Multilayered Migration Governance: The Partnership Approach in the EU and Beyond

Sandra Lavenex, University of Lucerne
Marion Panizzon, University of Bern

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Abstract

The notion of "partnership" has come to replace the traditional focus on unilateral measures and limited bilateral agreements in the migration governance discourse. Migration or mobility partnerships are now introduced in bilateral relations between destination and sending countries of migrants, between the EU and third countries, and in Regional Consultation Processes. This paper scrutinizes the implications of the "partnership turn" in international migration governance and analyses these informal governance arrangements in three respects: a) their contribution to the broader framework of international migration governance b) the understanding of international cooperation conveyed through the notion of "partnership" and c) their relevance in terms of regulating states' approach to population flows.

Introduction

International migration is not a stronghold of global governance. In the absence of a coherent international regime setting out the principles, norms and rules regulating the cross-border flow of persons, this policy field is usually depicted as an exception to the general trend towards international institutionalization and rule-making. The reasons for this exceptionalism relate to the sensitivity of the issue for state sovereignty and the deep clash of interests between the countries deemed to cooperate, i.e. the countries of origin, transit and destination. Yet, focussing one-dimensionally on the weakness of the formal multilateralism for international migration cooperation alone, overlooks the development of an intensifying web of regional and trans-regional cooperation arrangements and particularly dynamic patterns of bilateral cooperation. A particularity of this multilayered system is the proliferation of informal, process-oriented, experimental forms of transgovernmental governance, promoted by countries of destination in their relations with countries of origin and transit. Often called migration "partnerships", these new venues of cooperation have been heralded as panacea for the crafting of win-win-win solutions, benefiting all parties, i.e. the countries of origin, transit and destination and the migrants alike. In Europe, the need to formulate a response to the Arab Revolutions has added new urgency to the search for new solutions in migration governance, and the EU institutions have been quick to propagate the conclusion of Mobility Partnerships as the favoured approach. It has oftentimes been difficult to see the added value of regional approaches and what the interrelationship between these two layers of governance might be. We query to what extent the bilateral agreements on migration partnerships concluded by EU Member States influence EU mobility partnerships and Regional Consultative Processes and whether the regional level of governance would exist without the bilateral norms.

In our paper we discuss three kinds of partnerships: bilateral migration partnerships concluded between individual countries of destination for migrants and sending countries; the EU mobility partnerships concluded with third countries; and the wider use of the partnership notion in EU external migration relations and Regional Consultative Processes. We analyze these informal governance arrangements in three respects: a) their contribution to the broader framework of international migration governance b) the understanding of international cooperation conveyed through the notion of "partnership" and c) their relevance in terms of regulating states' approach to population flows.

The "partnership-turn" in international migration governance

Traditionally, international relations scholars have interpreted the absence of meaningful cooperation on international migration as an exception to the general trend towards international institutionalization and rule-making after World War II. The reasons for this exceptionalism are seen to lie in the sensitivity of the issue for state sovereignty and the deep clash of interests between the countries deemed to cooperate, i.e. the countries of origin, transit and destination (e.g. Bhaghwati 2003; Ghosh 2000; Hollifield 1998; Trachtman 2009). Yet, the sole focus on the weakness of classical forms of formal multilateralism in international migration cooperation is rather short-sighted. In recent years, a few authors have started to argue that the absence of an international migration regime does not mean that international migration is free of governance. In contrast, a multitude of institutions and norms have proliferated over the last 50 years that regulate international migration, albeit in a highly fragmented, partial and often inchoate manner. Legal scholars have mapped the multitude of international norms applicable to migrants and have coined the metaphor of a

'substance without architecture' (Aleinikoff 2003). From an International Relations perspective, Alexander Betts (2011a and 2011b) has postulated the emergence of a system of 'global migration governance' including thin multilateralism, embedded norms in other sectoral regimes, and intensifying trans-regional cooperation. In our project, we have adopted a multilevel perspective on the established and emerging structures of international cooperation in the field and have coined the notion of a system of 'multilayered migration governance' (Kunz, Lavenex, Panizzon 2011). Accordingly, a fragmented set of multilateral rules is complemented by an intensifying web of regional and trans-regional cooperation arrangements and particularly dynamic patterns of bilateral cooperation (see also Lahav and Lavenex 2012). A particularity of this multilayered system is the proliferation of informal, process-oriented, experimental forms of transgovernmental governance, promoted by countries of destination in their relations with countries of origin and transit. Often called migration "partnerships", these new venues of cooperation have been heralded as panacea for the crafting of win-win-win solutions, benefiting all parties, i.e. the countries of origin, transit and destination and the migrants alike. In Europe, the need to formulate a response to the Arab Revolutions has added new urgency to the search for new solutions in migration governance, and the EU institutions have been quick to propagate the conclusion of Mobility Partnerships as the favoured solution (European Commission 2011: 11).

The "partnership approach" reflects a broader development in international relations and has travelled across fields of cooperation. This approach combines a discursive component with an institutional one relating to the creation of supposedly horizontal and inclusive settings of dialogue and cooperation. One field where the partnership approach has seen a particularly wide reception is development cooperation. Here, the partnership concept describes new forms of North–South and aid relations (Abrahamsen 2004; Fowler 2002; Maxwell and Riddell 1998; Ruckert 2006). While the use of the partnership notion in the field of development can be traced back as far as 1969, when the Pearson Commission on Aid and Development called for 'a new partnership based on an informal understanding expressing the reciprocal rights and obligations of donors and recipients' (Commission on Aid and Development 1969: 127), it was only in the mid-ninety-nineties that the term became more prominently used, such as in the Organisation for Economic Co-operation and Development (OECD) report *Shaping the 21st Century: The Contribution of Development Co-Operation* (May 1996) or the UK Department for International Development (DfID) White Paper *Eliminating World Poverty: A Challenge for the 21st Century* (1997). The European Union has been particularly enthusiastic in embracing this partnership turn and uses this notion extensively in its external relations, be it in its Partnership and Association Agreements with Eastern European Countries, the Euro-Mediterranean Partnership to the South, its Strategic Partnerships with emerging economies, in more targeted sectoral policies, such as the Africa-EU energy partnership or, as analysed below, the Mobility Partnerships.

Generally speaking, the notion of partnership has positive connotations and is associated with a desirable and voluntary form of cooperation among equals, pursuing common goals based on mutual respect (Laakso 2007: 118). Thus, in the field of development, partnerships are often portrayed as a positive shift towards a more cooperative approach that contributes to return power to developing countries and to increase Southern ownership and participation (Abrahamsen 2004: 1455). Yet, critical scholars have depicted a differentiated picture of the partnership discourse in international development cooperation and advocated different perspectives. According to one critical perspective, development partnerships are mere rhetoric or ideology, a myth that serves to disguise 'continued domination of the South by the North', without transforming North-South relations (ibid: 1456). Thus, Harrison (2002: 587)

warns that such partnerships might not only conceal but also reproduce and legitimize this continued domination.

In the field of migration, the concept of partnership is more recent: it represents the latest turn in the search for new migration policy solutions and has emerged as a panacea for the cooperative governance of international migration between countries or origin, transit and destination. The Berne Initiative, launched in 2001 was the first consultative process addressing inter-state cooperation in the field of migration at the global level and substantiated the concept of partnership in its International Agenda for Migration Management (IAMM):

> Migration management is an area for partnerships between interested stakeholders and for consideration of responsibility sharing between States involved in or affected by particular migratory movements. Continued exploration is required to identify additional ways by which governments, international organizations, non-governmental organizations and other private sector and civil society organizations can work together to develop greater confidence and effective and joint management tools, technical cooperation, cost and other responsibility sharing. (Federal Office for Migration 2004: 13)

The notion of partnership has been emulated by other international for a such as the Global Commission on International Migration (GCIM), the UN High-Level Dialogue on International Migration and Development, the International Organization for Migration (IOM), the Global Migration Group, and the Global Forum on Migration and Development. The GCIM Final Report also emphasises the need for cooperation and shared responsibility: 'The very nature of transnational migration demands international cooperation and shared responsibility' (GCIM 2005: 66). In his address to the UN High-Level Dialogue on International Migration and Development, the Secretary-General reiterated the partnership concept: 'Governments are now beginning to see international migration through the prism of opportunity, rather than of fear. You are focused on magnifying the positive, mutually beneficial aspects of migration: on sharing your experiences, developing practical ideas, building partnerships.'[1]

In short, the "partnership discourse" embodies the belief that migration can be addressed in a spirit of cooperation between all affected countries through win–win (including countries of origin and destination) or win-win-win (also including migrants) approaches; and the belief that such 'mutual benefits' can be achieved on the basis of a shared responsibility for migration management, based on trust, dialogue, capacity building and technical cooperation. This discourse represents a shift from earlier forms of framing international migration governance. Through its emphasis on common interests and shared responsibility, migration management (including immigration, transit migration and emigration) now is perceived as a task for countries of origin, which was not the case before. Thereby, countries of origin and transit are responsibilised to this task. The emphasis on effective management, capacity building and private-public cooperation has opened up the possibility for the involvement of a number of international actors in international migration governance, such as the International Organization for Migration (IOM), and technical migration and border management experts, most prominently the EU's agency for cooperation at the external border FRONTEX.

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[1] See: http://www.un.org/migration/sg-speech.html

The IAMM delineates in some detail also the more institutional parameters of partnerships in migration that are reminiscent of horizontal modes of networked coordination. Among the IAMM's Effective Practices for a Planned, Balanced, and Comprehensive Approach to Management of Migration figures a chapter on 'international cooperation', which contains a distinct entry entitled 'Partnerships in Managing Migration'. In terms of the legal format for such partnerships, the IAMM suggests that 'transparent and focused dialogue' and 'information exchange among States sharing an interest in particular migratory patterns' should only be a first step, eventually 'leading to possible responsibility sharing arrangements' (IAMM 2004). The international discourse generally adopts an inclusive definition of partnerships, which shall not be limited to those between states, but should include 'various stakeholders from governments to inter-governmental and non-governmental organizations, the private sector, members of civil society, including migrants themselves, and the media in contributing to more effective management of migration, on their own and through enhanced concerted, collaborative and complementary efforts' (IAMM 2004: 13).

The partnership approach therefore promotes an open structure of dialogue and iterated horizontal interaction. This is reminiscent of the 'experimentalist' or networked mode of governance, which has proliferated across levels and spheres of policy-making over the last decades (Héritier and Rhodes 2010; Sabel and Zeitlin 2010; Slaughter 2004). These modes of governance are characterised by their high degree of informality, their focus on voluntary agreement, their allegedly horizontal structure of interaction between equally empowered partners, their inclusivity towards various public and private stakeholders organized at different levels of policy-making, and their relatively open, process-oriented set-up. By adopting this governance approach, migration partnerships promise to be egalitarian platforms for legally non-binding, voluntary exchange between government officials and stakeholders, with a view of promoting policy approximation as well as developing joint policy instruments in a process-oriented manner.

Partnership in Regional Consultative Processes

A particular institutional vehicle incorporating the partnership approach at the international level are the Regional Consultation Processes (RCPs), usually coordinated by the IOM, which is mainly financed by western countries and the EU. Encouraged by the Cairo Conference in 1994, RCPs on migration proliferated during 1990s (Betts 2011c; Köhler 2011; Thouez and Channac 2006). RCPs are constituted as transgovernmental networks of migration officials within a certain region, sometimes taking hybrid forms and including a political level of ministerial meetings. They are process-oriented tools to foster dialogue and information exchange on migration issues among interdependent countries. The model for these RCPs is conventionally deemed to be the Intergovernmental Consultations on Migration, Asylum and Refugees (IGC) that were created in the 1980s among "like-minded" states in Europe, North America and Australia to exchange information and best practices in dealing with migration issues. In contrast to this early model, which gathered a rather homogeneous group of states, more recent RCPs mix source, transit and receiving countries. Therefore they face fundamentally different starting conditions for generating cooperation than the IGC in which joint measures could emerge more or less spontaneously on the basis of converging problem constellations and policy preferences. Analyses of recent RCPs, such as the Budapest Group and the Söderköping Process in Eastern Europe or the Migration Dialogues for Southern and Western Africa (MIDSA, MIDWA), conclude that they represent an 'instrument of policy transfer through the one-sided exchange of "best practices", equipment and "training"' (Lavenex 2008: 951) or, in the words of Alexander Betts, an exercise of "extra-territorial authority" (Betts 2011c: 41).

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This notwithstanding, international actors have adopted the point of view that 'in the absence of an international migration regime for international migration, regional consultative processes of an informal nature have become a key component of migration management' (UN 2004: 155). As stated in the IOM World Migration Report from 2003, RCPs are seen to 'manag[e] migration through partnership and cooperation' (IOM 2003: 135). It is thought that RCPs are based on 'common understandings, recognition of national and regional interests, state sovereignty, respect for the rule of law and internationally recognized principles, shared appreciation of sound practices in migration management, and mutual trust and partnership', and 'shared responsibility and consensus between countries of origin and arrival' (ibid: 136, 173). This illustrates how RCPs are a key institutional ingredient of the partnership approach at the global level and contribute to spread the discourse on partnerships. The same is true for the IOM. Thus, for example, the Director General of IOM stated in a speech he made in Hanoi in 2010: 'Working together, we must continue to evolve and expand our capacities through partnership to manage mobility in a human and orderly manner and to bring to bear our collective strengths and resources in order to think ahead, to plan for change.'[2]

Financed by earmarked funds from the EU and western states, the IOM has become the organizational anchor of RCPs. Given the asymmetry within these trans-regional networks and the predominance of destination countries' agendas, RCPs and the IOM can thus contribute to disguise, reproduce and even legitimise existing asymmetries. Seen through the perspective of productive power, it can be argued that IOM and RCP activities have transformatory implications in expanding the realms of migration control closer towards the source countries. In sum, through the partnership approach, both IOM and the RCPs contribute to responsibilising states of origin to participate in managing migration and borders.

Partnership in EU External Migration Policies: Conditionality in Disguise?[3]

EU migration policies have developed an external dimension early on. Although cooperation among EU member states was officially framed in terms of the internal integration project, ideas about partnerships with countries of origin and transit can be traced back to the beginning of the communitarization of migration and asylum policy – at least in the discourse of the supranational institutions. However, it is only since the adoption of the Global Approach to Migration (GAM) in 2005 that these ideas have started materializing. The concept of Mobility Partnerships launched in 2007 bears the traces of two decades of European cooperation on immigration. As we shall show, the EU policy combines the