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'A collective commitment to improving cooperation on migration': analysis of a thematic consultation session for the Global Compact for Migration

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ABSTRACT

The adoption of the New York Declaration in 2016 launched a two-year process to create a Global Compact for Safe, Orderly and Regular Migration (GCM), starting with an intergovernmental (informal) thematic consultation phase involving non-governmental actors. This article presents a framing analysis of preparatory materials and video recordings of stakeholder interventions for a thematic session on international cooperation and governance of migration. It examines the involvement of non-governmental actors in the GCM policymaking process and the opportunities and challenges in international cooperation on migration. The findings show that member states' concerns about national sovereignty, uncertainty about the consultation process, and varied framings of certain policy-issue areas presented considerable obstacles to international cooperation. At the same time, the open-ended outcome of the consultations phase enabled non-governmental actors to move discussions beyond state sovereignty and border control. We argue that the participation of non-governmental actors in consultation sessions broadened the bargaining table with 'softer type' issues, while the breadth of topics levelled out the playing field of international cooperation.

States cannot control the fact of migration …. But states can control their own responses, and turn to each other to collaborate when it is impossible to respond effectively on their own, to help maximize the positive effects of migration while trying to minimize its challenges. (Introduction to Issue Brief #3, United Nations 2017a)

Introduction

The large-scale movement of asylum seekers worldwide and the high loss of life in the Mediterranean Sea in 2015 called global attention to the plight of refugees and migrants. Policymakers realised that 'no one State can manage such movements on its own' (United Nations General Assembly 2016), and various actors called for an improvement in international migration governance. In response to calls for action, the United Nations (UN)

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convened a Global Summit on Refugees and Migrants in its headquarters in New York City in September 2016 to search for 'coherent, long-term and sustainable solutions to the governance of large movements of migrants and refugees' (United Nations General Assembly 2016). The meeting resulted in the unanimous adoption of the New York Declaration, a commitment by all 193 UN member states to jointly address global migration issues. The Declaration launched a two-year process to create two agreements, the Global Compact on Refugees (GCR) and the Global Compact for Safe, Orderly and Regular Migration (GCM). This article focuses on the latter.

The GCM stands as the first globally negotiated framework for international cooperation in migration. The 'international cooperation framework' contains 23 objectives for better migration management at the local, national, regional and global level. What is new about the GCM is its comprehensive approach, encompassing *all dimensions* of international migration. While the compact is a non-legally binding instrument, it signals a political commitment by most UN member states to create a global governance regime for international migration.[1] As this was the first time that UN member states agreed to create a global cooperation framework 'to address migration in all its dimensions' (GCM paras 14, 15), and to include 'migrants, diasporas, local communities, civil society, academia, the private sector, parliamentarians, trade unions, National Human Rights Institutions, the media and other relevant stakeholders in migration governance' (para. 15 GCM), the genesis of the GCM presented a key moment to examine the politics of international cooperation and migration governance more closely. The discussion, at least since the New York Declaration of 2016 mandating the UN Members to adopt the twin cooperation frameworks of the GCM and GCR, had moved from *whether* to *how* to cooperate on international migration, which raises a need for clarification what this cooperation should entail and what form(s) it should take.

The drafting of the GCM started with six thematic and informal consultation sessions, a relatively new meeting format that involves non-governmental stakeholders in the policy-making process, led by two UN appointed 'co-facilitators', who represented, respectively, the Global South (Mexico) and the Global North (Switzerland).[2] The UN thereby further finessed its whole-of-society approach (WOSA) to promote dialogue and collaboration between relevant stakeholders (Appleby 2020; Gottardo and Rego 2021), a format it had already adopted for negotiating the 2030 Agenda for Sustainable Development (Panizzon 2022).

This article analyses the thematic consultation dedicated to international cooperation and governance of migration, held in Geneva in June 2017, to examine the ways in which UN member states and non-governmental actors framed international cooperation and migration governance and the issues that they brought to the table. Because the consultation sessions were organised under the auspices of the UN, member states and non-governmental actors were provided a meeting place to discuss migration-related topics and explore international cooperation on relatively neutral ground. While critics could argue that the consultation sessions were merely 'talking shops' that resulted in little action (Panke 2014), we argue that the sessions can be useful for identifying obstacles and future directions in international cooperation on migration. In addition, the sessions raise awareness among stakeholders of who else might be advocating for the same issue. This laying out of positionalities (Appleby 2020) might enhance chances for policy coherence at the global level and strengthen the WOSA and whole-of-government approach (WOGA). These are both principles that the global community, since the days of the International Agenda for Migration Management in 2014, has aspired to. We argue that the participation of non-governmental

actors in consultation sessions can call attention to particular topics and can reinforce a rights-based approach to international cooperation and migration governance. In the consultation session that we analyse, the accredited non-governmental actors advocated for the rights of migrants and the need for protection of vulnerable populations. Their framing of what governance and cooperation should look like provides insights into key governance issues at that time.

Recently, a body of literature about the GCM has emerged in which studies by legal scholars and social scientists are isolated from each other. Whereas legal scholars are drawing on the GCM to understand how informal law-making works (eg Chetail 2020; Crépeau 2018), social scientists anchor the GCM within regime theoretical analysis and adopt an actor-centric view to observe stakeholder engagement and capacity-building in the negotiations, monitoring and review (Appleby 2020; Höflinger 2020; Rother and Steinhilper 2019). We aim to build a bridge between these strands of literature to better understand the involvement of non-governmental actors in a state-led process. While scholars have examined the text drafts and preparatory materials preceding the New York Declaration and the GCM, to our knowledge no studies have analysed the consultation sessions that preceded the negotiations phase. Several authors have examined the participation status of non-governmental organisations (NGOs) and civil society organisations (CSOs) in the Global Forum for Migration and Development (GFMD) and the GCM consultations, analysing their differing degrees of 'voice' (Rother 2019; Rother and Steinhilper 2019) and their 'capacity and positionality' (Schierup, Delgado Wise, and Toksöz 2019) in shaping policy outcomes in the global migration policy spaces. Others have studied the interactions and alliances between international organisations (IOs) and NGOs in terms of regime theoretical competition and conflict (Thouez 2019; Micinski and Weiss 2017).

This study is timely as the GCM's first quadrennial review, the International Migration Review Forum (IMRF), was held in May 2022. While it is a state-led session, it includes non-governmental stakeholders through the WOSA enshrined in paragraph 15 of the GCM as one of its 'guiding principles'. The 2017 consultation sessions, which this article studies, form a precedent for the meeting format for the IMRF by including non-governmental stakeholders in the policymaking process.

This article engages with two debates in global migration governance: First, it identifies factors that contribute to the intrinsically fragmented nature of migration governance and obstacles to international cooperation on migration (Betts 2011; Panizzon and Van Riemsdijk 2019), including sovereignty (Dauvergne 2004). Second, it examines possible new forms of cooperation (Martin 2007; Höflinger 2020; Boucher and Gördemann 2021; Chetail 2020; Newland 2019a; Piper and Foley 2021; Van Riemsdijk, Marchand, and Heins 2021), including the involvement of non-governmental actors in the GCM policymaking process. The article contributes to these debates and to scholarship on NGO/CSO engagement in the GCM (Appleby 2020; Rother 2019) by examining how the consultation sessions operationalised the WOSA/WOGA, and how such multistakeholder involvement ultimately transformed into new forms of cooperation on international migration.

The next section presents perspectives on international cooperation and the governance of migration, followed by a presentation of research methods, a framing analysis of the consultation session, and a concluding discussion of the significance of the WOSA/WOGA format for international cooperation and migration governance.

International cooperation and governance of migration

Migration governance is fragmented across institutions, organisations and regulatory frame-works, posing a key obstacle to international cooperation on migration (Chetail 2020). Currently, there is no single institution that governs all categories of international migration. Instead, sector-specific international organisations and institutions govern particular aspects of migration (Koser 2010), including forced migration, labour migration, family reunification, international student migration, temporary migration, and travel. This category-specific governance has created a 'patchwork of unilateral, bilateral, and regional policies, long considered too divisive for general debate within the UN' (Newland 2019b, 659). It is therefore remarkable that UN member states discussed migration governance at the highest level of UN diplomacy, by adopting the New York Declaration in 2016, which paved the way for adopting the GCM. States' willingness to participate in these debates at the global level is the result of a long trajectory of initiatives to improve international cooperation on migration, as well as the urgency of the 2015 migration 'crisis' (Panizzon and Van Riemsdijk 2019).

The foundation for international cooperation on migration was established between the two World Wars (Betts 2011), and various initiatives since then have tried to strengthen international cooperation. Calls for improved cooperation on migration re-emerged at the end of the Cold War as the number of asylum seekers increased worldwide, accompanied by a heightened visibility and politicisation of international migration (Betts 2011). Various initiatives have since aimed to enhance global migration governance (for historical overviews of global migration governance, see Betts and Kainz 2017; Martin 2015). Despite these efforts to strengthen international cooperation, migration governance remains fragmented (Newland 2019a).

The lack of coordination and unified solutions at the global level can be attributed to states' concerns about sovereignty, concerns about national identity and the socio-cultural and economic impacts of migration (Martin 2015), a lack of consensus on migration-related matters between and within states (Pécoud 2021), and the difficulty of harmonising migration policies across states (Martin 2015). Several member states expressed these concerns during the 2017 consultation session, signalling the continued existence of key obstacles to international cooperation.

One of the key barriers to international cooperation is a long-standing tension between multilateralism and state sovereignty. As states want to retain their sovereign control over admission to, stay in, and expulsion from their national territory, they are unlikely to agree to multilateral agreements that seem to interfere with this right (Dauvergne 2004). At the same time, states express a need for international – or even global – policies that address broader migration issues, such as investments in the development of sending regions, the need for immigrant labour, and the rights of migrants (Pécoud 2015). This tension between multilateralism and state sovereignty was acknowledged in the issue brief and reiterated by various member states, as discussed in more detail in the section on migration-as-control.

Sovereignty issues also divide perceptions about international migration along a North–South rift, pitting the powerful receiving states against the less-powerful sending states, as a result posing a barrier to international cooperation on migration (Van Riemsdijk, Marchand, and Heins 2021). This asymmetry is evident in, for example, the opposition of receiving states to the incorporation of the GFMD into the UN, and the refusal of receiving states to sign the

UN International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (Betts 2011). The division in state interests between the Global North and South is also evident in the consultation session, as discussed in the analysis section.

Kainz and Betts (2021) explain the historical roots of fragmentation in global migration governance by power asymmetries between predominantly 'sending' and 'receiving' states, while acknowledging that states can simultaneously be sending-, transit- and receiving states. These power asymmetries make 'sending states "takers" of migration governance and receiving states "makers" of migration governance' (Kainz and Betts 2021, 5). The authors note that relatively weak (sending) states want to strengthen multilateral agreements, such as the protection of their migrant workers abroad and access to labour markets. Receiving states, however, have the upper hand in migration governance. They can engage in 'venue shopping' by choosing the level(s) of engagement that best suit their interests (Guiraudon 2000). They may, for example, establish bilateral agreements with sending countries for returns, participate in Inter-State Consultation Mechanisms on Migration to address border control issues, and participate in discussions on human trafficking at the global level. These different levels of decision-making, and the participation of different actors, contribute to a fragmented governance landscape (Kainz and Betts 2021).

There are instances when receiving states decide to participate in multilateral governance. In particular, states may decide to engage in multilateral agreements when the benefits are perceived to outweigh the costs (Martin and Ferris 2017). In the case of migration this cost–benefit analysis primarily concerns economic and national security considerations, as states try to attract 'desirable' migrants while trying to keep out 'undesirable' ones (Betts 2011). This analysis is also evident in the statements made by receiving states in the consultation session.

Despite the opportunity for change that the preparation for the GCM provided, the analysis of the consultation session shows that considerable obstacles to international cooperation remained. These consisted of 'old' concerns about national sovereignty, national identity and the socio-cultural and economic impacts of migration (Martin 2015), as well as 'new' uncertainty about the consultation format and diverging perspectives on the need for new governance instruments and mechanisms. Together, these factors posed considerable barriers to international cooperation on migration and a better protection of migrants' rights. At the same time, non-governmental actors called attention to vulnerable populations and migrants' rights, and the importance of cooperation on these issues.

The GCM consultations used a WOSA/WOGA approach, meeting formats that the Global Commission on International Migration in 2003 and the International Agenda for Migration Management had launched in 2004 to increase policy coherence over delicate external dimensions of migration policies at the global level.[3] Whereas the WOGA aims to include all relevant stakeholders in finding a common language and terminology (Appleby 2020), to mutually share responsibility among all stakeholders, mitigate risk and redistribute political, economic and social risk and costs, the idea of WOGA/WOSA in the negotiations phase of a treaty or framework, we argue, is slightly different. The idea of WOGA is to embrace comprehensively all that is brought to the table by the most inclusive group of stakeholders possible, thus closely tied to a 'compact' as the ideal cooperation framework (Panizzon 2022).

Methods

This article analyses the proceedings of the third informal thematic session on 'International Cooperation and Governance of Migration in all its Dimensions Including at Borders, on Transit, Entry, Return, Readmission, Integration, and Reintegration', which was held in Geneva on 19–20 June 2017. The session consisted of three expert panels, a summary panel and concluding remarks.[4] This consultation session has been selected because of its focus on international cooperation and governance of migration. Member state delegates and representatives for IOs, NGOs and CSOs issued statements on international cooperation and global migration governance on the floor and other interventions.[5] The interventions were recorded by UN TV, and we used the recordings to analyse the session's proceedings.[6] While the statements in the consultation session were made in a public setting, the quotes included in this article have been de-identified to protect the identity of the speakers.

This study uses issue framing, a method developed in social movement studies (Snow and Benford 1992) and media studies, and applied to policymaking practices (Roggeband and Verloo 2007; Schön and Rein 1994) and other issue areas. Actors engage in policy framing when they select, interpret and organise information to make sense of a complex situation (Schön and Rein 1994, 30). Thus, framing 'simplifies and condenses the "world out there" by selectively punctuating and encoding objects, situations, events, experiences, and sequences of actions within one's present or past environment' (Snow and Benford 1992, 137). The framing of an issue enables actors to promote their interests when they convincingly formulate the problem and present a preferred solution (Schön and Rein 1994, 45).

This study uses issue framing analysis to examine the ways in which the 'problem' of international cooperation and migration governance is presented, and by whom, as well as suggested ways forward in the consultation process. These frames matter as they construct policy problems and guide individual and collective action (Snow and Benford 1992). These insights are especially salient for understanding processes of change (Dewulf and Bouwen 2012), in this case when UN member states aimed to create a comprehensive framework for migration governance. It matters from an analytical and policy perspective to identify the interests and goals of UN member states as their conflicting interests have previously contributed to a lack of international cooperation in international migration (Tamas and Palme 2006). The thematic session also enables us to identify the factors that contribute to a fragmented landscape in migration governance (Betts 2011; Kainz, Banulescu-Bogdan, and Newland 2020), and the topics that non-governmental actors bring to the policymaking process.

Actors can use generative metaphors to frame an issue, transferring familiar ideas to a new situation 'with the result that both the familiar and the unfamiliar come to be seen in new ways' (Schön and Rein 1994, 23). These metaphors tend to build on normative images that are widely shared and call for action to restore balance. For example, the use of disease-related metaphors evokes calls for intervention and a restoration to health. Similarly, metaphors of wholeness can be used to address fragmentation. These dualisms are powerful tools to name and frame the 'problem', and to steer the preferred course of action (Schön and Rein 1994).

The analysis was conducted as follows. First, the first author manually coded the issue brief for the consultation session (United Nations 2017a) to identify key themes. Second, the first author transcribed the video recordings of the two-day thematic session (United Nations

2017b) in a Microsoft Excel file. Third, the first author coded the transcriptions for key themes, including the framing of the 'problem(s)': actors involved; frames used; and ways forward. The first author used an iterative coding process, adding new codes when they emerged, grouping single codes into larger groups, and splitting large groups of codes into sub-groups that shared a common theme (Cope 2010). The second author categorised and analysed the findings of her participant observations during the third thematic meeting. The first and second author each wrote sections of the introduction, literature review and analysis, and the second author wrote the conclusion. The following sections present the results of the framing analysis of the consultation session.

Migration governance as control

As discussed in the literature section, member states' concerns about national sovereignty continue to be a key obstacle to international cooperation on migration (Dauvergne 2004; Chetail 2020). This concern was also expressed in the consultation session, where migration governance was framed as member states' ability to control access to their territories. The dominant frame for the migration governance 'problem' revolved around losing or (re)gaining control, revealing the tension between national sovereignty and multilateralism (Pécoud 2015).

As the thematic session discussed borders, transit, entry, return, readmission, integration and reintegration, it is not surprising that the framing of migration governance as 'control' is evident in the statements of various delegates in the consultation session. Many delegates started their interventions with a statement about their countries' sovereign right to control their borders (see Table 1). A delegate for a member state in the Global North argued that 'migration governance is a way to help states deal with migration in a more effective and efficient way, and should not lead to supranational rules that are imposed on states from above'. And a delegate for a member state in the Global South stressed that 'migration governance begins and ends at the national level, with national governments responsible for establishing legal frameworks and policies that serve their domestic priorities'. As can be seen in Table 1, sovereignty concerns are expressed by member states in both the Global North and the Global South.

Member states' fear of imposed control is also tied to the definition of governance (Pécoud 2021). The issue brief acknowledges that states may be 'wary of the idea of international migration "governance" …. To some states, the term implies international *control*, which would contravene a bedrock principle of national sovereignty – the determination of which non-nationals may enter and stay in a state's territory' (United Nations 2017a, quotation marks and italics in original text). The two UN co-facilitators, member states, and non-governmental actors tend to use the term 'migration management' to avoid this contentious issue. This terminology frames international migration as a 'problem' that can be solved by member states through border control (Geiger and Pécoud 2012), and enables the convenors to formulate the 'problem' in a way that member states can agree to (Schön and Rein 1994, 45).

The issue brief, meeting facilitators, and delegates for the US, Denmark and the Philippines emphasised that the consultation phase was a state-led process (see Table 1), thereby reinforcing states' role in international migration governance. Louise Arbour, Secretary-General of the Intergovernmental Conference, noted that 'it will be up to the states to determine the

Table 1. Themes related to migration governance as control.

Theme	Global North	Global South	UN representatives and session moderators
Sovereignty	Denmark (Panel 1); Delegate for the European Union (EU) (Panel 2); Norway; United Kingdom (Panel 3); Spain; EU ambassador (Summary panel)	Philippines, Jordan; Ethiopia (Panel 1); Bangladesh; Egypt; Guatemala (Panel 2); Jordan; Ethiopia (Summary panel)	UN Refugee Agency (UNHCR) (Panel 2); UNHCR (similar statement as in Panel 2); Dr Khalid Koser (Summary panel)
State-led process	United States (US) (Panel 1); Denmark (Summary panel)	Philippines (Panel 1)	Permanent Representative of Mexico Juan José Gómez Camacho; Secretary-General of the intergovernmental conference Louise Arbour (Panel 1); Moderator Omar Alnuaimi (Panel 3); International Organization for Migration (IOM) Director General; Juan José Gómez Camacho (Summary panel)

way forward [in migration governance]'. A delegate for a member state in the Global South said that 'we should bear in mind, as has been pointed out by Mme. Arbour, that this has to remain a state-led process, therefore, by its nature it will be voluntary. So when you start managing the diversity of the issue and the complexity of the issue, you need to consider the position of states, be as inclusive as possible'. This point was reiterated by a panel moderator: 'The critical question that faces us in this panel is: how do we strengthen and improve these mechanisms while at the same time maintaining their character as a state-led and non-binding consultative process?' The framing of the consultation sessions as a state-led process reassured the member states that they were in control of the consultation process and the content of the GCM.

UN member states did endorse the GFMD and Regional Consultative Processes (RCPs), which are both state-led and non-binding forums (Kainz and Betts 2021), but disagreed on the role that these forums should play in the governance of migration. Some delegates argued for an expanded role of the GFMD to evaluate the implementation of the global compact (Bangladesh; Brazil), while others did not support its repurposing (Australia; UK; US). The support for the repurposing of the GFMD mirrors the interests of migration policy 'takers' who favour more involvement in migration governance, and migration policy 'makers' who oppose measures that could curb their control of migration-related decision-making (Kainz and Betts 2021).

The framing of migration governance as control illustrates the continued salience of international migration as the 'last bastion of sovereignty' (Dauvergne 2004, 588). States' support could be most easily and effectively garnered if the GCM were non-binding (Newland 2019b; Ferris and Donato 2020), and if it were to re-state the status quo of human rights protection and other multilateral obligations rather than expanding these (Chetail 2020). Thus, the UN member states took care not to venture beyond the UN human rights conventions, except for member states in the Global South that advocated for the rights of migrant workers (see the section on migrant rights).

States' concerns about national sovereignty – evident in the delegates' statements about their sovereign right to control entry, stay and forced return from their territories – posed a considerable hurdle to international cooperation on migration. Thus, delegates for UN member states and session facilitators framed migration governance as (state) control, which was necessary to ensure participation of member states in the consultation process and the ensuing drafting and adoption of the GCM. Ultimately, these concerns find their way into the final text's paragraph 8, which speaks of a state consensus to merely 'improve' migration governance (as opposed to 'facilitate' or 'implement') (Crépeau 2018). The consultation session indicates, and the final text reflects, that a common denominator for what 'improving migration governance' might mean for states could be operationalised as a 'multi-actor approach' embedded in a state-led process of international cooperation, as a first step. How deeply the GCM allows IOs to be formally engaged in co-creating governance remains open, but the progress declaration coming out of the May 2022 IMRF might shed more light on their venues for impact.

Migrant rights and protecting vulnerable populations

The involvement of stakeholders in the policymaking process enabled these actors to direct attention to international migration issues of concern to them, thereby balancing out the dominant framing of migration governance as control. The issues that were mentioned most often by non-governmental stakeholders were the protection of women, children and families and the rights of migrant workers (see Table 2). In their statements, IOs, NGOs and CSOs explained the issues, sometimes provided anecdotes to illustrate their importance, provided concrete policy recommendations, and in one instance reframed an issue to portray it in a more positive way. In the latter instance, a spokesperson for a migrant organisation noted that women should not be portrayed as victims as they are agents of change. The spokesperson also called for protection of women's rights rather than protection of women. This intervention illustrates an attempt to reformulate the 'problem' (Schön and Rein 1994, 45).

Two NGOs illustrated their claims with powerful narratives, framing current migration governance as failing to protect children. The representative for a migrant organisation illustrated the difficulties with applying for asylum at the Mexican–US border using the case of a Mexican woman who was denied the right to apply for asylum. The representative was kidnapped in Nogales and released when family members paid a ransom. In another example, a member of an NGO had been detained in the US as a child. The person returned involuntarily to the country of birth while the parents did not live there, and stated that returns are a violent process that tear children away from their communities. These narratives present lived examples of migration governance, moving the discussion from 'we should protect vulnerable migrants' to actual vulnerabilities.

In statements about migrant workers, we identified a clear North/South distinction and an alignment in perspectives between states in the Global South, NGOs and IOs. The US and Norway merely stated that they have policies to protect migrant workers. The Philippines and Indonesia advocated for the protection of the rights of migrant workers, and called for the signing of the UN International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, promoting the protection of their citizens abroad (Kainz and Betts 2021; Money and Lockhart 2019). The ILO and the Insan Association called for greater protection and equality of workers, the National Council of Human Rights Morocco

Table 2. Vulnerable populations and the rights of migrants.

Issue	Global North	Global South	IOs	NGOs and CSOs
Women, children, families	Representative for the EU; Germany (Panel 1); Sweden; US; Mexico (Panel 2); Germany; Mexico (Panel 3); Switzerland (Summary panel)	Costa Rica (Panel 1); Peru (Panel 2); Honduras (Panel 3)	Swedish Red Cross (Panel 1); International Committee of the Red Cross (ICRC); UN Human Rights Office (OHCHR); UN Women (Summary panel)	Médecins Sans Frontières (MSF); Kino Border Initiative; Global Alliance Against Trafficking Women; In Defense of Migrant Rights and Women in Migration Network (Panel 2); Public Services International (Panel 3); Save the Children; Women in Migration, Global Alliance of Human Rights Institutions; International Detention Coalition (Summary panel)
Migrant workers	US (Panel 1); Norway (Panel 2); United Arab Emirates; Turkey (Panel 3); Israel (Summary panel)	Philippines; Chile; Jordan; Ethiopia; Indonesia (Panel 1); Indonesia; Venezuela; Nepal; Ecuador (Panel 2); Sri Lanka; Republic of Korea (Panel 3); Ethiopia (Summary panel)	International Labour Organization (ILO) (Panel 1); International Organisation of Employers (Summary panel)	Committee for Migrant Workers; Migrant Forum in Asia; Insan Association (Panel 1); Public Services International National Council for Human Rights Morocco (Panel 3)

Interest representation is disaggregated by topic and actor.

and the ILO called attention to brain drain, and the International Organisation of Employers recommended greater cooperation with the private sector to ensure that migrants can use their skills to their full potential. The involvement of NGOs and CSOs amounts to a 'broadening' of the global migration governance space to actors that were hitherto less (or un-) involved, eg business groups – and the International Organization for Migration (IOM), an intergovernmental organisation which had for long been operating at the margins of the UN system but not from within (Piper and Foley 2021).

Whereas listing topics for debate in the consultations and negotiations phase does not amount to a new form of cooperation per se, in doing so non-governmental actors can direct attention to 'soft' migration issues or issues undetected by states (Höflinger 2020). NGOs'/CSOs' self-interest lies in finding niches within migration policy formulation, which offer funding and advocacy opportunities. These niches, by consequence, are far removed from state sovereignty and government control. Hence, we can credit NGOs/CSOs (but also certain member states in the Global South) for re-focusing migration policy and international cooperation towards such niches, eg migration as a 'life-choice', requiring policy choices that adapt to the individual migrant and her family at 'all stages of the migration cycle' and apply 'regardless of migration status' (Panizzon 2022).

While some decry the 'compacting' of such diverging themes in the GCM as a 'laundry list' of migration-related policies that failed to prioritise human rights among all other norms (Guild 2018, 663), the consultation session reveals that migrant workers' rights and the

relationship of the GCM to human rights of migrants were on the table. We document that NGOs/CSOs succeeded in the 2017 consultations in placing 'softer type' issues on the bargaining table. Yet the breadth of topics tabled comes at a cost of levelling the playing field of international cooperation at the expense of improved human rights protection.

Ultimately, the consultation sessions changed the hitherto unidirectional focus of migration control to migrant rights and protection of vulnerable populations. In shifting the predominant policy focus away from sovereignty, the consultations were able to prepare the ground for the paradigmatic shift achieved by the GCM, of understanding migration not as a 'problem' but as a life event and life choice requiring a WOSA/WOGA by policy- and lawmakers.

Migration governance as work in progress

While the GCM was a state-led process, like other non-legally binding cooperative frameworks, the UN facilitators added an additional step to the policymaking process that enabled the participation of non-governmental stakeholders. The GCM policymaking process started with a consultation phase, a format that was pioneered by the Agenda 2030, followed by stock-taking, a negotiation phase and adoption (Thouez 2019). As the consultation sessions aimed to gather input from a variety of stakeholders, the format was open-ended, rather than following a set architecture. While making the process open-ended was a deliberate decision by the organisers, it created a sense of uncertainty among some of the participants. Louise Arbour explained in her opening remarks that

> The way forward section in the brief is intentionally somewhat open-ended. There are two reasons for this: First, we are still in the consultation phase of this process. Second, on governance, maybe more than any other issue, it will be up to states to determine the way forward.

And one of the two co-facilitators, the Ambassador for Mexico, Juan José Gómez Camacho, stated that

> we are not yet drafting, we are not yet negotiating anything. We are learning, we are understanding, we are learning about each other's experiences, challenges, regionally, sub-regionally, bilaterally, domestically. So by the time, when the time to negotiate actually comes, we should have, all of us, collectively, a far clearer picture of the actual phenomenon. And based on that we should build together the global compact.

Several member state delegates and panellists framed the GCM as a process that is under construction. A delegate for a member state in the Global South noted that the GCM 'can become a pillar that can strengthen legally and non-legally binding instruments on migration'. A spokesperson for a global aid agency framed the GCM as 'scaffolding that facilitates cooperation, not only among member states but the whole of society approach that I have heard already mentioned, that is so important'. The framing of the GCM as 'scaffolding' and 'pillars' invokes images of a building, the former supporting a building under construction while the latter props it up and holds it in place. The construction imagery is reinforced in Arbour's remark that the GCM provides a 'unique opportunity for member states to engineer a global framework for international cooperation on migration'. Thus, the consultation process is framed as a process of engineering wherein the member states construct a framework for international cooperation.

Policymakers may intentionally leave the framework rather open, adding more specific legal rules later on to gather buy-in from stakeholders. Studying the legal framework for property rights for plant genetic resources, Raustiala and Victor (2004) observed such a strategy. They noted that negotiators initially designed broad rules that could be interpreted in various ways, leaving the resolution of this ambiguity to future negotiations and subsequent legalisation. It appears the thematic session was following this strategy, establishing broad goals for international cooperation while leaving it to future rounds of negotiation to refine the modes of cooperation.

The interventions in all four panel sessions reflect uncertainty about the way forward regarding international cooperation on migration. A panellist summed up this uncertainty as follows: 'we have, I think, a very good sense of what we need to do, but we don't have a good sense of how we're going to do that'. This sentiment was echoed by the delegate for a member state in the Global North: 'The question is how we can meet all the challenges which we face in respect of migration, until the questions around it can be addressed, that is the real goal of the global migration compact'. A delegate for a member state in the Global South responded:

> We spent an awful lot of years talking, but now we have to actually decide what we want to do in practical terms as a result of this debate. Sometimes of course I think we don't know what it is we have to do. We have made a lot of progress toward that, now we have to really make the decision, this is what we're going to do and do it. And in so doing we can take into account the experience we have had already.

The open-ended nature of the consultation sessions was necessary to ensure the participation of receiving states. These states have tended to refuse to commit to binding agreements that may diminish their privileged status in migration governance (with a few notable exceptions in the refugee regime, the passport regime and human trafficking). The consultation sessions provided a non-legally binding forum where states could share information and engage in dialogue. This 'facilitative multilateralism' (Betts 2011, 12) is more likely to succeed than top-down governance as international migration remains a 'statist' issue that is negotiated and implemented by states (Betts 2011, 7).

Delegates disagreed on the question of whether the existing governance framework was sufficient to manage global migration flows. Several session participants used the generative metaphor of (re)inventing the wheel when discussing this issue. They appropriated a widely shared normative image of invention and ingenuity, while warning against reinventing something that already exists. The wheel imagery was introduced by a delegate for the IOM:

> Let's recall the road we have taken, the guideposts that brought us to this point. We really don't have to reinvent the wheel, to use that hackneyed but descriptive phrase, we are already well along the road to a solution [the delegate listed several existing agreements]. All of this scaffolding is in place. What we have to do between now and next September is to complete the structure.[7]

In all four panels, delegates discussed whether the existing 'wheel', ie existing governance mechanisms, frameworks, and structures, were sufficient to address current migration challenges, or whether new ones needed to be developed. Arguing against the reinvention of the wheel, a delegate for a member state in the Global North said:

we need to identify existing instruments of migration governance and determine policy gaps. We do not need another instrument that suffers from low uptake. Our vision must have broad buy-in. There are already a number of conventions, treaties, resolutions, protocols and guidelines [the delegate provided several examples]. The compacts should weave these together, identify the issues they address and highlight gaps.

The goal of the GCM, as this delegate states, is to identify the laws that exist (Chetail 2020) and to establish stronger and better interlinkages among them, as well as to fill in the gaps in treaties and agreements (Höflinger 2020). A delegate for a member state in the Global North stated: 'We shouldn't be reinventing the wheel as the IOM said, nor should we create new mechanisms without very careful consideration of where they add value. We need to show how we can make existing systems work in order to serve the concerns of all our publics and make migration work for all'. Another delegate from the Global North noted: 'nor should we create new mechanisms when existing ones suffice'.

On the second day of the thematic session, a panellist resumed the discussion about reinventing the wheel. This person stated that

… we do not have to reinvent the wheel because we have not yet invented it. We don't yet have a holistic raft of instruments available to us to allow us to move forward in harmony with all of the international institutions in the area without jeopardising migrants' rights and this is why the global compact only has a sense if we start by inventing the wheel, and we create in an innovative way innovative instruments which will help us to really add value for migrants and ensure that international migration occurs in a what we may characterise [as] a natural way.

A delegate for a member state in the Global South seconded this perspective: 'It is quite right to say that we not yet have invented the wheel for cooperation. What we have at the moment is a key task in front of us in order to do this in the covenant'.

The panellist's assertion that the wheel had not been invented *yet* referred to the absence of a holistic raft of instruments that safeguard migrants' rights. His remarks hint at the 'false dichotomy' between human rights and national sovereignty that will be discussed in more detail in the section on suggested lines of action. Overall, the framing of migration governance as (re)inventing the wheel concerns the question of whether the existing governance framework was sufficient, or whether new instruments and mechanisms were necessary to improve cooperation on migration.

Suggested lines of action

While the delegates clearly identified the barriers to cooperation in the consultation session, the way forward was less clear. Several panellists and member state delegates called for concrete action to improve cooperation without providing specific examples of what this would entail. For example, a delegate for the IOM noted that 'Today, we are, once again trying to move from process to substance – seeking practical ways to improve migration governance' calling for 'enlightened global, national and local political leadership', and asking who would take the lead.[8] The delegate for a member state in the Global North mentioned that 'We believe in focusing on concrete action items rather than grand concepts'.

The same delegate proposed the following solution: 'We can only lay out a vision if we understand what is missing, we should determine policy gaps', encouraging 'member states

to bring even more concrete ideas to the meeting'. A delegate for another member state in the Global North noted that

> We wholeheartedly support the win–win mindset and the desire to find the areas of consensus but this must not be at the expense of dealing and discussing with the areas where our views diverge. We need to get [a] better understanding of what lies beneath, often it is the terminology and the phrases that we use, and we need to understand those, really understand the context, and the policies and the positions. If we don't do this we think we miss this very important opportunity.

A delegate for a member state in the Global North seconded this suggestion: 'Many comments are still general, and somewhat repetitive. We encourage member states, panellists, international organisations and civil society to think about concrete actions that governments and other stakeholders can realistically take on'.

The open-ended format of the consultation sessions ultimately led to the choice of UN member states to keep the GCM's final text and normative status a 'legally non-binding cooperation framework' (United Nations General Assembly 2018). This outcome has much to do with the mission of 'filling in the policy gaps', which a delegate for a member state in the Global North ascribed to the GCM, and which has been corroborated by studies of the genesis of the GCM (eg Höflinger 2020). This low level of ambition characterising much of the consultation session resulted in the framing of the GCM as governance as a work-in-progress, and disappointed several members of the Global South (Boucher and Gördemann 2021). It is explained by the fact that UN members failed to agree which policies should be prioritised over others – for example, as discussed above, migration as control being juxtaposed with the protection of migrant workers (see also Boucher and Gördemann 2021).

Another line of action concerned the safeguarding of human rights of migrants, as emphasised by various member states and NGOs. Several panellists in session 3, including representatives for the Employer Federation of Mexico and Public Services International, the International Committee of the Red Cross, Médecins Sans Frontières and the Kino Border Initiative, provided examples of human rights violations and called for the protection of vulnerable migrants. In all four panel sessions, various member states acknowledged the importance of human rights, while some also stated their right to detain and return migrants.

States' concerns about the protection of borders seemed to trump the safeguarding of human rights, as noted by the delegate for the United Nations Refugee Agency (UNHCR):

> The UNHCR certainly appreciates that states have a legitimate interest in controlling unauthorised entry to their territory and in combating transnational organised crime, including the smuggling and trafficking of persons. States have the sovereign right to determine whom to admit, exclude and remove from their territory. However, this prerogative must be exercised in accordance with international law.

And a delegate for a member state in the Global South observed a 'rift between those who believe migration is a matter of national sovereignty prerogatives and those who desire a rights-based multilateral approach'.[9]

A panellist argued:

> I have heard clear consensus, convergence around the fact that the global compact must respect national sovereignty in all sorts of ways. The global compact equally must respect human rights and let's be clear that human rights are not incompatible with national sovereignty. And let's be clear that human rights are not incompatible with national security.

This 'false dichotomy' between human rights and national sovereignty has been addressed by various scholars (eg Geddes and Scholten 2016; Ishay and Goldfischer 1996; Henkin 1995).

While several states called for concrete action on the governance of migration, in particular to strengthen the human rights record, they did not outline a concrete way forward. This lack of specificity can be attributed to the open-ended nature of the consultation session and the fact that three more consultation sessions were to follow. In sum, the GCM's open-ended governance and its work-in-progress type of architecture placed few demands on UN member states. At the same time, the consultation sessions and the GCM text lowered expectations regarding on which values to erect the scaffolding. This situation created, as Newland (2019a, 8) writes, an 'agreement [that] has something for everyone to like – and probably something for everyone to dislike', a flexible framework necessary for international cooperation on migration to function, even it comes at the cost of endangering migrants' human rights.

Conclusion

The policymaking process towards the endorsement of the GCM epitomises an experimental form of international cooperation, which created an opportunity for involving non-governmental stakeholders, the so-called informal, thematic consultations. This article empirically studied the consultation phase to conclude that it typifies the kind of global migration governance-in-the-making that the GCM ultimately represents.

We find that the open-ended format of state-led consultations has enabled non-governmental actors to direct attention towards policy areas, including human rights and the protection of vulnerable populations. Our analysis provided examples of (re)framing devices that some actors used, and how they aligned their agendas with sending states in the case of migrant workers. The examples show that the participation of non-governmental actors succeeded in (re)balancing the discussion and contributed to a more level playing field. Through a mix of statements from the floor and expert roundtables, the consultations provided stakeholders with a platform to co-create a common working language towards stock-taking, negotiating and ultimately agreeing on what became the zero drafts of the GCM (Appleby 2020).

Viewed from the broader perspective of the GCM's final text and review in May 2022, the six thematic consultations proved a key, but enigmatic, stage for delivering the final product of the GCM, for two reasons: even if rhetorically downplayed by the UN network and states as an 'informal' stage, states were pressed to react to the expert knowledge and advocacy of non-governmental actors. Moreover, as has been discussed, non-governmental actors raised issues of vulnerability protection and capacity-building on migration laws, that were not yet covered by international legislation. Both factors added legitimacy and transparency to the process.

In sum, the statements read by governments and non-governmental actors during the consultation re-iterated well-known truths, including the sovereign rule over international migration and the need to respect and protect migrant workers' rights. Yet when we connect the recordings of the thematic session to the GCM final text, a common desire to address migration governance challenges emerges. In turn, the multistakeholder approach has changed the dynamics of how states 'improve cooperation on international migration'.

Disclosure statement

No potential conflict of interest was reported by the authors.

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Notes

1. The US withdrew from the negotiations over the GCM in December 2017, citing concerns about national sovereignty (Reuters 2017). Five days after the approval of the GCM, Hungary announced that it would not sign the agreement due to fears that the compacts facilitate migration (Reuters 2018). Australia would not sign the GCM 'in its current form' due to its framing of detention as a 'measure of last resort', encouraging member states to 'work toward alternatives' (The Guardian 2018). This lack of support for the GCM may have set a precedent for other states to refuse to adopt the global compacts.
2. While acknowledging the problematic use of the terminology 'Global North' and 'Global South' and its failure to adequately depict inequalities within countries (Mahler 2017), this article applies the listing by the United Nations' Finance Center for South–South Cooperation to identify whether, and if so how, a North/South divide existed in stakeholders' interventions in the consultation session. http://www.fc-ssc.org/en/partnership_program/south_south_countries

3. A/RES/70/1 – Transforming Our World: The 2030 Agenda for Sustainable Development.
4. https://www.iom.int/events/international-cooperation-and-governance-migration-all-its-dimensions-including-borders-transit-entry-return-readmission-integration-and-reintegration
5. The organisational arrangement document for consultation 3 to be held on 19–20 June 2017 states in paragraph 3 that 'All sessions (also the informal dialogue with the co-facilitators on 20 June at 9–10 AM) will be webcasted and recorded: http://webtv.un.org/' https://refugeesmigrants.un.org/sites/default/files/ts3_organizational_arrangements_0.pdf.
6. https://refugeesmigrants.un.org/international-cooperation.
7. https://refugeesmigrants.un.org/sites/default/files/unhcr_ts3p2.pdf.
8. https://refugeesmigrants.un.org/sites/default/files/iom_ts3_p1.pdf.
9. https://refugeesmigrants.un.org/sites/default/files/iom_ts3_p1.pdf.

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