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Introduction: The Institutions of Global Migration Governance

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Introduction

In December 2018 in Marrakesh, 164 countries adopted the Global Compact for Safe, Orderly and Regular Migration under the auspices of the United Nations (UN). The celebration of this achievement, coupled with the heightened political controversies that surrounded it, illustrates the extent to which the global governance of migration is both a highly topical issue in international affairs and a fiercely contested one. While the UN insists that the Compact fully respects states' sovereignty, governments are less convinced and many of them have long been resisting migration-related interventions on the part of international and intergovernmental organisations, which they perceive as a challenge to their right to govern the admission and treatment of non-nationals on their territory (Pécoud, 2021).

Yet, in reality, global migration governance is far more complex than this apparently binary opposition between states and the UN suggests. It is a kaleidoscope of institutions and configurations, a web of complex relations, in which states are connected to other states, migration intermediaries, markets and private business actors, international organisations, migrant networks, and civil society groups. This handbook is concerned with the plurality of institutions that shape and govern migration at the global level, and which are situated *outside of, in relation to, or in opposition to* states. It goes beyond the usual suspects, such as intergovernmental organisations (IGOs) and non-governmental organisations (NGOs), and examines a wide array of institutions, such as social networks, smuggling cartels, religious transnational organisations, cash transfer companies, security firms, trade unions, families, sponsors, etc.

The key questions that run throughout the volume include the autonomy and agency of these institutions, their relationship with states, and the manner in which they interact with practices and logics of sovereign control over migration. Contributions describe the variety of migration institutions and governance configurations at work across the world, and the ways in which these affect migration dynamics and are affected by changing migration patterns – with the shared objective of contributing to a renewed and nuanced understanding of migration governance. With that objective in mind, this introduction reviews the core arguments developed in this handbook, while presenting a comprehensive overview of the institutions involved in global migration governance.

Revisiting Global Migration Governance

Global migration governance has become a key issue over the past decades, both for researchers and from a policy perspective. It often refers to the normative search for mechanisms that *should* be put in place to better govern migration, on the assumption that migration is currently not adequately governed. There are different approaches to improving migration governance: especially in the Global North, states have taken measures to tighten migration control, in order to remedy to what they perceive as their current incapacity to control their borders (Hollifield et al., 2022); at the international level, however, the dominant idea is

that states should rather engage in multilateral cooperation, which is viewed as the best way forward for improving migration governance.

This is not a new situation. As early as 1927, the first director of the International Labour Organization (ILO), the French Albert Thomas, argued that the moment had arrived ‘for considering the possibility of establishing some sort of supreme supranational authority which would regulate the distribution of population on rational and impartial lines, by controlling and directing migration movements and deciding on the opening-up or closing of countries to particular streams of immigration’ (Papadopoulos et al., 2015, p. 13). Today, the Global Compact mentioned above is just one manifestation of a fairly similar quest for mechanisms of global coordination that would go beyond the one-sided and unilateral strategies designed by states.

This quest is currently taking place in the context of a ‘global migration crisis’ (Weiner, 1995): in a post-Cold War era, migration is perceived as escaping states’ regulatory capacities, and as being one of the global issues over which sovereign states are ‘losing control’ (Sassen, 2015). There is indeed evidence that migration policy is a case of ‘policy failure,’ in the sense that governments tend to fail to achieve their stated objective, which leads to situations in which public demand is increasingly disconnected from policy choices (Ruhs et al., 2019). Even though there are good reasons to question this notion of a ‘control gap’ (Bonjour, 2011; Garcés-Masareñas, 2019), the fact remains that it makes for a context in which global governance is presented by its advocates as a miracle potion capable of re-establishing states’ control over migration – albeit through interstate cooperation rather than unilateral policymaking.

Since the 2000s, states have thus been discussing migration at the multilateral level, often under the auspices of the United Nations, or within intergovernmental settings such as the Global Forum on Migration and Development (GFMD). These discussions have taken place in an ongoing climate of crisis, particularly as far as the refugee/migration crisis in the Euro-Mediterranean region is concerned, which has fuelled a growing politicisation of issues relating to migration, integration, and diversity in general. This has in turn contributed to the rise of exclusionary, or even racist, nationalist populist movements in a number of Western countries.

Recent outcomes of those discussions include the 2017 New York Declaration for Refugees and Migrants and, in 2018, the Global Compact for Migration and the Global Compact on Refugees. But even though these agreements testify to the formal recognition, by states, of the need for multilateral governance mechanisms, the extent to which these (non-binding) processes can really transform governments’ practices remains unclear. This is also because, in more general terms, both the debates of the early twentieth century and those of today are situated in a particular global context in which ‘peaceful cooperation, expanded human rights, and higher standards of living’ (for both migrants and non-migrants) are concomitant with processes of *illiberalisation* across the globe and with ‘intensified group conflicts [and] deteriorating social systems’ (Rosenau & Czempiel, 1992).

Another feature of these discussions is their functionalist roots, corresponding to the practical reality that a global phenomenon such as migration cannot be properly governed by states alone and requires coordination and cooperation among them. This cooperation also needs to include not only states, but also non-state actors, in hybrid governance configurations involving governments, markets, firms, international organisations (IOs), non-governmental organisations (NGOs), and transnational social movements (TSMs) – operating at different levels of governance (local, national, international, and transnational), and with complex relationships of power and influence between them.

As far as their objectives are concerned, multilateral discussions over global migration governance privilege mainstream liberal democratic values: from this perspective, migration

should be governed in a way that is both socio-economically fruitful (in terms of development, remittances, labour market shortages, etc.) and respectful of fundamental human rights. Market-friendly and rights-based principles are viewed as being in the interests of all, and as paving the way for the development of a broad migration regime to complement the existing refugee regime (which applies to only a small proportion of people on the move). Cooperation over migration is also expected to fill in a gap, by complementing existing multilateral cooperation frameworks such as those related to other transnational flows (goods or capital) or to other global issues (development, climate change, human rights, etc.).

However sensible such general principles may be, this programme is not free from contradictions and dilemmas. The pursuit of economic goals can easily clash with the respect for rights, and there is an obvious and well-known tension between respect for the rights of non-citizens and the principle of sovereign authority. The uncertain fate of migration-related human rights instruments, such as the UN Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW), has made this particularly clear (Pécoud, 2017). In more general terms, migration governance exemplifies the contradictions that lie at the heart of liberal/democratic political values, especially with regard to what Cole calls the ‘incoherence between the liberal polity’s internal and external principles’ (2000, p. 202) – that is to say, the disjuncture between the liberal, democratic, and rights-based values that apply inside national borders, and the lack of respect for these values at the border.

Faced with such inextricable political contradictions, the UN tends to depoliticise issues of migration, and to develop a technocratic programme, with the aim of reducing frictions between states (and between states and non-state actors) and maximising cooperation – yet without changing the rule, that is to say without challenging the prevalence of state sovereignty and ‘the national order of things’ (Malkki, 1995). This is the case, for example, with regard to the notion of ‘migration management,’ which is predominantly about migration and border control, but includes references to humanitarian imperatives concerning migrant protection and to an economic agenda connected to the facilitation of labour migration (Pécoud, 2015).

Yet, as a concept, ‘global migration governance’ is not only about what *should* be done. It can also refer to what is *actually* being done, through empirical descriptions of the complex and multiple ways in which migration and the lives of migrants are governed at the global level – *with* or *without* states’ interventions. The assumption here is that, despite the close connection between migration control, citizenship, and state sovereignty, governments are far from being the sole actors in the governance of migration, and that non-state actors play a key role both independently from, and in relation to states.

If one moves away from a normative definition of global migration governance to an empirical one, the issue is no longer the elaboration of a coherent and overarching framework to ensure cooperation, but rather the fragmentation of this process. The mobility of people, and the outcomes of this mobility, are indeed shaped by many actors of different nature, at different levels of responsibilities, and in different parts of the world. This makes for tensions and potential incoherence, such as when governments, civil society, or the private sector pursue different objectives, and therefore confront each other. But fragmentation can also yield coherence, and does not preclude the emergence of patterns of coexistence between actors with different agendas. This results in permanent tensions between opposition and complementarities, and also often leads to unstable governance patterns that contrast with the ideal of order and stability that is envisaged by normative efforts in the field of migration governance.

Examples include the role of authorities above and below the state level in shaping migration flows, such as cities, regional organisations, and international/intergovernmental

entities. Migration flows are also influenced by non-state actors such as NGOs, trade unions, and the private sector. And in addition to formal and well-identified organisations, migration is also influenced by other, less tangible dynamics, such as information flows, religious beliefs, gender relations, networks, etc. Ideas, beliefs, and knowledge play a key role in governance mechanisms, because ‘the structures of human association are determined primarily by shared ideas rather than material forces, and [...] the identities and interests of purposive actors are constructed by these shared ideas rather than given by nature’ (Wendt, 1999).

In order to systematise the web of ideas, practices, and power relations that shape global migration governance, we propose to build upon broader definitions of governance as a mode of stable regulation of social systems that may or may not include states (Rosenau & Czempiel, 1992), and to draw in particular on the concept of *institution*. In what follows, we discuss some of the core implications of this conceptual umbrella, before turning to the ways in which it can be applied to global migration governance.

Institutions of Global Migration Governance

Institution is one of the broadest and most debated concepts in social sciences. Institutions are often conceptualised as organising structures that shape everyday lives, and which range from kinship, language, religion, or markets to politics. These institutions have a regulatory function as ‘systems of established and prevalent social rules that structure social interactions’ (Hodgson, 2006), or as a set of ‘informal constraints (sanctions, taboos, customs, traditions, and codes of conduct), and formal rules (constitutions, laws, property rights)’ that ‘create order and reduce uncertainty in exchange’ (North, 1991, p. 97). Furthermore, ‘institutions influence behaviour not simply by specifying what one should do but also by specifying what one can imagine oneself doing in a given context’ (Hall & Taylor, 1996, p. 948). Institutions thus shape cognition, and in return cognition shapes social bonds and thus institutions (Douglas, 1986).

In more concrete terms, institutions shape the dynamics behind mechanisms of cooperation, solidarity, or network formation. This is well documented in migration studies, which has shown the role of family, friendship, kinship, and ethnicity in the initiation and continuation of migration flows (through concepts such as chain migration or migration networks). In Chapter 27, Flore Gubert reviews this literature and emphasises that migrant networks are structures of both constraints and opportunities, according to a dynamic perspective that draws upon a deterministic approach to migration drivers while also recognising migrants’ autonomy and agency.

Institutions can be ‘formal bureaucratic structures,’ but they exist ‘alongside informal networks’ to produce different ‘social logics and registers of identity’ (Sardan, 2013). Coexisting formal and informal institutions may converge or diverge, leading to social orders that either collide or conflate with one another. For instance, research on migration governance has often opposed formal ‘recruiters’ (in the sense of official intermediaries that operate to bring workers from one country to another) to ‘smugglers’ (who are informal intermediaries offering/selling migration opportunities in contexts where mobility is illegal). Yet, whether formal or informal, both are transnational brokers in the sense of ‘human actors who gain something from the mediation of a valued resource that he or she does not directly control’ (Lindquist, 2015). In practice, brokerage is not marked by a dichotomous split, but rather creates a grey zone serving the interests and benefits of labour markets, states, and migrants themselves – despite stark inequalities and relations of domination. This is discussed in Chapter 15 by Anna Triandafyllidou and Letizia Palumbo, which addresses the prohibition of smuggling and trafficking, and in Chapter 23 by Claire Beaugrand and H el ene Thiollet, which focuses on migration brokerage in the Gulf.

Certain institutions have a limited scope, as they provide an issue-specific set of rules (such as traffic regulations or exchange rates, for example). But other institutions encompass extremely broad arrays of rules, ranging from the least constraining to the most rigid: language, for example, is an overarching institution that provides people and societies with tools with which to think and communicate. Likewise, religions are broad social institutions grounded in sets of beliefs and practices, and serving as the basis for large communities: the role of religious institutions in governing migration is explored in Chapter 19 by Sophie Bava, who shows how religion is a key institution and resource in migrants' experiences, and in Chapter 20 by Mélodie Beaujeu, who addresses the history of efforts by churches to organise human mobility.

Institutions are generally associated with a number of core characteristics and key debates. Firstly, they introduce order and predictability into social life: without them, interactions between people would be chaotic and unmanageable. Secondly, they feature a combination of rules that are both constraining and enabling: constraining in that they limit peoples' freedom, and enabling in that they make it possible for people to interact. One of the key debates concerns the complex relationship between *institutions* and *organisations*. The two terms are sometimes used interchangeably, and indeed they refer to fairly similar processes of ordering social life, by introducing standardised patterns of behaviour in order to coordinate human interactions. According to one view, organisations constitute a specific category of institutions, corresponding to formal structures, with clear and explicit rules, a physical existence, and staff or members – thereby contrasting with other institutions that are less formal and more widely encompassing (such as language or social conventions, which are institutions but not organisations). According to an alternative view, institutions and organisations are two distinct realities: in line with the influential argument developed by Douglass North, institutions constitute the rules of the game whereas organisations are the players; institutions would then correspond to the overarching framework within which people and organisations interact. This distinction is not always operational, however, as organisations are not simply players abiding by external rules: they also shape the rules for the people who interact within them – thereby functioning as institutions themselves.

Institutions also need to be conceptualised within broader discussions on social change. Rather than simply imposing fixed rules, institutions are embedded in interactive frameworks in which actors negotiate symbolic and material resources, and construct identities and beliefs. Viewing migration governance through the lens of institutional frameworks necessarily brings about a fluid and pluralistic approach: governance is not just the output of organisational work, nor the simple outcome of cooperation or conflict between actors. While the process of governance is about steering and controlling, it is intrinsically *relational*, and does not take place in a vacuum: migration governance processes are embedded in broader or related social rules, which shape behaviours and interactions, and determine what is thinkable/doable and what is not. The social rules and ideas that influence migration governance develop both within and outside migration governance processes, such that migration governance is a part of broader processes of social change. It follows from this dynamic approach that institutions are inseparable from processes of institutionalisation: rather than creating an opposition between formal and informal institutions, we are instead led to explore how uncodified/'soft' rules may be hardened and transformed into a coercive system (and vice-versa).

This handbook thus draws upon the concept of institution to deepen our understanding of global migration governance, the interactions between non-state and state institutions, and the global social transformations that have taken place, and continue to arise in this domain. The discussion is organised around different levels of institutionalisation, which are summarised in Figure 1.

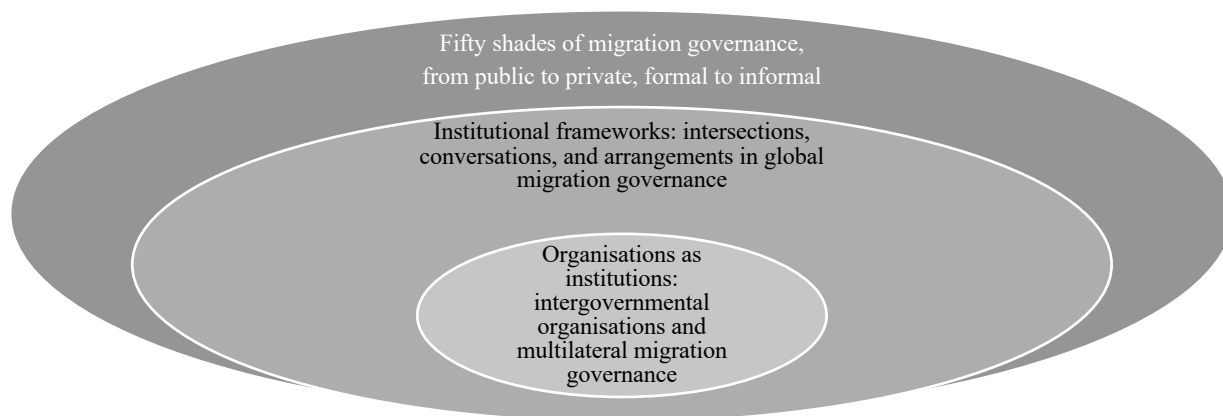


Figure 1: Institutions of Global Migration Governance

First, in the inner circle, organisations are understood as institutions. A first group of chapters in this handbook looks at the place of organisations such as IOs or NGOs in global migration governance; they investigate their nature and discuss their role, whether they act as agents of their member-states/donors, or as actors exerting an influence in their own right (see Chapters 2 to 7). The second circle corresponds to international frameworks, or meta-institutions: these are less formal, often multi-actor, international arenas in which states and non-state actors interact and produce norms, narratives, or policies. These include intergovernmental forums (Chapters 9 to 11), or groups of different actors that are united by common goals (such as trade unions, see Chapter 12). Finally, the third circle (entitled *fifty shades of migration governance*) relates to institutions in the broad sense, that is to say, the public and private institutions that collide or enter into conflict in the governance of migration and migrants' lives, and the formal and informal institutions that shape migration outcomes.

Organisations as Institutions

According to this first conception, institutions are organisations, that is to say, well-identified entities, endowed with a clear set of internal rules, an explicit and codified mandate, and a physical existence (for example, with headquarters and staff). When it comes to global migration governance, inter-governmental organisations are widely understood as constituting the building blocks of global governance. In this volume, four IOs are examined in particular depth: the United Nations High Commissioner for Refugees (UNHCR), the ILO, the International Organization for Migration (IOM), and the United Nations Development Programme (UNDP).

In Chapter 4, Adèle Garnier addresses the case of the UNHCR, showing how – from the point of view of global migration governance – this organisation provides a unique example of a single and well-identified organisation working on the basis of a clear political and normative mandate. Yet, even though the UNHCR relies upon a robust refugee regime, the chapter also shows that the work of this agency has gradually become embedded in an increasingly populated context, as it now operates in conjunction with different civil society organisations (CSOs), private actors, and other IOs. This is characteristic of the institutional framework of global migration governance, in which organisational entities navigate in a complex setting, populated by other entities of a different nature working on similar issues. In the case of the UNHCR, this situation challenges the once-dominant position of this organisation: given the growing salience of refugees (and forced migration in general) in world politics, other actors have started to play a significant role in this field.

One of these other actors is the International Organization for Migration, which is the object of Chapter 2 by Elaine Lebon-McGregor. In contrast with the UNHCR, the IOM has long been institutionally fragile, with no clear and steady mandate. Yet this fragility is also a strength, as it enables this organisation to work on very different migration-related (and sometimes migration-unrelated) issues. Whereas the UNHCR is institutionally quite strong, with a hard-law mandate and a firm position within the UN, its well-identified mandate has at times prevented it from addressing certain emerging issues, like environmental migration (Hall, 2015). From that perspective, the IOM's looser mandate is better suited to addressing the multiple migration-related issues that arise in the domain of global migration governance. By acquiring a permanent status in 1989 and then joining the UN in 2016, the IOM has established itself as a key player in the field – thereby reshaping the institutional landscape and creating certain tensions with other organisations (see also Chapter 3 by Younes Ahouga).

The International Labour Organization is one of the IOs that has long been challenged by the changing landscape of global migration governance. In Chapter 5, Nicola Piper provides an overview of this organisation, which is not only the oldest intergovernmental actor in the UN system, but also the one that was from the start mandated to address the rights and protection of foreign workers. The ILO has strived to construct an international labour migration regime through the adoption of hard-law Conventions. This has led to mixed results, however, at least from the perspective of global migration governance: since their beginnings in the 1990s, intergovernmental discussions over migration have systematically avoided the imposition of binding norms about migrant labour; as noted above, this applies to ILO treaties, but also to the UN Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, which enjoys very little support from states. The marginalisation of the issues surrounding migrants' labour rights illustrates the challenges faced by the ILO in pursuing its mandate, but these challenges have not prevented it from further expanding its normative efforts (as shown by the adoption in 2011 of a Convention on the under-regulated issue of domestic work). This Convention also illustrates the porous boundaries of global migration governance: the regulation of domestic work is not an explicitly migration-related policy issue, but given the overrepresentation of migrant workers in this sector it is extremely relevant to the governance of migration (see also Chapter 21 by Rianne Mahon).

In Chapter 6, Giulia Breda analyses another IO, namely the UN Development Programme. She shows how this organisation was initially not interested in migration, but progressively became involved in global migration governance because of the increasing salience of this issue at the intergovernmental level. It did so by anchoring the issues raised by migration to its core development-centred mandate – a move that was facilitated by transformations in development thinking: with the emergence of the notion of 'human development,' and the growing recognition of the need for bottom-up development initiatives, migration became more relevant to the development agenda and migrants were reconceived as 'actors of development' (through remittances in particular). These changes are not straightforward, however, as migration has still not become a central concern for the UNDP – which illustrates the complexity of internal changes within organisations.

As discussed above, these IOs display a dual nature. On the one hand, they establish rules for themselves and for the people they work with (such as refugees in the case of the UNHCR). On the other hand, they operate in a broader context over which they do not have full control, and therefore need to abide by the 'rules' of the broad institutional setting in which they are embedded. It follows that IOs have their own internal institutional configuration, worldviews, and strategies (which vary from one IO to another, and can change over time), while at the same time belonging to an overarching institutional context, characterised by yet more sets of rules, and populated not only by different IOs, but also by other actors (such as

states and civil society organisations). Moreover, even if they are well-established organisations with a clear mandate, these IOs do not play a univocal role: they rather enact a multiplicity of functions and are therefore fraught with internal tensions and contradictions.

Institutional Frameworks

The second level of our model of institutions relates to meta-institutions, or institutional frameworks that shape global migration governance. These frameworks are populated by heterogeneous organisations composed of multiple entities, dispersed over time and space, but of a comparable nature.

A clear example of an institutional framework is that of civil society. In Chapter 16, Carl-Ulrik Schierup, Raúl Delgado Wise, and Aleksandra Ålund document the role played by civil society organisations in global migration governance. They show that CSOs are very far from constituting a single coherent group; rather, they are composed of very different organisations, located in different parts of the world, of very different size and scope, and with different mandates, interests, and strategies. It follows that, while ‘civil society’ is a core actor in UN-sponsored discussions over migration, it is characterised by a multiplicity of roles, which range from full participation to confrontation. The chapter further emphasises the complex relationship between civil society and other actors, such as states and IOs: the emergence of a composite transnational civil society is to a large extent a reaction ‘from below’ to multilateral discussions over global migration governance.

Another example of institutional frameworks is the labour movement. While trade unions now arguably play a less visible role in multilateral discussions over migration, they remain important actors, particularly at the ILO, where they form a constituent part of this organisation. Unions also have a very long history of involvement in migration debates, as from the beginning of the labour movement in the nineteenth century the question of migrant workers has been intensively discussed, in a way that has featured attitudes of both defiance and solidarity. Unions have therefore long played a role in the governance of migration, and particularly in the treatment of foreign workers. Yet unions do not make up a single organisation, and the labour movement is a conglomerate of distinct organisations, present all over the world, which each have their specific history and worldviews. Their attitudes towards labour migration therefore vary and have changed over time. But as Leo Lucassen shows in Chapter 12, despite this internal diversity, the labour movement shares certain core characteristics and concerns.

In Chapter 20, Mélodie Beaujeu describes an organisation that has more than a hundred years of experience with migration governance, namely the Catholic Church. Since the nineteenth century, Catholicism as an institution has provided a normative backbone to migration and migration policy, and the Catholic Church as an organisation has been involved in migration-related activities. The vulnerability of migrants has long fitted into some of the Church’s core spiritual messages, while the global presence of Catholicism has facilitated transnational activism among migrant communities. Catholic organisations continue to play a key role in global migration governance and are strongly represented among CSOs. But here again, the Catholic Church is an institution composed of a plurality of local actors, which play quite different roles in their respective local contexts, while also being integrated into a broader global institution that plays a key role in world politics and confers power and influence on its local branches.

Global migration governance is also characterised by informal institutions that shape international conversations and policies. Particularly relevant to the study of global migration governance are the negotiations or consultative processes in which stakeholders of different

natures (governments, CSOs, private sector actors) discuss migration-related issues. In Chapter 9, François Crépeau, the former UN Special Rapporteur on the human rights of migrants, and Anna Purkey provide an account of what they call a ‘conversation’ among states and non-state actors over global migration governance. They document the loose set of initiatives, peoples, and actors that, over the past two to three decades, have contributed to shaping global migration governance (and led to the recent adoption of the Global Compacts in 2018). As they make clear, no single institutional architecture has emerged out of this process; rather, multiple institutions have worked in parallel, and sometimes together, to forge new practices and new ways of perceiving and governing migration.

In line with this notion of a ‘conversation,’ two chapters explore in greater depth the intergovernmental discussions taking place about global migration governance. In Chapter 10, Hélène Thiollet, Stefan Rother, and Catherine Wihtol de Wenden document the spaces in which ‘global encounters’ over migration happen, focusing on the High Level Dialogues on Migration and Development (HLD) and the Global Forum on Migration and Development. Rather than constituting organisations in themselves, these forums represent networks of organisations, whose purpose is precisely to craft the rules and norms that should govern global migration governance. All the organisations taking part in the discussion share the objective of establishing a broad institutional framework capable of uniting all stakeholders and establishing the ‘rules of the games’ for global migration governance. The chapter shows the complex power relationships that characterise these spaces: on the one hand, they bring together multiple actors with unequal influence (states, civil society, etc.) and thus contribute to challenging or reinforcing the power asymmetries between them; on the other hand, these spaces also favour the emergence of depoliticised discussions over seemingly consensual issues (such as the migration and development nexus). From an institutional perspective, these spaces are shown to be temporary, and therefore unstable and fluid; yet the authors introduce the notion of ‘temporary institutions’ to explain how these arenas support a deeper institutionalisation of global migration governance, for example through the adoption of standards such as those of the Global Compact for Migration.

This Compact is also the object of Chapter 11, by Elspeth Guild and Kathryn Allinson. In an analysis of the institutions and actors that contributed to its drafting and adoption, they highlight the struggles that took place between the different stakeholders (including UN actors, diplomats, regional bodies, researchers and experts, and civil society), their motivations, and the fundamental differences in how they viewed migration and its relationship to human rights and development. The chapter also shows the tension between some states of the Global North (which mainly seek to control their borders) and others, mainly of the Global South, which pursued other objectives (such as development or human rights). The outcome of this conversation between a heterogeneous set of actors, and of the internal dynamics behind the drafting of the Compact, was the decision to opt for a non-binding document.

Non-State Institutions and the State

While migration policy remains under the close control of state sovereignty, global migration governance is also shaped by non-state actors. Because of this configuration, the direct influence of those non-state actors is limited, but they nonetheless develop strategies to work ‘through’ states by indirectly shaping states’ behaviour. From this perspective, the purpose of crafting an institutional framework, however loose it may be, is precisely to embed states in an environment that, while apparently respectful of their sovereignty, constrains their policy options. Relations between state and non-state institutions vary over time and space, and we bring non-state institutions and actors into the political analysis of migration governance as

‘a constellation of political principles, norms and practices, which fall outside the scope of terms like “state” and “policy”’ (Cvajner et al., 2018).

In Chapter 3, Younes Ahouga describes how the IOM recognises the central role of state sovereignty in migration governance, and how this limits its own efforts. The IOM has long emphasised its respect for sovereignty, for instance by maintaining a somewhat distant relationship to international human rights law and by favouring ‘dialogues’ over the establishment of binding agreements. Yet the IOM also pursues the objective of steering states’ behaviours, by shaping an institutional network of migration management in which states coexist with other actors (such as IOs). The chapter analyses in detail the documents in which this strategy is spelt out, showing how the IOM aspires to act upon states, which in turn will act upon migrants.

In Chapter 25, Thomas Lacroix analyses the role of cities, as another type of actor that aims to play a role in migration governance despite lacking formal authority to do so. Being strongly exposed to migration flows, and having to address the local/urban consequences of immigration policy, cities and their mayors have sought to increase their influence on governments. While this process is difficult within the national policymaking context, it has been facilitated by intergovernmental discussions over global migration governance: in the context of the negotiations over the Global Compact for Migration, cities institutionalised their informal networks in order to exert a greater influence on the outcome of the discussions. Here again, cities attempt to shape the broad set of institutional rules that, in turn, will shape states’ strategies.

Another group of actors that exert influence over states is the private sector, particularly as far as security and borders are concerned. In Chapter 18, Damien Simonneau highlights the contrast between the sovereign nature of migration/border control and the strong presence and influence of private companies therein – a contrast that is characteristic of a neoliberal context in which statehood is deeply interconnected with market logics. He shows how state sovereignty is simultaneously reinforced and challenged by these public-private partnerships: states manage to ‘thicken’ border control through sophisticated technologies, but also tend to be dispossessed of their sovereign prerogative, while also creating problems of accountability.

This makes for complex situations in which the monopoly of the state over the control and treatment of foreigners is maintained, while the state itself is subject to influence from non-state institutions. In other situations, institutions may also work against the state: in Chapter 20, Mélodie Beaujeu recalls how the involvement of church actors in migration governance was rooted in competition between states and non-state actors; in the late nineteenth century, the expansion of welfare states in increasingly secularised societies challenged the traditional role of the Catholic Church and prompted the latter to search for new areas of intervention, such as migration. From the perspective of the Catholic Church, migrants constituted a category of people outside the state, who were less protected and were therefore in need of non-state interventions.

In Chapter 15, Anna Triandafyllidou and Letizia Palumbo provide a specific illustration of the institutional complexity present in global migration governance, by looking at the governance of smuggling and trafficking. They explore the complex process through which these two realities have been defined and codified, despite the overlaps and the thin line that separates them. They also describe the multiple actors that populate this policy field, from the local to the transnational levels, and from states to intergovernmental actors and civil society. Importantly, an outcome of this institutional complexity is the often-contradictory nature of policy responses to smuggling and trafficking (between security and humanitarian strategies, for instance), and the blurring of boundaries between actors and strategies.

Chapter 23, by Claire Beaugrand and H el ene Thiollet, explores the relationship between the kafala (or sponsorship system) and states in the Middle East, and particularly in the Gulf and Saudi Arabia. Although the kafala stems from local commercial regulations in the Arab world, it was codified under British colonial rule in order to manage labour migration in the imperial context. With the oil boom and mass immigration to the Gulf, the kafala became enshrined in migration and labour law, making it compulsory for every foreigner to be ‘sponsored’ by a national (the sponsor or *kafil*) in order to reside, work, or invest in the destination country. As such, it is often considered to be the main vector of migrants’ exploitation and abuse, since it endows individual nationals with a means of legal domination over foreigners and allows them to extract a rent from immigration. From the perspective of states, weak public bureaucracies have used the kafala to delegate the control of immigration to sponsors, who are often prominent members of royal families or entrepreneurs. The kafala thus privatised the governance of immigration in the Middle East. However, since the 1990s, and to an increased extent after the Arab Springs, Gulf states embarked upon labour market and immigration reforms aimed at dismantling this system. The chapter shows how social institutions embedded in rentier states have progressively evolved, and how Gulf monarchies have increasingly claimed a sovereign grip on migration processes by curtailing the autonomy of intermediaries and migrants.

Institutions and the Meaning of Migration

As suggested above, one of the key functions of institutions is to elaborate shared frameworks that enable communication between people and organisations, while supporting social life by providing common references, expectations, and understandings. When it comes to global migration governance, this is a complex task: while migration takes place everywhere, it is perceived very differently across world regions, and fits into different traditions, sociocultural frameworks, and histories. There is, for example, little in common between, say, the central role played by settlement migration in settler-colonial countries of immigration (such as the United States, Canada, or Australia), guest worker systems in the Gulf States, and forced migration due to conflicts or disasters in the Global South. From this perspective, a key step in global migration governance is the establishment of shared frameworks that enable these different facets of migration to be apprehended as a whole, with a view to their being governed through a common governance framework.

The elaboration of global frameworks is a task that is often associated with IOs, which develop a worldwide perspective on the issues they are concerned with, thereby constructing the worldviews and data necessary for making the world legible. For example, in Chapter 3, Younes Ahouga analyses a document produced by the IOM in which this organisation elaborates a specific narrative about migration and migration governance. Within this narrative, the exact nature of the problems to be solved is outlined, and the role of different actors – including the state – is specified. The narrative also connects migration with other narratives, including those on human rights, development, and sovereignty, and is accompanied by data and indicators that provide evidence upon which governance interventions can be grounded.

A similar analysis is provided by Giulia Breda in Chapter 6, in which she illustrates the role of IOs in crafting shared worldviews about migration. The chapter documents how the UNDP attempts to connect development with migration, and produces a specific narrative to do so. It highlights the complexity of this process, particularly with regard to the multiple levels of knowledge-production that are involved: migration realities on the ground are framed in a way that supports global narratives, while, at the same time, these global narratives shape the interpretation of local dynamics. Narratives are therefore closely associated with power and influence, since this translation from the local to the global is intended to reinforce the position

of the UNDP in global migration governance. It is also a multi-actor process, since on-the-ground actors (such as local researchers or associations) are implicated in the global strategies pursued by the organisation. The chapter illustrates, through its account of interactions between actors in the field and in organisational headquarters, that IOs are themselves heterogeneous and multi-level organisations.

IOs are not the only actors to confer meanings on migration realities. In Chapter 20, Mélodie Beaujeu provides an analysis of the ways in which the Catholic Church not only provided services to migrants, but also developed a narrative about peoples' mobility that corresponds to values of universality and transnational solidarity. This constituted an early attempt at thinking about migration in a transnational/global manner, while leading to the establishment of specific institutions within the Catholic Church (such as the Scalabrini network). The role of religion is also addressed in Chapter 19, in which Sophie Bava documents how religious institutions interact with migration dynamics between Western and North Africa. As a set of beliefs and meanings, religion provides migrants with the spiritual resources needed for their journey, while also providing the lens through which their precarious situation can be apprehended. Moreover, as a concrete set of human and social ties, religion also provides the basis for community formation, and for the networks that accompany and support people on the move. In turn, mobility reshapes religions and religious practices, by renewing places, peoples, and beliefs.

Institutionalising Private Interactions

The discussion so far has focused on various institutional patterns that are explicitly designed to govern migration, or to influence migration governance. Yet global migration governance is also shaped by a myriad of private actors that, while less visible, play a key role in organising peoples' mobility. Here too, various patterns of institutional configurations can be identified.

A well-known example is the existence of migrant networks. In Chapter 27, Flore Gubert reviews the evidence and shows how networks have long played a key role in migration dynamics. As institutions, migrant networks constrain individuals' behaviours, for example by influencing the course of migrants' journeys; but they also provide the social capital that enables people to migrate despite possessing limited resources. As institutions, migrant networks may be more or less formalised. While they often tend to remain informal, they may be institutionalised, for instance in the form of migrant-led organisations or hometown associations (HTAs). Networks also enable the circulation of resources, such as information or money, which in turn shape both the worldviews and material conditions of future migration flows.

With regard to information, Chapter 26 by Julia Van Dessel explores how information circulates among migrant networks, but also how governments attempt to intervene in this process by disseminating their own information. Information is a crucial element in migration strategies and therefore plays a key role within informal migrant networks; in turn, this has incited formal (inter)governmental organisations to participate in this process, and to contribute to the circulation of negative information about migration (on the assumption that the information circulated among migrant networks is too positive, and therefore misleadingly encourages migration). The circulation of information is implicated in both private and public institutional settings that respond to each other, since states and intergovernmental organisations have progressively developed specific tools to try to modify the information shared by migrants.

A similar private-public dynamic can be observed in the case of remittances. In Chapter 24, Anna Lindley analyses how formal institutions (such as IOs or authorities in charge of financial regulation) have established rules to govern the informal circulation of money among migrant communities. Such institutional monitoring of remittances pursues different objectives, ranging from development-friendly attempts to channel them into poverty-reduction schemes to security-inspired attempts to prevent their use by terrorist groups. Here again, institutional interventions ‘from above’ respond to migrant-led institutions acting ‘from below’. The circulation of both information and money is therefore characterised by informal conditions, while at the same time being marked by attempts to regulate and institutionalise them through the elaboration of more formal institutions and explicit rules.

Aside from migrant networks, another pattern of social/human interactions that plays a key role in migration governance is marriage. In Chapter 22, H el ene le Bail shows that, while marriage is a private affair, it has come under increasing scrutiny because of its key role in migration through family reunification. This has placed personal issues, such as love and intimacy, at the centre of migration governance, while raising important issues in terms of women’s vulnerability and consent. The above-mentioned kafala or sponsorship system is another example of a set of codified social interactions that plays a central role in migration governance (Chapter 23, by Claire Beaugrand and H el ene Thiollet). The kafala is an institutional framework that not only institutionalises social and labour market segmentation, but also regulates social relations and interactions between locals and foreigners within host countries and across borders. Although it establishes an administrative domination of nationals over foreigners, it forms connections between locals and immigrants outside the remit of the state – thereby creating room for manoeuvre both for nationals and migrants in the Gulf’s authoritarian context.

At a broader level, other institutions that shape social and human interactions also play a role in global migration governance. This is the case with care and the provision of domestic services: in Chapter 21, Rianne Mahon highlights the ways in which this sector of activity is organised, and how reliance on foreign care-givers has become indispensable to large segments of the world population, especially in wealthy countries. This makes for a semi-structured institutional configuration that directly interacts with migration governance and leads to the creation of transnational care chains, that is to say, the structural need for care workers across borders, with far-reaching consequences for family organisations worldwide. In turn, these patterns of social organisation are themselves embedded in even broader social norms, such as gender relations: in Chapter 14, Laura Foley thus draws on field research in Malaysia to document how gender relations pervade the entire process of migration governance. While usually not explicitly codified, gender stereotypes function as an institutional background for most immigration policies, leading to discrimination, gender segregation on the labour market, and biased state interventions.

Migration-Specific and Migration-Unspecific Institutions

Global migration governance is shaped by both migration-specific and migration-unspecific institutions. This is particularly because the salience of migration issues has attracted the attention of several institutions that lack a clear mandate for addressing global migration governance: this is the case of cities, for example, as well as of IOs whose mandate used to be unrelated to migration. This is also because, as shown by the cases of marriage or domestic work, many aspects of social life have a migration component – and therefore the way in which they are institutionalised is relevant to migration governance.

This process is illustrated by the case of the governance of environmental change, and the strong connection that has progressively emerged between climate change and migration.

This is the object of Chapter 13 by François Gemenne, in which he provides a historical account of how these two areas of governance have interacted since the 1990s. Climate change governance was initially unconcerned with migration, but soon attempted to include migration in its remit, mainly owing to a recognition of the severe consequences of inaction in the face of growing environmental pressures. In parallel, migration-specific institutions were slow, and often reluctant, to address climate-related movements of people. The result is an awkward governance patchwork, in which migration-unspecific institutions have, at times, seemed more advanced on the issue than migration-specific institutions.

Another example is that of regional bodies. In Chapter 8, Ine Lietaert and Antoine Pécoud explore the role of regional organisations in migration governance, showing how they have been progressively led to play a role in migration governance despite having an initial mandate that was unrelated to this field. In most regions of the world, free trade and the establishment of a common market are the initial and primary objectives of regional integration processes; yet this has often involved addressing the mobility of people, even if progress has been much more uneven in this domain compared with the mobility of goods or capital. In the EU, this has proved a hugely complex process, in which the region has been struggling not only to govern the internal mobility of Europeans, but also the entry and stay of non-Europeans.

Likewise, in Chapter 7, Miriam Bradley documents how the International Committee of the Red Cross (ICRC), an organisation that initially had very little to do with migration, progressively became involved in migration-related policy issues, particularly as some of its core activities (detention, family tracing) became increasingly closely connected to those issues. However, it does not plan to turn into a fully migration-focused organisation, and exemplifies a situation in which migration-unspecific institutions play a role in migration governance. To make sense of these complex institutional configurations, Mélodie Beaujeu relies in Chapter 20 on the concept of a ‘weak field,’ derived from Bourdieu’s sociology. The concept is used here to refer to institutional spaces in which migration-related issues are discussed, but by migration-unspecific actors whose main field of activities lies elsewhere. These weak fields thus make for intermediary and inter-institutional spaces, in which migration is addressed as a sub-topic, at the intersection of several other issues.

Institutions and Time

Institutions have a complex relationship with history. On the one hand, they display inertia: once established, institutional patterns shape future developments, and current governance is therefore constrained by past institutional configurations. On the other hand, organisations and institutional frameworks also change over time, for reasons that have to do with internal dynamics, structural changes, and external shocks.

This is clear in the case of IOs, which are well-established organisations that display continuity over time, while working in a changing geopolitical environment that compels them to adapt. This is illustrated with reference to the ILO in Chapter 5, in which Nicola Piper recalls the century-long history of this organisation; she documents the continuities and ruptures in its mandate and activities pertaining to migration, and highlights how this organisation became somewhat marginalised at one point, largely because it became increasingly difficult for it to advance its agenda of protecting migrants’ labour rights in a post-Fordist context of labour market deregulation, with many migrants occupying under-protected jobs. Yet institutional continuity has enabled the ILO to pursue its activities throughout changes in the socioeconomic and political context – and to keep playing a role in today’s global migration governance.

In Chapter 10, Hélène Thiollet, Stefan Rother, and Catherine Wihtol de Wenden provide an account of the evolution of power configurations within multilateral arenas that seek to

advance cooperation in global migration governance. They examine the two High-level Dialogues on International Migration and Development (HLDs) held in 2006 and 2013 at the UN headquarters, and the successive annual GFMD meetings across the globe and online. They dissect the evolution of discourses, perceptions, and positions of organisations and actors in these specific arenas since the early 2000s, in order to explain the dynamics and political outcomes of global migration governance.

In a very different way, Chapter 17 by Olivier Clochard explores the physical/material nature of institutions, and the ways in which this is rooted in history and has shaped migration governance throughout history. This is done through the study of camps, viewed as institutions that characterise migration governance across different contexts. The camps that are discussed were established in a specific setting, for example in the context of the Second World War or of decolonisation, but have subsequently been used in quite different historical conditions, such as contributing to the securitisation of migration and the control of peoples' mobility. From this perspective, camps constitute institutional infrastructures that, while rooted in specific contexts, inspire and constrain today's governance of migration.

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