The Role of Civil Society in
Shaping International Migration Policy

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Abstract

Due to new dynamics underpinning international migration, an area once considered of secondary or tertiary importance to states and other actors now plays center-stage on the international political agenda. As a result, states and the international community have begun to seek out a framework in which to address migration as a comprehensive issue encompassing voluntary and involuntary movements, based on the notion that states and other actors share common ground on many migration interests and concerns, and focusing on strengthened cooperation and coordination. Recent political state-centered initiatives have emerged to develop strategies for such an approach. The role of civil society, specifically of international non-governmental organizations (INGOs) monitoring such developments and performing advocacy work on migration policy development has been fairly limited thus far. Most INGOs working on advocacy in this field work on one aspect of human mobility such as trafficking in human beings or migrants' human rights. Advocacy rarely encompasses the whole migration policy field. The following discussion first attempts to explain why there has been limited exchange between states, international organizations and INGOs on international migration policy. It highlights two broad sets of reasons: those tied to the nature of migration, and those relating to factors affecting policy networks in this field. It then looks at how this situation is evolving, as civil society's voice rises in this policy making arena. And, it concludes by offering some suggestions as to how civil society could have a critical impact on migration policy development in the future.

INTRODUCTION

International human mobility[1], once considered an area of secondary or tertiary importance to states and other actors in the international realm, now plays center-stage and is intrinsically linked to the mobility of goods and services, as well as to broader considerations underpinning globalization (including trade, sustainable development, environment, security (human and national), conflict management, poverty eradication, etc.) Both the scope of international human mobility, which has doubled in less than 50 years, and the increasingly complex nature of mobility, such as the growing number of people using illegal channels to access economic opportunities abroad, have captured states and other concerned actors' attention.

The following discussion will focus on international migration policy developments. It will be divided into two parts. A first section will begin with a brief examination of the rise in importance and evolving nature of this issue area, followed by reactions to these changes based on what might qualify as a double paradigm shift. It will then look at two recent international political developments that are essentially state-focused and that give a good indication of the direction of state-centered discourse relating to migration policy development. It will describe, among other issues, their objectives and anticipated outcomes.

These discussions will serve as precursor for the second section's investigation into the roles and responsibilities of international civil society organizations (CSOs) focused on international migration policy development, dialogue and related advocacy work.[2] Specifically, this section will look at the current environment giving a bird's eye view of the CSOs operating in this field and the scope and nature of existing "policy networks".[3] Most CSOs in this area focus on one aspect of migration advocacy and policy development such as human rights of migrants or trafficking in human beings. Advocacy rarely encompasses the whole migration policy field.   This section will advance arguments as to why activity on international migration policy development has been limited thus far and will suggest that two major factors are accountable: the nature of international migration, and the nature of policy networks in this field. It then look at how this situation is changing, with a few INGOs taking the lead. It will asses how the "third force"[4] might further contribute to international migration policy development and related advocacy work. Discussions will draw from recent literature on civil society, referring in part to how the third force has evolved in other issue areas.

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[1] The terms human mobility/migration/international migration are used inter-changeably here and refer to all forms of human mobility including voluntary movements (ex. migrant workers) and involuntary or forced movements (ex. refugees).

[2] In the literature on civil society, a distinction is made between civil society groups providing services and those with a role in shaping policy through advocacy and dialogue. Whether such groups begin with one function and later incorporate other responsibilities into their mandate varies from case to case. For the purposes of this discussion, the focus is on policy dialogue/advocacy groups regardless of whether they also hold operational functions; it also does not make the distinction between those whose work is "not for profit".

[3] "Policy networks" refers to partnerships between states, other actors (national, regional, international) and NGOs.

[4] I borrow this term from the works included in Ann M. Florini (ed.) *The Third Force: The Rise of Transnational Civil Society*. Tokyo: Japan Center for International Exchange and Washington: Carnegie Endowment for International Peace, 2000

SECTION I - INTERNATIONAL MIGRATION

Since the end of the Cold War, two general trends relating to international migration are worth highlighting: first, new challenges posed by human mobility due in large part to the effects of increased globalization; and second as a result of the latter, novel perceptions of and approaches to international migration based on two separate but related paradigm shifts.[5]

A)   New Challenges

Today more than ever, international migration is garnering greater international attention due to a number of significant features, including (i) its widespread impact; (ii) changing demographics; and (iii) a greater incidence of "mixed flows".

(i)   *Widespread Impact*
The estimated figure of international migrants has doubled since 1970. In 2002, the estimated total number of persons living in a country other than that in which they were born was 175 million, which is about 3% of the world population. Most of the world's migrants reside in Europe (56 million), Asia (50 million) and Northern America (41 million). Sixty percent of the world's migrants currently reside in more developed regions and 40 percent in the less developed regions. Once contained by the borders of the East-West and North-South divides, migration pressures are also reflected through the expanding and lucrative activities of migrant smuggling and trafficking networks. Almost one in every 10 persons living in the more developed regions is a migrant. In contrast, nearly one of every 70 persons in developing countries is a migrant.[6]

(ii)   *Changing Demographics*
Faced with rapidly decreasing active population pools, richer countries are turning to poorer countries to meet their labor market needs. In 2002, United Nations Secretary-General Kofi Annan described the situation as follows:

> Demands for labour—particularly in Europe, but throughout the Western world—are likely to rise as the labour force of industrial countries declines relative to the number of retired persons their taxes must support. At the same time, millions of individuals and families from poorer countries are seeking opportunities to raise their standards of living through access to better paid employment overseas.[7]

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[5] "Paradigm shift" can be described as when "one conceptual (world) view is replaced by another". (i.e. a change in thinking) Thomas S. Kuhn, *The Structure of Scientific Revolutions* 2nd edition, U. of Chicago Press, Chicago, 1970.
[6] *International Migration Report (2002)* Department of Economic and Social Affairs, Population Division, New York, 2002, p. 1
[7] *"Secretary-General Stresses 'Clear Need' for International Cooperation on Refugee, Migration Policy'"* UN Press Release SG/SM/8522, 22/11/2002
Between 1990-2000, there were 2.4 million net migrants from the less developed regions to the more developed regions (representing 3% of the overall population growth of the less developed regions but representing 56% of the overall population increase in the more developed regions during the same period.) *International Migration Report (2002)* Department of Economic and Social Affairs, Population Division, New York, 2002, p.3 and p.14

In September 2001, the UN Population Division published a report entitled "*Replacement Migration: Is it a Solution to Declining and Ageing Populations?*", in which "replacement migration" refers to "the international migration that a country would need to prevent the population decline and the population ageing resulting from low fertility and mortality rates".[8] The report concluded that during the first half of the twenty-first century, the populations of all developed countries are projected to become smaller and older as a result of below-replacement fertility and increased longevity, in the absence of migration.[9]

One recent side effect of this tend is heightened competition amongst industrialized states in order to increase their pool of certain categories of highly skilled foreign workers. This is evidenced by recruitment schemes that surfaced in the past few years, such as the introduction of a 'green card' programme in Germany, and the allocation of H-1B visas in the U.S.[10]

(iii)   *Greater Incidence of "Mixed Flows"*

On-going levels of increased migration are countered with restrictive immigration barriers, resulting in people entering irregular migration channels to gain employment opportunities abroad. There is a growing proportion of migrants moving irregularly and without authorization to enter and others who make recourse to asylum procedures, without fulfilling the conditions for refugee status or other forms of protection. The result is a growing perception that asylum systems are being abused and undermined. Such challenges have heightened states' attention to the complexity of contemporary migration flows.

Concerned with this trend, the United Nations High Commissioner for Refugees (UNHCR) focused on the issue of the "asylum/migration nexus" during the Global Consultations on International Protection, a consultative process that was launched in 2001 to strengthen the international protection of refugees and to buttress the Refugee Convention and its Protocol. The *Agenda for Protection*, the first comprehensive framework for global refugee policy adopted in 2002 following the Global Consultations, identifies the "asylum/migration nexus" as one of the key areas for further attention by the international community. In it, governments are called to consider how to ensure refugee protection in individual asylum systems, in the context of migration control, interception practices, return of rejected cases and asylum processes. The "asylum/migration nexus" thus touches upon issues ranging from effective border management; screening legitimate asylum claims within such "mixed" flows; to tackling trafficking and smuggling rings.

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[8] The Report's premise was controversial especially in European countries highly affected by low fertility/mortality rates and where immigration levels have had a huge effect on population figures. In Europe, between 1990-2000, net immigration represented 89% of the population increase. *International Migration Report (2002)* Department of Economic and Social Affairs, Population Division, New York, 2002, p.14

[9] See "*Replacement Migration: Is it a Solution to Declining and Ageing Populations?*" (2001) as cited in *International Migration Report (2002)* Department of Economic and Social Affairs, Population Division, New York, 2002, p. 6

[10] Under the H-1B visa scheme it is worth noting that in 1996, from the established annual quota of 65,000 visas, only 55,000 were issued, whereas in 2000, the established annual quota of 195,000 visas was filled within the first few months of that year (OECD 2001).

B)   Novel Perceptions and Approaches

Factors such as the three enumerated above fundamentally affect the way in which international migration is perceived today and how actors are positioning themselves to respond to its challenges. Over the last fifty years, we could broadly categorize the development of "two and a half international regimes" encompassing this field: an international protection regime for asylum-seekers and refugees; a regulatory regime for voluntary migration (mainly for economic and family reunification purposes); and a "half regime" to address the challenges of internal displacement.

(i)   *First Paradigm Shift*

Over the last 15 years or so, however, combined effects linked to globalization and in particular the growing incidence of "mixed flows" referred to above, are making the operation of separate and distinct regimes difficult and at times, ineffective. The first paradigm shift then could be considered the gradual distancing of states away from the application of separate regimes to different kinds of human mobility and towards the exploration of ways in which the norms and principles (rules and regulations) developed for each regime can be applied within the same decision-making framework.[11] The view that solutions to international migration must be examined through a more comprehensive lens carries major implications both for the actors involved and the regimes as they have operated until now.

(ii)   *Second Paradigm Shift*

A second paradigm shift can be characterized as one of perceiving the world as composed of countries of "origin, transit and destination" to one in which most if not all states exhibit all three characteristics.[12] By extension, it is acknowledged that states and perhaps other actors as well are faced with "common interests" in this field based on mutual benefits and shared challenges.[13] Further, and tied to these considerations is the

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[11] This position is reflected in texts that date back to the 1990's, for instance the Final Report of the High Level Working Group on Asylum and Migration (created by the European Council), states that: "Migration is a phenomenon with both positive and negative characteristics ….The institution of asylum is based on international obligations as explicitly re-iterated in the Treaty of Amsterdam. There is today a general recognition that a cross-pillar and comprehensive approach is needed to tackle the issues involved." http://presidency.finland.fi/netcomm/news/showarticle1473.html
The nature of this discussion is taking place between states through *fora* such as the IGC ("Inter-governmental Consultations on Asylum, Refugees and Migration Policies in Europe, North America and Australia") is increasingly leaning in this direction.
[12] This is true insofar as a growing number of states are faced with challenges associated with all three migration categories, for example, irregular migration as transit states, *brain drain* as origin states, and integration as destination states. These common challenges exist despite the fact that in actual figures, migrant stock in developed countries are still considerably higher than in developing countries (2002 estimates: 104'119 in more developed regions versus 70'662 in less developed regions, and 10'458 in least developed regions) and that the net migration flow, which between 1990-2000 was 2.4 million net migrants from the less developed regions to the more developed regions) *International Migration Report (2002)* Department of Economic and Social Affairs, Population Division, New York, 2002, p.3 and p.14
[13] Based on the activities of the International Migration Policy Programme (IMP), states' common interest and objectives in developing regions often resemble those in developed regions. These include: maintaining of good neighbourly relations; effective border management; preserving sovereign control over migration flows; securing international security and stability; promotion of international norms and principles ranging from human rights such as the protection of migrant workers, to democracy and the rule of law; and the benefits of multicultural societies. States

perception that the complex inter-linkages between international migration and other trans-national issues is not well understood and requires greater investigation. Understanding the extent and implications of such inter-linkages constitutes one piece in the larger puzzle towards effective global governance.[14]

C)   International Political Developments

In the last three years, international political initiatives have been undertaken to respond to challenges posed by international migration. Two developments in particular have emerged that are state-centered and whose principal objectives include strengthening inter-state co-operation on international migration. These initiatives are noteworthy both because they highlight increased international attention to this issue, and because they approach migration as a comprehensive area for which voluntary and involuntary movements must be considered *in tandem*.

(i)   *The "Berne Initiative"*

The "Berne Initiative" was launched in June 2001 by the Government of Switzerland (and later, with the Government of Sweden) and supported by a Steering Group of additional governments, international organizations (IOs), institutions and UN agencies. Through an inter-governmental consultative process, the Berne Initiative is working to identify and define an agenda for international migration based on the identification and definition of common understandings and effective practices amongst states in this area. Its premise rests on developing a "common orientation to migration management, based on notions of cooperation, partnership, comprehensiveness, balance and predictability". The Secretariat of the Berne Initiative is with the research and policy unit of the International Organization for Migration (IOM) (Migration Research and Policy (MPR formerly MPRP)). During 2002-2004, consultative meetings have been held and are scheduled to take place both at the international and regional levels culminating at the end of 2004 with "Berne II", where the *International Agenda on Migration Management*,

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also recognise the mutual benefits of increased co-operation on migration, where their specific interests may be different but where they are in a position to maximise the benefits of migration through increased inter-State co-operation. Such areas include: answering labour market needs; responding to demographic realities; addressing return policies; countering the negative effects of certain globalisation and structural adjustment policies; and enhancing development assistance, trade and exchange.[13] For more complete discussion of this topic, refer to Global Migration Challenges – Where are the Common Interest and Mutual Benefits? (Discussion Paper I) submitted by IMP for the International Symposium on Migration, Berne, 14-15 June 2001 available at unimp@gve.ch

In addition to 'common interests' and 'mutual benefits' being the cornerstone for greater co-operation, developing a 'common language' of sorts amongst actors in a particular field should also weigh in on learning processes or shared behaviours, trust/confidence, personal relationships, what are referred to in international relations theory literature as "knowledge-based theories".

[14] There is a general sense by today's decision-makers and policy-thinkers who recognise that a complex set of inter-relationships function simultaneously and form what are referred to as "systems" in financial markets and scientific fields, for example. This discovery has meant greater recognition for how elements of a particular system influence other elements within the system; how the actions of such elements often develop a repetitive pattern that can be observed over time, which in turn, means that such inter-action may have predictive value. Gaining a greater understanding of the functioning of the sub-elements of migration and of migration's relationship to other trans-national phenomena could in fact assist in determining and influencing the future of migration-related outcomes. See, for example, R. Axelrod and M.D. Cohen *Harnessing Complexity: Organizational Implications of a Scientific Frontier* Basic Books, New York, 2000

intended to serve as guidance for future co-operation amongst states on migration management, would be presented, finalized and endorsed (in some form) by states.

(ii) *The Global Commission on Migration*

The second initiative, the Global Commission on International Migration (GCIM) officially launched by the UNSG in Geneva on 9 December 2003[15], is based upon the request made by the United Nations Secretary-General (UNSG) and stems from a UN report produced in late 2002.[16] The report concentrated on inter-institutional (UN agencies and non-UN agencies especially IOM's) activities in the field of international migration with a view to strengthening coordination amongst these actors on this issue. While its mandate is still being developed at the time of writing, the crux of GCIM's activities will focus on promoting a positive view of migration and its impacts, and a greater understanding of migration and its inter-linkage with other issues. It will thus seek to promote a global debate on migration amongst all relevant actors, develop a broader understanding of international migration and identify areas of emerging consensus in this field. Perhaps most crucially, it will also look at how to strengthen international governance in this area both with respect to institutional arrangements but also to legal and normative frameworks pertaining to migration. Spanning 18 months, its findings, to be handed to the UNSG and other stakeholders, will propose concrete action to be considered by the international community.

SECTION II – INTERNATIONAL MIGRATION POLICY ADVOCACY CSOs

A) Assessing Current Activities

This section focuses on international civil society and international migration policy development, distinguishing operational migration-related international non-governmental organizations (INGOs) that are plentiful from those working on policy formulation, implementation, monitoring and advocacy.[17] To practitioners, the distinction between advocacy and operational may seem an artificial one, as operational work is tied to existing policies and standards, and there is a natural evolution towards advocacy work as gaps between policy and practice become clear. Florini actually

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[15] Francis Williams, *New commission seeks to secure rights of migrants*, Financial Times, Wednesday 10 December 2003

[16] What has come to be known as the "Doyle Report"

[17] Brinkerhoff describes this latter type of CSO's functions as "demand-making capacity relat(ing) to advocacy and policy dialogue functions, as well as policy monitoring and ability to interact with policy makers and public sector implementers to promote accountability and transparency." Derick W. Brinkerhoff *Exploring State-Civil Society Collaboration: Policy Partnerships in Developing Countries* in Nonprofit and Voluntary Sector Quarterly 1999, 28, 4: p.65

Though regionally-focused INGOs/NGOs are excluded from the discussion here, it is worth noting that a number of organizations working on migration policy advocacy exist and becoming increasingly influential particularly vis-à-vis concerned regional entities. Examples that come to mind include the European Council on Refugees and Exiles (ECRE) (www.ecre.org) and the Migration Policy Group (MPG) (www.migpolgroup.com) vis-à-vis the European Union.

describes the opposite trend for NGOs engaged in advocacy work in other fields where these are later subcontracted by governments to assist with operational matters.[18]

In the case of advocacy on migration policy, both trends seem to apply though the overall contention here is that advocacy work on international migration policy *per se* is still limited, and its impact should be strengthened. Of those INGOs or networks of NGOs whose work touches on this issue, three separate categories can be identified.

The first are traditional operational INGOs working on refugee, displaced person, migrant assistance that have an advocacy branch focusing on specific aspects of migration policy. The International Catholic Migration Commission (ICMC), an operational arm of the Catholic Church, for instance, coordinates Catholic assistance activities for refugees, migrants and other displaced persons. It is also involved in advocacy work focusing on different aspects of migration policy including human rights, racism issues, international protection of refugees and migrants, and counter-trafficking.[19]

The second category are traditional advocacy INGOs whose mandate covers a specific issue and that are expanding their scope to include different aspects of migration policy. Amnesty International[20], for instance, has a "Forced Migration Project", Human Rights Watch[21] covers "global issues" including "Refugees", and smaller INGOs such as Migrants Rights International (MRI)[22] are developing their purview to cover different aspects of migration policy including the challenges of the "migration/asylum" nexus, the "migration/trade" nexus, *et alia.*

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[18] Florini notes: "Some civil society groups are moving beyond the role of advocate and monitor, providing services directly, implementing governmental policies, or otherwise taking on the roles traditionally reserved to governments and intergovernmental organizations (IGOs). Most of these, in essence, are acting as subcontractors to governments, which increasingly are channeling funds for service provision, development projects, and humanitarian relief through NGOs. For the most part, such subcontractors are not the same groups as those involved in the advocacy coalitions or form only one element of a coalition. But in some cases, governments are turning significant official responsibilities over to advocacy coalitions". Ann M. Florini, *Lessons Learned* in Ann M. Florini (ed.) *The Third Force: The Rise of Transnational Civil Society*. Tokyo: Japan Center for International Exchange and Washington: Carnegie Endowment for International Peace, 2000,p. 213

[19] See http://www.icmc.net/docs/en/programs
Some operational INGOs' advocacy work focuses on forcible displacement only, such as the International Committee of the Red Cross (ICRC) the Norwegian Refugee Council (IRC). See www.icrc.org (on IDPs); www.nrc.no (on refugees and IDPs)

[20] http://www.Amnesty.org

[21] http://www.hrw.org

[22] MRI was founded in 1994 during the Cairo International Conference on Population and Development (ICPD) to promote the recognition and respect for the rights of all migrants and members of their families. A membership organization, it played a central role in the campaign for the ratification of the UN International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (1990), which entered into force in 1 July 2003. MRI also supports the efforts of migrant associations and other NGOs in advocating migrants' rights and monitoring trends and developments of migrants' rights and welfare.
MRI is currently expanding the purview of its human rights work to include other migration-related topics such as trade and remittances. Like some other INGOs listed below, it is working to tie a broad set of issue areas including in this case, human rights, trade, globalization and migration. The following statement published in its report from the WTO Ministerial Conference in Cancun, illustrates this inter-linkage: "To illustrate by example, the violation of economic, social and cultural rights of people in extreme poverty, resulting from failed trade and economic policies, forces them to leave their home countries and become migrant workers abroad. A whole migration cycle is triggered, which simultaneously intersects with human rights violations occurring within the dominant context of corporate globalization." Genevieve Gencianos, MRI (Geneva), *Migration and Trade: A Report from Cancun*, Fifth WTO Ministerial Conference, Cancun, Mexico, 10-14 September 2003, p. 5

Some advocacy INGOs/NGOs falling into these categories are coming together to take a common position on migration and refugee issues before international organizations whose mandates deal with migration issues. During the Global Consultations on International Protection in Geneva, 28-29 June 2001, Human Rights Watch, ICMC and the World Council of Churches in consultation with other NGOs developed a background paper on "the refugee and migration interface" ("nexus").[23]

The third category are networks that have been created amongst civil society to strengthen its voice, and to address migration and refugee challenges. Umbrella NGOs such as the International Council of Voluntary Agencies (ICVA) consists of an advocacy network for humanitarian NGOs and acts as a focal point on UN bodies such UN Inter-Agency Standing Committee and within the Partnership in Action (PARinAC) program between NGOs and UNHCR (discussed below).[24] Another is the initiative launched in 1999 entitled the *Project on the Future of Asylum and Migration* (FAM) headed by the Society for International Development (SID) through one of its national chapters based in the Netherlands. Though other actors in addition to CSOs are members of SID, this initiative is largely perceived as one emanating from civil society to "encourage a positive view and international perspective on asylum and migration matters".[25]

Some of the work undertaken by the INGOs noted above, which are moving towards advocacy on a more comprehensive agenda for international migration policy and the SID Process, are the exception. Most advocacy work is still largely segmented into sub-categories of migration, for instance migrants and human rights, or the protection of trafficked victims. Advocacy rarely encompasses the whole migration field. And, the work cited above is a relatively recent development and far from complete. The lack of comprehensive focus and the dearth of consolidated activity on migration policy development are most striking when compared to other issue areas in which advocacy work has developed more fully.

B)   Explaining Dearth of Activity

Two sets of factors are presented here to explain why international civil society action has been fairly limited for migration policy development. The first set concerns the issue area itself, the second rests on the nature of policy networks in this field. Those tied to the issue area include: (i) sensitivities and controversies of a comprehensive approach; (ii) migration's broad scope and inter-linkages; and (iii) funding challenges for policy and advocacy related activities.

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[23] *Composite Flows and the Relationship to Refugee Outflows, including Return of persons not in need of international protection, as well as facilitation of return in its global dimension"* in UNHCR Standing Committee, 12th meeting (EC/48/SC/CRP.29)
[24] See http://www.icva.ch
[25] It is important to note that though the SID Process and its "Declaration of the Hague on the Future of Refugee and Migration Policy" (2002) share a comprehensive focus on migration issues, one of the key elements of the Process is to "emphasise the distinction between refugees and other migrants by continuing to recognise the needs and protections of refugees while seeking parallel options and solutions for other forms of migrants"

The second set of factors is a reflection of the extent to which "policy networks" exist and operate between governments, IOs, and civil society in the field of migration policy development. Among the factors accounting for this limited exchange, as argued here are the fact that (i) states like civil society are only just now beginning to define their priorities in this field; (ii) much work is still taking place at the regional level; (iii) the overriding perception that migration-related NGOs are mainly operational; and (iv) the on-going reticence of states and state-membered organizations to include civil society in the decision-making process despite the increasing stated commitment by countries and international institutions to do so.

1) Issue Area

(i) *Sensitivities and Controversies of a Comprehensive Approach*
States and IGOs are only beginning to look at voluntary and involuntary movements as one phenomenon requiring greater cooperation and coordination at the international level. The fact that ICPD (1994) and ICPD+5 (1999) are the only political *fora* in which international migration was examined as a comprehensive issue area is an indication of the lack of political willingness to view international migration in a broader context.

This reticence can certainly be explained by the sensitive nature of the topic and the potential controversies of such an approach. Due to its link with international development, migration is viewed as a sensitive issue that, particularly in the past but still today, focuses on the North-South divide--the "haves and have nots" of the world. As poverty is deemed to be a primary cause of migration and emigration is one way for states to alleviate the pressures of high unemployment, discussion on limiting or controlling migration flows can and does cause considerable tensions. (This is despite the fact that as mentioned in Section I, the focus on migration policy dialogue and development has in recent years, tended to focus away from differences among states towards areas of common understanding, where "win/win" situations can be identified and promoted.[26])

The issue of addressing voluntary and involuntary flows under the same conceptual framework is also a controversial one. The main concern is that by re-opening the debate on the asylum system by way of a broader discussion on international migration, the refugee protection regime will be undermined and asylum-seekers and refugees will risk loosing out on international protections that are already considered by most to be enshrined in customary international law. Indeed, until recently, in policy-making circles it was difficult to discuss refugee and migration issues in the same breath. It is only as the reality of the "migration/asylum nexus" becomes unavoidable as discussed in Section I, that actors in this field are being obliged to do so.

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[26] This has certainly been at the heart of IGO activities focused on developed/developing country migration policy related activities such as those undertaken by IMP and now also by IOM/MPRP's Forum for Migration Policy Dialogue.

This latter point accounts for why a more comprehensive agenda has not been adopted by states and undoubtedly also applies even more so to civil society. As one migration expert explained recently, the only meaningful context in which to discuss a migration agenda is one based on existing international legal standards, that is (1) refugee protection instruments and humanitarian law instruments for refugees, asylum-seekers and forcibly displaced people on the one hand, and (2) human rights instruments such as the UN Migrant Workers Convention for migrant workers, on the other. To try to move away from this legal foundation to a more general discussion on migration that is neither defined nor grounded in international law would negatively impact the protections afforded to vulnerable groups by the existing international legal framework. This is a position taken by the INGOs (listed above).[27]

(ii) *Migration's Broad Scope and Inter-Linkages*

Another factor accounting for limited civil society activity on international migration policy, is that the issue area itself is ill defined, covers a broad scope and comprises extensive inter-linkages—inter-linkages whose implications and impact are not well understood.

How to define the objectives underpinning international migration policy is further discussed in Part C, where the issue of developing an agenda in this field is explored. The main challenges include how to move beyond the obscure normative assertion that migration has "benefits for all" to concrete and workable solutions. It would also undoubtedly entail, when discussing the public good in this area, a focus away from "migration management," which is considered by many to be a loaded term carrying negative implications.[28] The basis for further discussion on migration policy development should focus on identifying the main objectives and on appropriately framing the underlying questions.[29] The fact that this discussion is becoming a priority issue for states through policy-making circles is apparent through activities carried out in the context of the Berne Initiative and expected activities of the Global Commission, whose objectives include identifying public good(s) associated with international human mobility and establishing an agenda for coordinated implementation.[30]

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[27] The NGO Background paper on the Refugee and Migration Interface prepared by HRW, ICMC, WCC in consultation with other NGOs emphasizes this position. "We are concerned by the heavy emphasis in the paper prepared by the International Organization for Migration and UNHCR for the Global Consultations discussion on the asylum/migration interface on migration *control* mechanisms, rather than *protection* strategies for refugees and migrants alike, from an international human rights perspective." See http://www.hrw.org/campaigns/refugees/ngo-document. A noteworthy paper prepared by Human Rights Watch (HRW) for the IOM Governing Council Meeting in 2003, refers to HRW's "on-going commitment to ensure that all migration-related laws, policies and practices promote and protects the human rights of migrants, and safeguard the international refugee protection regime." HRW, *The IOM and Human Rights Protection in the Field: Current Concerns*, November 2003, p. 1

[28] HRW reflects this view: "We are concerned that many stakeholders involved in the global migration discourse at regional and international levels focus narrowly on the need for 'managed migration' systems, and ignore the human rights dimension of migration". *Ibid*, p. 3

[29] Nelson emphasizes the importance of how an issue is "framed": "(s)uccessfully framing an issue-defining the frame of reference in which it will be seen-has been important to most NGO advocacy" Paul Nelson, *New Agendas and New Patterns of International NGO Political Action*, Voluntas: International Journal of Voluntary and Nonprofit Organizations Vol.13, No.4, December 2002, p. 380

[30] To some extent also through discussions within the context of UNHCR Global Consultations (post), and IOM's Migration Policy and Research (MPR formerly MPRP) Migration Policy Dialogue.

These are not easy tasks both because of the implications tied to the sensitive and potentially controversial nature of migration policy development but also because of the breadth of its scope and its many inter-linkages with other issue-areas that are not well understood. The fact that international migration is an issue-area that is broad in scope is evident. Given the fact that other issue areas such as environment, human rights and development have been able to formulate agendas with established understandings and concrete areas for further discussion and agreement suggests that the same is possible for international migration.

International migration's broad inter-linkage with other areas constitutes a challenge requiring further attention and study. International migration is tied to the mobility of goods and services and to broader considerations underpinning globalization including trade, sustainable development, environment, security (human and national), conflict management, poverty eradication, etc. Efforts such as those by MRI, for instance, to draw out the implications of the human rights/trade/migration inter-linkage are important ones; the task of coordinating activities such as these and establishing a comprehensive outlook and agenda are likely to be next important steps in building upon such achievements.

(iii) *Funding Challenges*
One challenge not to be underestimated is the extent to which policy/advocacy CSOs can mobilize financial support for their activities. As a development-based issue, most implications of international human mobility require long-term strategies.[31] Moreover, as for all policy and dialogue-centered work, quantifying the impact is often very difficult if not impossible. Dichter impresses the difficulties of funding NGOs working in development-related fields as follows:

> One thing is clear—competition for funding has risen. One could argue, as is done in the corporate world, that competition breeds more effective organizations. But in the development world, where there is no clearly measurable product, the need for funding (which is not the same as money that comes from sales of products) can lead an NGO inadvertently to let image dominate substance and fundraising dominate program.[32]

Consulted for the purposes of this discussion, some civil society actors working on migration policy have confirmed the difficulties associated with raising funds for this area of advocacy work. MRI, for instance suggested that migration policy advocacy work was based on "indirect" funding through support received for related fields, human rights in this case.[33]

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[31] This issue is often a source of contention between ministries dealing directly or indirectly with migration. Often, ministries responsible for return and readmission will seek to leverage such agreements with development aid. This approach is often at odds with development ministries that prefer not to make development assistance conditional on compliance with return and readmission agreements, emphasizing rather the need for long-term engagement in developing regions.
[32] Thomas W. Dichter, *Globalization and its Effects on NGOs: Efflorescence or a Blurring of Roles and Relevance?* Nonprofit and Voluntary Sector Quarterly; 1999; 28;4, p.52
[33] Conversation with MRI Coordinator, 16 October 2003

2) Policy Networks

(i) *Definition Under Way*

When describing the relationship between states and civil society actors in the field of migration policy development, it is important to stress that states are just beginning to discuss migration as a comprehensive area, one in which common interests can be identified and built upon. Again, the Berne Initiative, and to some extent, the Global Commission are a reflection of states' interest in approaching the area of migration policy development as one in which mutual benefits can be sought by all states based on strengthened cooperation and a deeper understanding of international migration and its various inter-linkages.

This stance is different from previous discussion in this area which focused first, on the separate regimes as discussed in Section I, namely how to uphold refugee protection, and as a separate issue, how to "manage" migration; second, on the "trade-offs" between North and South rather than on a discussion of mutual benefits between states that, on the whole, are faced with similar challenges as origin, transit, and destination countries; and third, on causes and consequences of international human mobility rather than on today's more complex exploration of international migration's inter-linkages with other areas, the impact of these and globalization more generally.

(ii) *Regional Consultative Mechanisms*

Despite the increase in international attention to migration policy development, the locus of discussion—both policy-related and technical-- takes place mainly at the regional level through what are commonly referred to as Regional Consultative Processes on Migration ("RCPMs"). [34] This regional focus also potentially accounts for the lack of substantial policy networks between states and civil society on migration policy development at the international level.

RCPMs constitute a *fora* for states to discuss migration priorities. In some RCPMs, NGOs are invited to participate in an observer capacity. Generally, however, RCPMs are considered state-centered activities. While the first such consultative mechanism was established across regions between what has been referred to as "like-minded" states[35], most RCPMs have a regional membership. RCPMs exist in most regions of the world (the Puebla Process, Manila Process, MIDSA, MIDWA, etc.)[36].

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[34] For additional information, refer to *The Role of Regional Consultative Processes in Managing International Migration* IOM Migration Research Series, No. 3, The International Organization for Migration (IOM), Geneva, 2001 Informality of Regional Processes leads to a number of advantages including (1) informality-they are a process, not an institution, meaning that working toward an eventual final goal is an important aspect of the process; (2) openness-as agreement on all issues is not required, all options can be explored openly, thus increasing the number of possible solutions to issues; (3) efficiency-as there is a minimum of administration, direct communication is more easily possible between high level officials and experts…*The Role of Regional Consultative Processes in Managing International Migration* IOM Migration Research Series, No. 3, The International Organization for Migration (IOM), Geneva, 2001

[35] IGC refers to the "Inter-governmental Consultations on Asylum, Refugees and Migration Policies in Europe, North America and Australia" whose first meeting tool place in 1985, initiated by UNHCR, *Ibid*

[36] The "Puebla Process" refers to the Regional Conference on Migration initiated in 1996. With the Lima Declaration (1999) a consultative process was also initiated for South America, known as the South American Meeting on

RCPMs play an important role in strengthening migration policy dialogue, identifying "common understandings" and strengthening regional co-operation through regional standards and approaches. However, implementation and monitoring of regional agreements remains weak in this field in most regions. And, although regional consultative mechanisms are nevertheless playing an important coordinative role[37], some critics suggest that RCPMs "coordinate restrictive policies at the highest possible level, while agreeing to protect migrants at the lowest possible level".[38]

A separate point under study, is whether regionalization will in effect constitute a stepping stone towards strengthened international cooperation in the field of international migration. In the area of international corruption control, for instance, Galtung points to how regional efforts to combat corruption were a necessary first step towards the internationalization of standards and approaches.

> Such regionalization of international corruption is not merely a pragmatic compromise between unilateral action and a global convention. Rather, regional controls set the stage for development of appropriate instruments and jurisprudence within a smaller group of countries, a necessary building bloc if international cooperation is to work.[39]

Whether regional coordination will contribute toward solutions in the field of migration remains to be seen. The SID Process and its Plan of Action places the work of regional mechanisms at the heart of its work towards strengthening positive approaches and solutions to refugee and migration challenges. One of the activities of the "Berne Initiative", as mentioned in Section I, through its regional (and international) consultations, is to survey regional *fora* on the willingness of states to step up cooperation at the international level.

(iii) *NGOs still largely operational?*

Another factor that may account for the limited exchange between states and civil society in the field of migration policy is that most INGOs in this field remain operational in comparison to fields such as human rights where much of the work has been advocacy related (exposing human rights violations, challenging states' human rights records, reporting on these, etc.). For instance, with respect to refugees and asylum-seekers work includes providing basic needs to such persons (food, shelter, clothing), providing legal counseling during refugee status determination (RSD) procedures, and resettlement and

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Migration, Integration and Development; The "Manila Process" refers to the IOM Regional Seminar on Irregular Migration and Migrant Trafficking in East and South-East Asia. In addition to two other consultative processes for Asia: APC (Inter-Governmental Asia-Pacific Consultations on Refugees and Displaced Persons), and the Bangkok Declaration on Irregular Migration; "MIDSA" stands for Migration Dialogue for Southern Africa, more recently, "MIDWA" for West Africa. Other processes include the CIS Conference and Follow-Up Process for Countries of the Commonwealth of Independent States and Relevant neighbouring Countries and the Conference of Uncontrolled Migration Across the Baltic Sea for Baltic, Scandinavian and some European countries, *Ibid*

[37] For a recent study of this topic, see for example Frederique Channac, *The evolution of international decision-making processes concerning migration. A comparison between formal and informal multilateral fora*, 2003 (unpublished paper) Institute d'etudes politiques, Bordeaux

[38] Final Report, Commission on Human Security, Chapter 3 "*People on the Move*", 2003, p. 47 http://www.humansecurity-chs.org/finalreport/chapter3.pdf

[39] Fredrik Galtung, *A Global Network to Curb Corruption: The Experience of Transparency International* in Florini (2000), p. 32-33

reintegration assistance. Similar activities are required in the case of IDPs (with the exception, obviously, of assistance during RSD). For those NGOs working in a sub-field of migration such as trafficking in human beings for instance, three categories are apparent: operational NGOs providing shelter and reintegration assistance to victims of trafficking; NGOs focused on advocacy work, strengthening legal protections afforded to victims, for example; and NGOs involved in both areas of activity.

There are few, if any, NGOs covering all aspects of migration and operating at the international level, with the exception of those listed above and others, which as mentioned, are beginning to move towards a comprehensive approach to migration policy development. This consideration can be added to the fact that states have often seen NGOs dealing with migration (migrant, refugee and IDP) issues as mainly operational as a result of the immediate and concrete needs of the people concerned.

(iv) *Relations with States*

An obvious starting point to explain the extent of policy networks amongst civil society actors and states in the field of migration policy development is to look at access afforded to NGOs and INGOs by states and IGOs through formal *fora* for dialogue in this field. Ironically, at one of the only (and likely last for the foreseeable future) UN conferences that covered international migration, the Cairo ICPD in 1994, Florini comments that "NGOs were everywhere", and that in Cairo's final report, one full chapter was allotted to NGO participation.[40] She mentions that since that time, however, and in particular due to "nasty incidents" circa 1998, the UN and its member-states have become somewhat less welcoming of NGO participation in official political *fora*.

> Virtually every national government and international organization has at one time or another raised objections to what was characterized as the illegitimate usurpation of governmental authority or prerogatives, and governments and IGOs retain considerable power to fight back. Even IGOs such as the World Bank and the United Nations, which have been relatively welcoming, often seek to keep civil society groups 'in their place'- providing services but not included in formal decision-making processes….[41]

Most recently during the WTO Ministerial Conference in Cancun, 10-14 September 2003, the limited access to government circles was also criticized. MRI describes in its report how the agenda setting for the meeting was decided unilaterally:

> The opening session was particularly important because it is when the ministers set the agenda and determine the work program for the Cancun round. Like any other international conference…determining the agenda and methodology of work are crucial matters arrived at through careful deliberation. (A) WTO (conference)…should be no different. Yet surprisingly, in its opening ceremony, the agenda, work program, and

[40] Florini (ed.) 2000, p.226
Interestingly, ICPD also produced a chapter on international migration, offering a comprehensive set of guidelines for national and international action in the field of international migration policy, management and co-operation. Chapter X still today constitutes the single *global* blue print outlining how States and concerned international institutions should address the multiple causes, consequences and long-term implications of international migration and human displacement. "Chapter X" (International Migration) Programme of Action, United Nations International Conference on Population and Development, Cairo, 5-13 September, 1994
[41] Florini (ed.) 2000, p.214-215

> working group assignments were all decided in a few minutes, with the Chair … taking on the gavel and approving them without allowing enough time for replies from member states. Moreover, discussion of the agenda was made part of the high-level opening address in an auditorium that had no speaking facilities for the audience. Furthermore, the draft Ministerial text which the Chairman himself prepared, was automatically accepted as the working text. These kinds of behavior within the WTO are only some of the various other transparency and process issues being questioned by many developing countries as well as by the NGOs.[42]

In HRW's paper submitted to the IOM Governing Council Meeting in November 2003, in which it calls into question migrants' human rights abuses in the context of the implementation of IOM programmes, it criticizes IOM in its role as secretariat of the "Berne Initiative", for not drawing on the importance of nongovernmental expertise "in promoting a just migration system in conformity with international human rights and refugee protection norms", and calls on it to ensure that civil society actors are more directly engaged in this process.[43]

Though civil society is not afforded unobstructed access to political *fora* in particular when it comes to what are deemed to be sensitive issues, governments and IOs are unable to close the door to civil society participation in such discussions. This also applies to migration and refugee issues, where for instance, within the UN context, NGOs work with the UNHCR through the Partnership in Action (PARinAC) producing new mechanisms for cooperation at the regional and national levels[44], and also within high level working groups/action groups on asylum and migration, for instance, that have included and indeed counted upon civil society's input.[45]

Some perceive this opening as advantageous to states as civil society becomes or could become perceived as an integral partner on the fate of such issues. This perception would necessarily entail that civil society actors are responsible for how such issues are addressed which would in effect distribute the burden of decision making and other responsibilities between official and unofficial actors. As described by Professor Junki Kim in a course on *"NGOs and Governance"* at Duke University, governments delegate to civil society "as one way to avoid criticism (by) us(ing) new players, those that were criticizing the government in the first place…partnerships bring these people on board and then the government is on civil society's side".[46]

Others perceive this opening as unavoidable given the power of civil society and the moral authority with which it is associated (see Part C). Moreover, in a growing number

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[42] Genevieve Gencianos, MRI (Geneva), *Migration and Trade: A Report from Cancun*, Fifth WTO Ministerial Conference, Cancun, Mexico, 10-14 September 2003, p.4

[43] HRW, *The IOM and Human Rights Protection in the Field: Current Concerns*, November 2003, p. 15

[44] http://www.unhcr.ch

[45] For instance, the Final Report of a High Level Working Group on Asylum and Migration created by the European Council in 1999 expressed appreciation for "the excellent cooperation inter alia with ….ICRC, Amnesty International, and a number of NGOs specialized in asylum and migration matters, such as …ECRE, …MPG". See http://presidency.finland.fi/netcomm/news/showarticle1473.html In addition, at the UNHCR ExCom, countries such as Denmark, the Netherlands and Sweden often include members of their national councils for refugees and/or national NGOs in their delegations.

[46] Personal notes from Professor Kim's class, Duke University, 10 October 2003

of fields, NGOs work *with* governments and IOs to influence the behavior of one state.[47] In this context, Nelson describes the patterns of international political activity of NGOs as diverse "sometimes restraining the power of international rules and authorities over individual governments…"[48]

As a result of civil society's growing influence and despite their occasional reticence, states and IOs are unable to ignore the strength of civil society and its contributions to decision-making in all fields. The UN Secretary-General has stated that:

> "The UN once dealt only with Governments. By now we know that peace and prosperity cannot be achieved without partnerships involving Governments, international organizations, the business community and civil society. In today's world, we depend on each other."[49]

To this effect, UN agencies such as UNDP and the World Bank (WB) are just some of the institutions that are creating civil society units (Civil Society Division at UNDP and the NGO and Civil Society Unit at the WB) in order to work with a wide cross section of local and global CSOs. The WB credits consultations with civil society as "improv(ing) the quality of policymaking, positively influenc(ing) the direction of country programs, strengthen(ing) national ownership of key reforms, and promot(ing) public sector transparency and accountability…(in addition to) supply(ing) essential 'local' knowledge' in the policy process and giv(ing) voice to the opinions and experiences of the poor".[50]

In this context, a project launched by the immigration branch of the Government of Canada is worth highlighting. In 1996, Citizenship and Immigration Canada launched the International Metropolis Project, based on a set of co-ordinated activities carried out by a membership of research, policy and civil society that share a vision of strengthened migration policy by means of applied academic research. The Metropolis Project brings together states, civil society, and academia to work collaboratively on issues of immigration and integration, always with the goal of strengthening policy and thereby allowing societies to better manage the challenges and opportunities that immigration presents.[51] Through its activities, it stresses successful migration management must include participation of all levels of government and other civic stakeholders, including NGOs.[52]

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[47] On human rights, Risse states that NGOs can be the authors of international texts. He states "In this role, INGOs are not necessarily opposing governments. Rather, groups of states are closely cooperating with INGOS and relying on their expertise and knowledge. In the case of the Anti-Torture Convention, national governments such as Sweden worked closely with Amnesty and aligned with INGOs against other groups of states". Thomas Risse, *The Power of Norms versus the Norms of Power: Transnational Civil Society and Human Rights* in Florini (ed.) 2000, p.185-186

[48] Paul Nelson, *New Agendas and New Patterns of International NGO Political Action*, Voluntas: International Journal of Voluntary and Nonprofit Organizations Vol.13, No.4, December 2002, p. 377

[49] http://www.un.org/partners/civil_society/home.htm

[50] World Bank, *Consultations with Civil Society Organizations, General Guidelines for World Bank Staff*, p. 3

[51] Through its work, it encourages a positive outlook on migration. "Regular migration programmes ought to be managed with the purpose of maximising economic and social benefits and not solely for reducing irregular entry." See http://www.metropolis.ca

[52] Taken from Report of the Secretary-General to the UN General Assembly on "International migration and development, including the question of the convening of a United Nations conference on international migration and development to address migration issues", 3 July 2001

C) Future Potential and Contributions

Having touched upon some of the reasons why international CSOs are lacking in this area, let us move to how civil society could strengthen its role in this field. The main areas of contribution presented for discussion here include: (i) defining the international agenda; (ii) information provision; (iii) using "soft power" to impose "moral authority"; (iv) monitoring and implementation; and (v) solidifying a "coalition of interests". An overriding consideration, one that will determine whether it can make such contributions is the legitimacy of civil society in this field.

(i) *Agenda Setting*

The experience of trans-national civil society in other issue areas, such as in the environment field for instance, has proven that it can play a central role in agenda setting. Civil society actors are considered to have been critical to the successes achieved at the Rio Summit (1992), and in conceptualizing the notion of sustainable development. In the human rights field, Amnesty International and other groups are credited as "decisive in putting the question of torture on the international agenda".[53]

As mentioned above, while international migration is becoming a growing area of interest, there is no fixed international agenda to address this issue. In fact, a first step would surely entail defining the public good in this area. IGOs and, in particular, the principal international institution dealing with international migration, the IOM mission statement revolves around the notion of "managing migration for the benefit of all." However, as discussed above, "managing people" as an overall objective, is considered by some to be controversial and indeed undesirable. Framed in this manner, this objective can be questioned from a human rights perspective. Furthermore, the public good is one that is decided by some to the benefit of a few rather than truly "public" in nature. If we speak of the benefits of international migration as a "global public good," we must frame the relevant questions underpinning an agenda (or more broadly, a regime or framework) in this area to ensure that it corresponds to the definition of the "public good," i.e. existing for the benefit of everyone, "non-excludable" and characterized by "non-rivalry".[54]

Whether this is possible in an era of globalization where disparities seem ever-increasing is debatable. It would nevertheless require revisiting how the objectives are framed before developing an international agenda for human mobility and coordinating implementation amongst its various stakeholders. Between states within the UN context,

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[53] Thomas Risse, *The Power of Norms versus the Norms of Power: Transnational Civil Society and Human Rights* in Florini (ed.) 2000, p.177

[54] "Global public good", which has been defined as things that exist for the benefit of everyone, that are "non-excludable" and characterized by "non-rivalry", i.e. that in theory, their consumption by some is not to the detriment of the consumption by others. In an increasingly interlinked world (i.e. "globalized" due to the reduction in transportation and communication costs), it makes sense that global public goods such as the environment, health, culture, peace, be managed collectively. (See "*Global Public Goods: International Cooperation in the 21st Century*", UNDP 1999). The notion of global public goods and the subsequent need for collective action can also be applied to how the "rules" governing mobility (trade, services, people) are established and implemented. "*Global Public Goods: International Cooperation in the 21st Century*", UNDP 1999

for instance, aspirations concerning international migration are normative but provide little indication of concrete steps to be taken in this area.[55]

Civil society can play a critical and timely role in this area. In some fields, civil society has gone beyond influencing to conceptualizing and authoring the agenda. This is the case in the human rights field, where as Risse describes:

> …(N)ongovernmental actors participated in the negotiations and working groups drafting international agreements, both indirectly as members of expert groups and directly as members of official national delegations. In other words, transnational civil society is involved in treaty making.[56]

Moreover, civil society can and should influence the migration agenda so that it reflects existing international legal instruments that protect refugees, IDPs and migrants. Nelson describes how NGOs working on international economic, development and trade policy have taken advantage of existing international norms to frame issues. In the context of NGO advocacy against dam projects, he explains:

> Major dam projects are generally designed to produce electricity, provide irrigation, or control flooding, but international debate over these projects has been only secondarily over these objectives. Nongovernmental organizations have framed the issue as one of minority rights by focusing attention on poor communities' loss of land rights and livelihood, their inadequate compensation when resettled, and human rights abuses during dam construction.[57]

This is an important challenge in the area of migration where international legal norms are specific in some areas and less so in others, and where an inherent tension exists and is likely to continue to exist between state authority and responsibility to regulate the movement of persons across their borders on the one hand, and migrants' human rights, protection of refugees, integration of migrants, *et alia,* on the other.[58]

A second step might be to determine the scope of the issue area. In the international corruption control campaign, for example, a conscious effort was made to limit the focus to international transactions. Due to the multi-faceted nature of international migration and its inter-linkages with a number of other areas, an international agenda would likely have to be sub-categorized. (Such sub-categorizations exist in the other substantial fields such as environment, for instance.)

Chapter X on "International Migration" of the Cairo Declaration resulting from ICPD had the following sub-division: international migration and development; documented

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[55] Statements such as the following advocate tolerance but provide few concrete solutions to migration challenges… "(I)f the issue is tackled properly, citizens of developed as well as developing countries will understand the benefits of migration in economic, social and cultural growth – far outweigh the problems it may bring." *"Secretary-General Stresses 'Clear Need' for International Cooperation on Refugee, Migration Policy'"* UN Press Release SG/SM/8522, 22/11/2002

[56] Thomas Risse, *The Power of Norms versus the Norms of Power: Transnational Civil Society and Human Rights* in Florini (ed.) 2000, p.185

[57] Nelson, p.380

[58] MPRP, IOM, *International Legal Norms and Migration: an Analysis* (Series) International Dialogue on Migration No. 3, Geneva 2002

migrants; undocumented migrants; and refugees, asylum-seekers and displaced persons. Further review of this approach would be required yet maintaining the distinction between voluntary and non-voluntary movements would still be critical to distinguish protections afforded and for other considerations. Some sub-categorizations should also include important inter-linkages considered to share a causal relationship with human mobility such as development/poverty eradication. In its consultations, the "Berne Initiative" described in Section I, is working through the arduous task of drafting an international agenda identifying such categories. (It currently has 13.)

(ii)   *Information Provision*

An area that is crying out for greater attention by international CSOs is that of collection and dissemination on migration data and related information. Florini emphasizes that a key contribution of civil society players is the provision of credible information.[59] In few areas is information more critical than that of international migration policy development. Migration data contributes to informed debates on immigration and emigration policies; forms a partial basis for formulating, implementing and evaluating migration-related policies; assists in the protection of migrants and the implementation of efforts geared at fighting racism and xenophobia; allows the integration of the effects of migration into national development planning; and helps in targeting policies to reduce migration pressures.[60]

Despite the need for such information, a number of obstacles undermine efforts to collect timely and reliable data. Some of these obstacles would also apply to CSOs including technical capacities and operational problems associated with gathering compatible information across countries and regions. One obstacle that could potentially be circumvented by civil society actors, however, is the issue of trust and confidentiality which often impedes states' willingness to share such information.[61] Moreover, CSOs are likely to have comparatively more flexibility and be able to mobilize quickly for collection and dissemination purposes. Though many regional bodies and the UN Population Division's Statistics Division gather international migration statistics, an international CSO working on migration policy dialogue would play an important and complimentary role in this area.

(iii)   *Moral Authority*

Civil society can also play a key role in defining the "public good" not least because as Risse explains "it somehow *represents (sic)* the 'public interest' or the 'common good' rather than private interests".[62] Rebecca Johnson in describing the role of advocates and activists in the international peace movement states that "…transnational civil society

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[59] Conversely, "….the networks remain powerful only as long as they retain their credibility….to the extent that transnational civil society networks provide inaccurate or misleading information (whether deliberately or inadvertently), they undermine their effectiveness." Florini, *Lessons Learned* in Florini (ed.) 2000, p.214

[60] Piyasiri Wickramasekara, International Labour Organisation (ILO), *International Migration Statistics: Specific Policy Needs-Labour Migration* delivered at the UN Workshop on Improving the Compilation of International Migration Statistics, 15-17 September 2003, Geneva

[61] Colleen Thouez, IMP, *Strengthening Migration Data Collection, Analysis and Exchange: Lessons Learned from IMP and the Migration Data Pilot Project for the "Issyk-Kul" Group* delivered at the IMP Meeting, July 2002, Istanbul, available at unimp@gve.ch

[62] Risse in Florini (2000), p. 186

fulfills a legitimate function of responsible citizenship".[63] Dichter argues that NGOs can assist in ensuring that government policies are in line with public needs.[64]

In the environment field, while the principles themselves are adopted by states, environmental NGOs have been critical in advancing such principles, lobbying for their acceptance, and monitoring their implementation. Underlying principles in environmental frameworks include the "precautionary" principle or do no harm just in case, and "polluter pays". In the area of climate change, a treaty-specific principle based on "polluter pays" is that industrialized countries must act first.[65] Similarly, civil society should play a key role in defining the principle(s) guiding a migration agenda, and monitoring their compliance (see below).

Its moral authority is closely tied to its role as provider of information and knowledge, as described by Risse in the context of human rights:

> The influence of transnational civil society in the human rights area stems from the power of moral authority and legitimacy, on the one hand, and the accepted claim to authoritative knowledge, on the other.[66]

Florini views moral authority as a form of "soft power" whose influence is not to be underestimated. From neo-institutionalists' perspective, this is particularly valid in an era of global (complex) interdependence which is creating a world in which state power is not the sole factor shaping international relations and outcomes. Because migration policy dialogue is inherently a discussion involving human beings many of whom find themselves in conditions of heightened vulnerability, this issue area constitutes one which would benefit greatly from the watchdog capacity and moral authority of international civil society.[67]

(iv) *Monitoring and Implementation*

In all fields referred to throughout (human rights, environment, anti-corruption, development), part of civil society's influence has been its impartiality and its ability to stand alone in a watchdog capacity to monitor states' activities and their compliance with the implementation of international obligations. NGOs already play a central role in this respect with the protection of refugees, internally displaced persons, migrants and other vulnerable groups. In some cases, monitoring mechanisms have been established where CSOs are the lead players or partners in ensuring compliance. One example is the mechanism being established to ensure compliance with the UN International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (1990), which as mentioned, entered into force in 1 July 2003, and in which MRI has a key role in ensuring protection, promotion and fulfillment of migrants' rights in the context of this Convention.

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[63] Rebecca Johnson, *Advocated and Activities : Conflicting Approaches on Nonproliferation and the Test Ban Treaty* in Florini (ed.) 2000, p.77

[64] Dichter 1999, p.48

[65] Silvi Llosa, (Title), Interview, 26 October 2003

[66] Risse in Florini (2000), p. 186

[67] See for example, Colleen Thouez, IMP, *Human Security and Mobility* paper distributed a meeting on Human Security organized by the UN Commission on Human Security, Berlin October 2002, available at unimp@gve.ch

If current discussions on migration policy lead to more formal arrangements amongst states guiding inter-state co-operation in this area, civil society actors will have an important responsibility to ensure that human rights principles and other protections are respected.

(v)   *Coalition of Interests*
Due to the wide range of issues that fall within the realm of international migration, a large number of actors at the local and national levels in particular can be considered vested players in this field, including: local/national NGOs, labour associations, religious groups, employer associations, citizen groups, etc.

In Section I, the second paradigm shift referred to the diminishing compartmentalization of states' interests as they view themselves not as countries of origin, transit or destination of migrants but as sharing all three characteristics (with the exception of non-voluntary movements which are more localized). For NGOs working on migration issues, migration is still often perceived as a North-South issue especially by NGOs working in developing countries. Existing transnational networks provide support to national NGOs. MRI, for instance, provides support to local actors by way of "the development of grassroots organizations working for migrants' rights through strategic support, information sharing, network building and technical expertise directed towards linking grassroots civil society efforts with international processes and vice-versa."[68] In addition, as Risse describes, international support to local groups can have a "boomerang effect," as "sustained transnational mobilization" provides the support and pressure needed by local actors, which he argues, in the area of human rights, can lead to states' improving their human rights records through "policy change" or alternatively "regime change".[69]

If a "coalition of interests" were to emerge, it could potentially develop with the soft power necessary to ensure that principles espoused in the international agenda are advocated. This is not to say that differences in approach and priorities would be avoided. In fact, it seems based on the evolution of coalitions in other fields, such differences are almost unavoidable. Concerning the environment field, the World Resources Report 2002-2004 publication, states: "…Some contention among civil society groups isn't bad…(as) the contribution of civil society…is strengthened by a diversity of ideas, debate, and criticism…(but) discord and conflicting positions can mean lost opportunities to advance forward-looking policies and achieve…progress".[70] It would, however, carry more leverage vis-à-vis other actors in the international community that may at times try to keep policy making discussions behind closed doors away from the non-governmental sectors.

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[68] Migrants' Rights International (MRI) "Profile" document available at www.migrantwatch.org
[69] Thomas Risse, *The Power of Norms versus the Norms of Power: Transnational Civil Society and Human Rights* in Florini (ed.) 2000, p.192
[70] *Awakening Civil Society* (Chapter 4) in World Resources Report 2002-2004, p. 78-79
In other fields, Galtung describes a major rift concerning the international corruption control campaign and Johnson does so concerning the international peace movement, in Florini (ed.) 2000.

CONCLUSION

The field of international migration is one which is evolving rapidly and where states and other actors in the international community have begun to seek out a framework in which to address migration as a comprehensive issue encompassing voluntary and involuntary movements, based on the notion that states and other actors share common ground on many migration interests and concerns, and focusing on strengthened cooperation and coordination. Civil society's influence in this field, compared to its role in other fields, is just beginning to take form. This delay is tied both to the nature of this field and to the relationship that exists between states, IOs and civil society in this field. Civil society can and should play a critical role in international migration policy development first and foremost to ensure that the migration agenda reflects existing international legal standards protecting refugees, internally displaced persons and migrants. Its influence would also be critical in defining the agenda, lobbying key principles, developing its content, providing timely and reliable information, imposing its moral authority in this field and monitoring implementation of states' obligations. This work can be accomplished through consolidating positions amongst INGOs/NGOs and developing coalitions of interest in this newly emerging field of policy debate.