

Rey Koslowski

Conclusions: Prospects for Cooperation, Regime Formation and Future Research

To appear in Rey Koslowski, ed. *Global Mobility Regimes* (Palgrave Macmillan, 2011).

As the migration and development agenda within the UN has moved forward, there has been increasing discussion among academics and policy analysts alike over the possible development of a migration regime at the global level. Despite the increasing calls for international cooperation on migration, an international migration regime is unlikely to form largely because major migration destination states have no reason to make multilateral commitments to keeping their labor markets open when migrant labor is readily available on a unilateral basis; they see little value in reciprocity of labor market access; and, not surprisingly, they are not providing the necessary leadership.

Global mobility is a more all-inclusive category for understanding the dynamics of international migration that also widens the scope of regime analysis to include international cooperation on international travel. International cooperation on international travel reaches back to the League of Nations but it has generally been overlooked by migration and international relations scholars alike. This cooperation has enabled billions of international border crossings and has maintained the flow of international travel even during wars and major international political conflicts. While largely taken for granted over the years, cooperation on international travel has recently intensified with more international organizations becoming involved, more international initiatives being launched, more international agreements signed and more new technologies transforming the practices of international travel regulation and, in turn, requiring even more international standard setting and technical cooperation. Given that

increasing international travel is a growing border security concern that engenders a different set of state interests, the political constraints and opportunities for international cooperation on travel are substantively different than international cooperation on migration. The increasing intensity of this cooperation furthers the establishment of an international travel regime at the global level, joining the well-established international refugee regime. An international labor migration regime does not exist but has a potential that may be realized through linkage with the travel and refugee regimes.

Given that international regime theory largely developed to help explain international cooperation outside of formal international organizations, as was the case with the GATT, analogies to the GATT for thinking about an international labor migration regime can be useful, as several authors¹ and contributors to this volume have demonstrated. Most have envisioned rounds of negotiations toward an overarching agreement that links the well-established refugee regime and cooperation in trade in services, or even international trade in general,² to areas of international migration that have not been subject to international regulation. Given that migration destination countries have not been particularly responsive to economic and human rights arguments for the initiation of such rounds of negotiations, perhaps the security implications of accelerating international mobility may provide increased impetus toward broader cooperation that links cooperation on labor migration desired by source countries to cooperation on securing international travel desired by destination countries.

Discussions of an international migration regime based on an agreement similar to the GATT have focused on a principle of “regulated openness” as opposed to labor market protectionism through the exclusion of migrants as well as to the liberal doctrine of unfettered free movement of labor across the boundaries of sovereign states.³ An all-embracing global

regime for the orderly movement of people would involve a bargain in which destination countries would permit legal migration of labor while source countries would agree to do what they could to suppress illegal migration as well as accept orderly repatriation of their nationals who migrated illegally, despite the source countries' best efforts to dissuade that. From the destination countries' perspective there is little incentive for international commitments to keep labor markets open to immigrants. There is no compelling reason to change the status quo when legal labor migration can be permitted (and illegal migration tolerated) on a unilateral basis in periods of economic growth and shut down in time of recession. From the source countries' perspective this bargain is inherently problematic. Not only do their economies increasingly depend upon remittances from legal and illegal migrants alike but there is relatively little that a state can do to prevent its nationals from leaving without at the same time transgressing international human rights norms and possibly also infringing on citizens' constitutional rights. Starkly put, from the source countries perspective, if destination state governments largely condone employment of illegal migrant workers and are having difficulties controlling their borders, it is not the source countries' problem.

In the wake of Sept 11, 2001, the stakes in establishing a regime for secure international travel are much higher for the U.S., EU member states and other migration destination countries than past incentives for establishing an international labor migration regime. For source countries, participation in and compliance with the security dimensions of the international travel regime would involve the practical implementation of international norms on document security and biometrics, information exchange and international cooperation among border control authorities and law enforcement agencies that may be prohibitively expensive and administratively very difficult, as Sadiq (Chapter 8) and Gavrilis (Chapter 7) amply demonstrate.

As currently pursued by the U.S. and EU, the global border security cooperation envisioned makes heroic assumptions regarding the identity documentation of much of the world's population. If identity and travel documentation systems of the US and other advanced post-industrial states are so susceptible to fraud and counterfeit, what are we to expect of less developed countries? Sadiq's work (Chapter 8) indicates that in many parts of the world, where the registration of births is far from systematic, national ID systems are weak or non-existent and bureaucracies corrupt, a person's possession of a passport may be more indicative of illegal status than citizenship. Similarly, international information exchanges have been enabled by the internet, however, they rely on a state's capacity to collect, store and retrieve required data. Finally, the international cooperation on border control and law enforcement required for an international travel regime may involve source and transit countries' acceptance of U.S. and/or EU border control officers in their airports and seaports and that may be considered by many domestic political actors as an intolerable infringement of state sovereignty. Hence, it may be politically difficult for many migrant source countries in the developing world to agree to security cooperation within the international travel regime. Even if such agreement is reached, implementation may be just as, if not even more, difficult to achieve.

If U.S. and EU vital security interests are at stake in an international travel regime, and if cooperation on document security and law enforcement for securing international travel is linked to orderly international labor migration, perhaps a more all-encompassing *General Agreement on Migration, Mobility and Security* (GAMMS) could be negotiated. Incorporation of a labor migration regime into a package of global mobility regimes would require leadership of the US in expanding legal immigration of migrant labor while at the same time enforcing employer sanctions to dry up demand for illegal migrant labor. It would require that those EU member

states that have resisted opening their labor markets to immigrants to do so and agree to an EU framework for labor migration. In return, source countries in the developing world would agree to rapid implementation of ICAO travel document standards, automated information exchanges and increasing international border control and law enforcement cooperation.

Trading labor market access for cooperation in combating terrorist travel may very well prove unworkable. Border security advocates in destination countries may argue that reducing terrorist mobility increases the security of all states and should not need to be tied to agreements on labor migration. In many developing countries, the threats of malnutrition and disease overshadow concerns over border security, terrorist travel and the prospect of truck bombs detonated in front of hotels that cater to foreigners. Origin state advocates for increasing opportunities for international labor migration may reject any linkage that “securitizes” migration and prefer to focus instead on convincing destination countries of the benefits of legal labor migration.

Nevertheless, there may be opportunities for international cooperation of a more narrow scope in certain areas where there is a convergence of interests between destination and origin states. One such point of convergence could be in the area of public administration reforms that reduce the cost and increase the security of passports as well as the vital records used in the passport application process. While the above discussion explains why high quality passports issued through secure administrative processes are in the interest of destination states concerned with border security, if such passports can also be made affordable, they are also in the interest of origin states that hope to facilitate the travel and migration of their nationals. A World Bank study⁴ of passport fees in 127 countries, found that high costs of acquiring a passport have become a barrier to migration from many states. Passports cost more than \$100 in nine of the

countries surveyed with the most expensive fee of \$333 charged for a Turkish passport. High passport fees relative to the income of the applicants are even greater barriers to emigration. In 23 countries, passports cost more than five percent of annual per capita income with the highest cost being found in the Democratic Republic of Congo, where the \$150 passport fee represents 125 percent of annual per capita income. Moreover, lengthy application and administrative processes often become opportunities for corruption as unscrupulous officials charge extra fees for “express” service. The spread of such corrupt practices also present opportunities for human smugglers to purchase genuine passports through fraudulent processes. If destination countries were to help finance administrative reforms to issue secure passports through shorter processing times and at lower costs to citizens, origin countries will be in a position to offer their citizens proper travel documents at affordable costs. Such international cooperation and development assistance would help all participating states combat human smugglers and document counterfeiters.

Similar international cooperation could emerge from the convergence of interests to improve the administration of vital records such as birth certificates upon which passport application processes depend for applicant identification. Fraudulently acquired birth certificates or counterfeit birth certificates serve as “breeder documents” used to obtain genuine documents such as passports and to commit identity fraud to obtain social benefits⁵ and are increasingly considered a major security vulnerability among travel and migration destination states.⁶ In many migration origin countries in the developing world, systems for the registration of births and issuance of birth certificates are very weak. They are so weak that world-wide an estimated 48 million children under the age of five were not registered at birth,⁷ thereby challenging the right to an identity as articulated in article 7 of the Convention on the Rights of

the Child and the 2002 General Assembly Resolution, “A World Fit for Children.” Those not fully registered and not provided with a birth certificate are “denied the right to a name and nationality, a situation that may also lead to barriers in accessing other rights including health care, education, or social assistance. Later in life, identity documents help protect children against early marriage, child labor, premature enlistment in the armed forces or, if accused of a crime, prosecution as an adult. Registration also enables the individual to access further identity documents, including a passport (UNICEF 2005).” Some countries such as Mexico have committed themselves to systematic registration of children and have developed an online population register which enables anyone with internet access to check if he or she is properly registered.⁸ If destination countries were to help finance similar administrative reforms to enable origin countries to register all children and provide them proper birth certificates as well as strengthen vital records management systems and secure birth issuance processes, it would help reduce travel document fraud using breeder documents while at the same time helping origin countries to provide children their rights to identity, nationality and corresponding social and educational benefits that all nationals of these states are entitled to receive.

If international cooperation to secure international travel does not embrace major origin countries in the developing world and remains limited to the transatlantic area it will not be as effective as a package of global mobility regimes that secure international travel worldwide. Migrant source countries in the developing world may resist imposition of biometrics in their documents and foreign law enforcement officers in their airports, however, some states will cut bilateral deals that facilitate travel of their nationals and trade through their ports. With increasingly globalized economies, those states that resist cooperating with the US and EU on

border security may suffer significant economic costs from decreasing mobility of their nationals and exports.

International cooperation on migration and mobility, whether on a global or regional basis, need not necessarily lead to liberal outcomes that make it easier for prospective migrants and asylum seekers to cross borders. A package of global mobility regimes would facilitate travel of tourists, businesspeople and migrants deemed legitimate and “wanted” by the states receiving them. At the same time, it would strengthen state capabilities to not only intercept suspected terrorists but also to decrease the “unwanted” migration of illegal workers and asylum seekers.

Given the requirements for leadership necessary to establish such a complete package of global mobility regimes and the domestic political barriers to governments seeking to assume that leadership, the steps toward establishing global mobility regimes may not go much further. There may be opportunities for collective actions that translate into additional broader cooperation on international labor migration in the form of a General Agreement on Migration, Mobility and Security, however, the prospects for such cooperation may only be slightly better than the past efforts toward global cooperation on migration that have yet to produce very much.

Refocusing research on global mobility may be more useful for understanding international cooperation than the currently popular focus on the linkage of migration to international development. The dynamic growth of the international travel regime and a disproportionate interest in promoting tourism and business travel among major migration destination states presents opportunities for linking cooperation on securing international travel advocated by many migration destination states to cooperation that would facilitate labor migration as desired by many migration origin states. Whether states will link cooperation on

labor migration to securing international within the context of the global governance of migration is very much an open question. Nevertheless, understanding the extent and dynamics of cooperation on international travel is essential to a complete understanding of the global governance of migration. Moreover, those policymakers and international civil servants who wish to promote cooperation on migration at the global level must also to fully engage the international organizations involved in regulating international travel if they hope to be successful.

Sustained systematic and comprehensive analysis of the economic, political and security dimensions of global mobility could contribute to a better understanding of international cooperation on refugees, international travel and migration through the prism of global mobility regimes. Improved understanding of the dynamics of international cooperation may, in turn, facilitate better global governance of travel and migration. While the concept of global mobility opens up new opportunities for research and possibilities for international cooperation, it is up to scholars and policymakers to broaden their horizons and take the next steps.

¹Nigel Harris, *The New Untouchables: Immigration and the New World Worker* (London; I.B. Tauris, 1995); Bimal Ghosh, ed., *Managing Migration: Time for a New International Regime* (Oxford: Oxford University Press, 2000); Thomas Straubhaar, (2000) “Why do we Need a General Agreement on Movments of People (GAMP)? in ed. Bimal Ghosh ed., *Managing Migration: Time for a New International Regime* (Oxford: Oxford University Press, 2000); Timothy J. Hatton, “Should we have a WTO for international migration?” *Economic Policy*, 22, no. 50, 2007.

²James F. Hollifield, “Migration and the ‘New’ International Order: The Missing Regime,” in ed. Bimal Ghosh, *Managing Migration: Time for a New International Regime* (Oxford: Oxford University Press, 2000): 101.

³ Bimal Gosh, ed. *Managing Migration*, 25.

⁴David J. McKenzie, “Paper Walls Are Easier to Tear Down: Passport Costs and Legal Barriers to Emigration” (World Bank Policy Research Working Paper 3783, Washington, DC: World Bank, 2005)

⁵See Health and Human Services, Inspector General, 0EI-07-00570, Birth Certificate Fraud, Office of the Inspector General, Department of Health and Human Services, September 2000.

⁶Michael Johnson, Statement at Hearing on “Vulnerabilities in the U.S. Passport System Can be Exploited by Criminals and Terrorists” before the Committee on Homeland Security and Governmental Affairs, United State Senate, June 29, 2005; Barry Kefauver, “The Importance of the Integrity of Breeder Documents for the Issuance of IDs and Travel Documents, Presentation at the Third Symposium and Exposition on ICAO MRTDs, Biometrics and Security Standards, ICAO Headquarters, Montreal Canada October 1-3, 2007.

⁷ *The “Rights” Start to Life: A Statistical Analysis of Birth Registration*, United Nations Children’s Fund, 2005.

⁸See eCURP website at: http://www.gobernacion.gob.mx/CurpPS_HTML/jsp/CurpTDP_080208.html.