective dialogue and cooperation among governments and between international organizations at the *global* level" (GCIM 2005:65, emphasis added). Moreover, policies addressing the movement of people can be unilateral, bilateral, regional, inter-regional (or trans-regional) or multilateral. Within this spectrum, the term "regional" may refer to the sub-national, supra-national, inter-regional or transregional level.[2] The sub-national level can for instance include efforts at the level of communities (local) or regional entities such as the Länder in Germany. This becomes most visible in the field of integration policies where the contribution of local or regional authorities refers almost entirely to this governance level. The same is valid for certain types of migration data and population statistics which when referring to the term "regional" often mean the sub-national level (e.g. Eurostat data etc.). In contrast, the supra-national level embraces all forms of cooperation beyond/above the state-level. As it will be discussed in more detail below, supra-national governance can refer to regional integration in the sense of delegation or sharing of power or to purely intergovernmental cooperation, while including both formal and informal processes. Last but not least, there is also an emerging layer of inter-regional or trans-regional migration governance.

Supra-national approaches to migration

When considering the supra-national level only, one can identify two main types of cooperation. The first type includes (formal) regional organizations, which by pursuing different economic, political or security-related objectives have included the movement of people into their integration agenda. As will be illustrated below, a substantial number of regional organizations have already developed common mechanisms to govern the movement of people. Here one always needs to differentiate between instruments that govern *intra-regional* migration flows, and those who target flows from *outside* the respective region. In the majority of cases the first is part of a larger integration agenda, often with the ultimate goal of establishing a common or internal market comprising the free movement of goods, people, services and capital. Few organizations have so far managed to develop also an approach towards migration from outside their region. As in the case of the European Union, the attempt to develop a common immigration policy has followed from the establishment of international free movement (to be refined).

Apart from formal regional arrangements, a second type of cooperation has emerged during the past 20 years through the establishment of so-called Regional Consultative Processes (RCPs).[3] RCPs are inter-governmental fora promoting dialogue and cooperation on

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[2] Note that for example the WTO includes in their compilation of "Regional Trade Agreements" (RTAs) also bilateral agreements, see http://www.wto.org/english/tratop_e/region_e/region_e.htm.
[3] For further reading see Klekowski von Koppenfels (2001), Thouez and Channac (2005 and 2006), IOM (2005), Hansen (2010).

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international migration.[4] Despite considerable differences in history, purpose, organizational structure and composition, RCPs do share some essential characteristics distinguishing them from classical regional or international institutions. First of all, RCPs are *informal* and *non-binding*. According to Hansen (2010), informality refers to a depoliticized space in which participants can openly discuss issues of common interest without defending national positions in the first place. However, informality is not to be confused with the absence of (formal) procedures, which are vital for the smooth functioning of such processes. They are non-binding in that participating states do not negotiate binding (legal) rules and are not obliged to follow the conclusions adopted during a meeting. Second, RCPs are *processes,* meaning that they are neither one-time events nor are they comparable to formal regional institutions. They are repeated, regional meetings of government officials, technical experts and representatives of different international and regional organizations. Finally, RCPs are characterized by a minimum administrative structure, their secretariat being often hosted by an international organization. The overall aim common to all RCPs is to create networks of information exchange between participating governments, to build trust between all actors involved and thereby facilitating a common understanding of migration issues which can ultimately lead to convergence in migration policies and practices.

Linkages between different governance levels

While for analytical reasons we aim to separate all the different forms of migration governance, in reality they tend to overlap and intersect creating a complex and interrelated tapestry of actors, institutions, policies and practices.

A good example for this is the governance of migration within the Atlantic Area. As a first broad distinction we can look at governance instruments targeting different migration flows such as North-North, South-North, South-South and, although to a lesser extent, North-South. As illustrated by a current MPI-EUI research initiative on "Improving US and EU immigration systems", cooperation in the field of human mobility between the US and the EU has, despite similar challenges on both sides of the Atlantic, not yet been fully exhausted (Papademetriou and Sumption 2011). Collaboration has been most intense in the field of border security (e.g. agreements with Europol, Frontex or transfer of passenger name records), yet issues of information sharing and passengers' data remain sensitive (De Hert and Bellanova 2011). Labour migration of highly skilled is substantial in both directions (mainly businesspeople, scientists and other professionals), being supported by visa facilitation (e.g. US Visa Waiver Program) and bilateral agreements allowing for the portability of social security and pension rights (Xiaochu Hu and Sumption 2011). However, the latter is still being far from comprehensive and along with the mutual recognition of skills and qualifications represents one major barrier to transatlantic labour migration between the US and Europe. While the symmetric nature of US-EU relations allows for enhanced migration cooperation on an equal footing, this is usually not the case for South-North migration, where different interests and priorities of sending and receiving countries (as well as countries of transit) collide. US-Mexican relations are a case in point, where collaborative (bilateral) approaches to managing migration have been limited to the Bracero Programme (Rosenblum and Brick 2011) or the recent cooperation on security and border management following 9/11 (Rosenblum 2011). Regional approaches seem rather exceptional, although not impossible as illustrated by Chapter 16 of NAFTA (temporary entry of high skilled

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[4] For a detailed view on Regional Consultative Processes (RCPs) and their membership, see
http://www.iom.int/jahia/Jahia/policy-research/regional-consultative-processes/lang/en.

workers) or the Mérida initiative, involving Mexico, Central America and the Caribbean. In comparison, the EU has much more engaged into bi-regional or transregional migration dialogues and agreements, although the number of migrant workers admitted from third countries (quotas) stays within the realm of the Member States. The EU´s cooperation with third countries or regions in Latin America or Africa takes place within the framework of the Global Approach to Migration, recently revised and further developed into the Global Approach on Migration and Mobility (GAMM 2011). Continental EU-Africa cooperation on migration is dealt with in the "EU-Africa Strategic Partnership on Migration, Mobility and Employment" (MME), one of the eight priority areas of the Africa EU Strategic Partnership. This is complemented by sub-regional initiatives such as the Rabat Process (for Western Africa) or specific instruments targeting Northern Africa, especially in the aftermath of the Arab Spring (Carrera 2011). EU cooperation with Latin America and the Caribbean (LAC) ranges from interregional dialogues (EU-LAC Structured Dialogue on Migration) through agreements between the EU and different sub-regions (e.g. EU-Central America cooperation on migration) to bilateral agreements between individual EU Member States and LAC countries (e.g. Spain-Colombia or Brazil-Portugal). Finally, there is also the dialogue on migration between the EU and ACP countries (EU-ACP dialogue) focusing on the strengthening of the operational aspects of implementation of Article 13 of the Cotonou Cooperation Agreement. Finally, the most under-researched dimension is South-South migration, both at the intra- and inter-regional level. While recent numbers estimate South-South migration to be larger than migration from the South to the high-income OECD countries (World Bank 2011) its causes, effects and consequences are still largely overlooked in research and policy circles. As recent research by the ACP Observatory on Migration shows (Melde 2011), governance instruments exist at national level (e.g. cooperation on irregular migration between Brazil and Cape Verde), regional level (intra-regional migration governance within MERCOSUR, CAN, CARICOM, ECOWAS, EAC etc.), bi-regional within Africa (e.g. ECCAS-ECOWAS cooperation), but less at the inter-regional level between Africa and Latin America.

Why the Regional Level to Govern the Movement of People?

Three generations of regionalism

Against the background of globalization and a (still) fragmented multilateral system, the regional level has emerged as an intermediate layer of governance. Although there has been a significant growth in both the number and scope of regional organizations and agreements in recent years, the idea of regional integration and cooperation is certainly not new (Fawcett 2005). Different unions, associations, leagues and the like have existed throughout history with a first major wave of initiatives in the nineteenth century (Mattli 1999). Today, a multitude of regional organizations, associations and agreements exist, differing considerably in their scope, range of activities, institutional set-up, decision-making procedures and membership.[5]

In order to distinguish these different forms of regional integration processes, two dimensions are usually brought forward: (1) a chronological view and (2) a qualitative view (Van

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[5] For a comprehensive list of regional arrangements worldwide see the Regional Integration Knowledge System (RIKS) at: http://www.cris.unu.edu/riks/web/.

Langenhove and Costea 2005). The chronological approach identifies successive waves of regionalism, starting either after the Second World War (two waves of regionalism) or including also initiatives between the two World Wars (three waves of regionalism). The qualitative approach in contrast distinguishes between "old" and "new" regionalism, implying a fundamental (qualitative) difference between the two processes. While the "old approach" usually refers to early attempts of regional economic integration and cooperation in the context of the bipolar world order, "new regionalism" encompasses the development of a broader and deeper form of regionalism. New regionalism goes beyond trade liberalization of goods, services or other productive factors and also involves non-state actors such as multinational corporations, NGOs or civil society. An alternative way is to speak of "generations" instead of "waves", hereby avoiding the strict separation of chronological clusters while circumventing the dichotomy of "old" and "new" (Van Langenhove and Costea 2005: 2).

The "first generation" of regionalism is based upon the idea of a linear process of economic integration whereby former separate (national) economies merge into larger (regional) economies. Following Balassa´s famous approach (1961), different "sequences" of economic integration can be distinguished. The process starts with a *Free Trade Area*, in which the participating states agree to abolish all internal customs on goods while keeping their own level of external custom duties. During the next stage external tariffs are harmonized leading to a so called *Customs Union*. This is followed by a *Common Market,* including the free movement of goods, services, capital and labour. *Monetary integration* furthermore implies the adoption of a common currency, a common monetary policy and a supranational authority to monitor this policy. The *Economic and Monetary Union* goes even one step further by introducing also a common fiscal policy. Within this first generation of regionalism the movement of people can be addressed very differently. Free Trade Agreements do usually contain only very limited provisions targeting high-skilled workers or persons involved in regional trade and business. A Common Market in contrast shall enable the four factors of production to move freely, with workers enjoying a right to enter, work and settle in another member state. Common to all stages of this first generation regionalism is, at least in theory, that the liberalization of movement is linked to economic activity and the integration of labour markets.

The "second generation" of regionalism is based on the idea that economic integration cannot be separated from other political, social or cultural developments and that integration may also include non-economic matters such as security, justice, education etc. Apart from just removing obstacles to economic integration, positive measures can be adopted to facilitate integration in other domains. This usually entails the establishment of a strong institutional and legal framework and also involves non-state actors such as multinational corporations, NGOs or civil society. This type of regionalism is not (anymore) limited to the European Union but includes various integration processes in other world regions too. Within this generation of regionalism one would expect the economic focus on migration to be broadened by a social (or human) dimension. In order to enhance labour mobility in a region-wide labour market, the non-discrimination of all migrant workers needs to be ensured. Apart from the removal of formal barriers, this may also require complementary policies such as the recognition of skills and qualifications or the portability of social security rights. In addition, one could also imagine the scope of liberalized movement to be broadened beyond economically active people, and allow all possible categories of people to move around freely within a region.

The "third generation" finally implies that regions are playing a role on the world stage of global politics. This is often referred to as global "actorness" as the region is performing different tasks as an actor at a global governance level. Prerequisites to speak with one voice in the international arena would include a kind of "regional identity" and a functioning institutional architecture to achieve regional coherence in how to address global issues. In contrast to the previous two generations, the "third generation" would have a clear focus on the external dimension of the region, engage in inter-regional arrangements and become more actively involved as a single entity at the UN and other world bodies (Van Langenhove and Macovei 2010: 17). This form of regionalism is still a normative idea, although the European Union is displaying certain elements of this third generation of regionalism (Van Langenhove and Costea 2005: 12.). Within this third generation one could expect a region to develop a common policy towards the entry and movement of third country nationals. This could imply a common (external) migration policy (e.g. legal migration into the region) and/or a common approach towards refugees and asylum seekers.

Arguments in favour of a regional approach towards migration

A significant part of today's cross-border movements take place within regional spaces. Starting from a broad, quasi-continental, definition of a region, the World Bank has estimated the levels of intra-regional mobility as a percentage of total emigration (World Bank 2011). As recent numbers show, Sub-Saharan Africa displays 63 per cent of intra-regional flows (World Bank 2011:33). The numbers are even higher when looking at sub-regions such as West Africa, where around 7.5 million migrants move within the region, accounting for 86 per cent of total emigration (OECD-SWAC 2008). Europe and Central Asia taken together account for 55.1 per cent of intra-regional flows, followed by the Middle East and North Africa with 31.5 per cent, and South Asia with 28.2 per cent. In contrast, East Asia and the Pacific do not have comparable levels of intra-regional flows (15.1 per cent) as most of the movements are directed towards high-income countries both within and outside the OECD (World Bank 2011: 23). The same is true for Latin America and the Caribbean (intra-regional migration amounts to 12.9 per cent) where 84.8 per cent of all emigrants head towards high-income OECD countries (World Bank 2011: 27). Another important observation in this regard is that South-South migration (understood as migration between developing countries) is larger than migration from the South to high-income countries belonging to the OECD.[6] According to calculations by Ratha and Shaw (2007) 80 per cent of South-South migration for which there is statistical evidence takes place between countries that share a common border, as compared to 20 per cent of South-North migration. It seems therefore reasonable to consider regional migration governance to account for this presumed reality and also to foster