

THE GOVERNANCE OF GLOBAL LABOR MIGRATION: LITERATURE REVIEW

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This paper focuses on the past 10 years of major scholarship on the governance of external labor migration. It also centers on migration that is voluntary and regular, recognizing that rules governing low-skilled migration are often formed to control irregular migration [5]. Scholars of migrant labor identify four major categories: low-skilled temporary (e. g. seasonal workers, service workers), low-skilled permanent (e. g. industrial workers), high-skilled temporary (e. g. student workers, corporate assignees, "expats"), and high-skilled permanent (e. g. medical personnel, technology specialists).

Discussion on the layers of labor migration governance may give the impression that all initiatives are government-based. However, as some authors mention [12; 30; 17], non-state entities play key governance roles. Multinational corporations (MNCs) are the most influential non-state actors.

In light of the incoherence of governance in the area of regular labor migration, there is no shortage of knowledge gaps. A preliminary review of contemporary scholarly literature, suggests that case studies to identify best practices in multilateral schemes and public-private partnerships within the regional "layer" of governance, may be a particularly fruitful focus for scholarly research. This conclusion is based on sources that describe immigration politics and policy at the national level as inherently unstable and less likely to yield insights into balancing short vs. long-term economic interests or into the protection of migrant's rights [24; 29]. The slow pace and relative ineffectiveness of efforts at the global level suggests that scholars may find targeting this "layer" of limited value, particularly if they wish to form actionable, forward-looking policy recommendations.

Key words: labor migration, low skilled migrants, governance of labor migration, migration policy.

Introduction. Following WWII, the global community developed robust norms and binding multilateral agreements governing refugee migration under the United Nations High Commissioner for Refugees (UNHCR) [7; 20]. International trade in goods and services is governed by similarly robust multilateral regimes under the World Trade Organization (WTO) and General Agreement on Trade in Services (GATS) [32]. However, no centralized multilateral regime has emerged to govern labor migration [9]; existing

governance is incoherent [20] and unstable [8; 29]. The decentralized, multi-layered and unstable nature of labor migration governance presents challenges for researchers and policymakers, but growing migration makes it important to gain better understanding. Research efforts in this area may deserve higher priority given the probability that many workers may be displaced by environmental and technological changes.

According to the International Organization on Migration's (IOM) Migration Data Portal, 271,6 million people (3,6% of world population) live outside their birth countries in 2019 (a 77% increase from 1990). Increases in certain destination countries have been substantially higher than average, for example: from 2009 to 2019 migrant populations rose to 50,7 million (a 118% increase to 15,4% of the population) in the U.S.; and to 13,1 million (a 122% increase, to 16,3% of the population) in Germany. Despite the recent increase in their numbers, refugees account for a bit more than 10% of global migrants [4]. Most of the rest are economic migrants. The IOM defines labor migrants as "persons who move for the purpose of employment". Labor migration is sub-categorized into groupings: internal/external (cross-border), regular/irregular, forced/voluntary, high-skilled/low-skilled, temporary/permanent [6]. There has been rapid change in the volume and qualitative aspects of labor migration [20]. Therefore, this literature review focuses on the past 10 years of major scholarship on the governance of external labor migration. It also centers on migration that is voluntary and regular, recognizing that rules governing low-skilled migration are often formed to control irregular migration [5]. Scholars of migrant labor identify four major categories: low-skilled temporary (e. g. seasonal workers, service workers), low-skilled permanent (e. g. industrial workers), high-skilled temporary (e. g. student workers, corporate assignees, "expats"), and high-skilled permanent (e. g. medical personnel, technology specialists).

Barriers to the establishment of binding global governance regimes in labor migration

In recent years, multiple authors have identified challenges to establishing multilateral agreements governing labor migration [6; 32; 29; 16]. The core of these challenges, they argue, is that most states derive a significant portion of their legitimacy from the exclusive legal rights their citizens enjoy within their political boundaries [29]. Furthermore, many states are "nation states" – "where the great majority are conscious of a common identity and share the same culture" (UNESCO). Multi-ethnic and multicultural states also emphasize elements of national identity. States are reluctant to ratify binding international agreements on labor migration because they see ceding control over the composition of their populations as a threat to their sovereignty [20]. The visibility of migrants also makes them convenient targets for political messaging that exploits economic insecurities, fears of cultural or ethnic "invasion", and security concerns [29].

The absence of "top-down" global governance for labor migration does not mean that governance does not exist. R. Kunz [20] argues that labor migration is highly regulated, mostly through exclusionary rules and enforcement mechanisms in "destination" states. There is strong agreement in the literature that global labor migration governance has a "bottom-up" multi-layered structure [13; 7; 19; 32; 29]. The layers begin with the policies of powerful "destination" countries, followed by these countries' many bilateral agreements to control migration flows from nearby "sending" countries [7]. The next layer includes regional agreements or "Regional Consultative Processes" (RCPs). RCPs exist as informal procedures for dialogue within the context of multilateral trade and economic-development associations (e. g. the EU, ASEAN and NAFTA), and there is some question about the extent to which RCP agreements are enforceable [19].

At the global level, responsibility for labor migration is distributed among organizations such as the International Labour Organization (ILO), the IOM and the WTO. The literature suggests that operational governance at this broad level happens through peripheral parts of the WTO and its General Agreements on Trade in Services (GATS) [6; 21], which specify norms for domestic workers that have been interpreted to apply to regular migrant labor. The IOM has a more consultative role [32]. The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (CRMW) was a UN-sponsored norm-setting initiative for labor migration. However, no major industrialized nation has ratified it, and it remains the least ratified of the UN's principal human rights conventions [29]. The UN's recent Global Compact for Safe, Orderly and Regular Migration (December 2018) is another norm-setting initiative. The Compact includes comprehensive objectives (e. g. to "Minimize the adverse drivers and structural factors that compel people to leave their country of origin", to "Ensure that all migrants have proof of legal identity and adequate documentation", and to "Facilitate fair and ethical recruitment and safeguard conditions that ensure decent work"), however it is non-binding and the U.S. has voted against it.

Discussion on the layers of labor migration governance may give the impression that all initiatives are government-based. However, as some authors mention [12; 30; 17], non-state entities play key governance roles. Multinational corporations (MNCs) are the most influential non-state actors. In addition to lobbying to shape immigration laws, global companies recruit new workers across national borders and send existing employees on international assignments. Under many national and regional migration schemes, private companies act as gate keepers for new migrants and as decisionmakers over converting temporary permits to permanent residency [13; 29].

Instability of norms for labor migration at the national level

Over the last ten years, there has been broad scholarly consensus that labor migration is governed primarily by national-level policies [12; 8; 20; 29; 5; 18]. The literature emphasizes that power imbalance between developed “destination” countries and “sending” countries results in rules dictated by affluent states [7; 5]. The Global North maintains unilateral perspectives on labor migration, allowing temporary migration for low-skilled workers, longer-term programs for some under-supplied categories of low-skilled manufacturing and service workers, and targeted programs for high-skilled workers (often to enhance competitiveness in technology-focused industries). A. Betts [9] writes that unilateral admission policies of powerful states form the basic structure of international migration governance, as they restrict options for less powerful states. There are some examples of less powerful sending-states taking unilateral actions on migration, such as the emigration restrictions put in place by Indonesia and the Philippines in response to frequent abuse of migrant service workers in a number of Middle-Eastern states [29; 5]. The result has been that targeted receiving countries now recruit service workers elsewhere. This is additional evidence that global labor migration is controlled by the interests of developed countries.

Despite developed countries' power to design their immigration laws based on their economic interests, the literature suggests that domestic politics often produce unstable and irrational outcomes [8; 29]. Anti-immigrant rhetoric has proved politically effective given public anxiety about financial instability, crime and terrorism. This puts constraints on legislatures. So, the reluctance to commit to binding agreements covering labor migration on the international level extends to the state level. Where there has been need for migration policy updates, changes are often implemented by executive bodies [20]. J. Köhler [19] gives the example of the Regional Conference on Migration (RCM), a non-binding framework set up to facilitate dialogue on migration goals between government agencies in eleven North and Central American countries. This “soft law” dynamic inhibits the creation of comprehensive and institutionalized immigration regimes and results in fragmented policies that can change rapidly in response to lobbying and other political pressure. M. Ruhs [29] argues that policies built in this reactive manner are unlikely to best serve states' longer-term economic and social interests.

The incoherence of national labor migration policies reflects domestic political constraints. For example, restrictions on low-skilled labor migration (LSLM) tend to be severe and well publicized [21; 5]. However, large numbers of irregular immigrants are employed as industrial and service workers in most developed countries, indicating demand for labor is not met by the countries' citizens [29; 5]. National policies on high-skilled labor migration (HSLM) are often considered separately from LSLM. While the recruitment of high-skilled labor migrants is usually considered positive for receiving countries, some scholars have described HSLM as “invisible” [13]. Although there is public concern about the potential for high-skilled migrants to compete for desirable jobs [29; 16], political parties and industries proceed quietly in the area of HSLM. Despite agreement in the literature that HSLM benefits receiving countries [9; 29; 25], few have comprehensive programs to assess the need for specific types of talent or to coordinate job placement [6; 26]. Instead, many countries have quotas and/or lottery systems, overly burdensome restrictions on changing employers, and unclear rules about transitioning from temporary to permanent status. This chaotic situation, as both M. Ruhs [29] and C.S. Bal [5] discuss, results in employers “gaming” HSLM programs, depressing wages for both migrant and local skilled workers, and creating “brain waste” – underutilizing skills, and denying migrants' talents to more suitable employers. M. Ruhs [29] argues that advocates for more liberalized migration policies, which he sees as an economic “good,” should accept trade-offs between freer admission and migrant's rights. This conclusion is echoed to an extent by N. Ward [33], who argues that labor migration governance should follow an “international trade agreement” approach, with an emphasis on economic goals. S. Carrera [10] and C.S. Bal [5] provide a contrasting perspective, arguing that current policies (both unilateral and multilateral) do not give adequate emphasis to workers' rights.

Evidence of opportunities for research into best/problematic governance practices at the regional level

National rules deal with LSLM and HSLM in very different ways. As some authors suggest [21; 5], the former category of labor migration is highly visible and undesired, while the latter is somewhat “invisible” and desirable [13]. The liberalization of HSLM and restriction of LSLM is also evident in regional programs covering the recognition of credentials and cooperation on repatriation [21; 24]. Since unilateral migration regimes are constrained by domestic politics and driven by a desire to minimize costs and increase profits, economic interests are formally prioritized over human interests – migrant rights and the formation of social capital [29; 16]. Regional organizations and processes, such as the “ASEAN Agreement on the Movement of Natural Persons” [18] and CARIFORUM-EU “Mobility Partnerships” [33] attempt to address some of the limitations of state-level labor migration governance.

The importance of regional agreements derives from the fact that LSLM is primarily a regional phenomenon [21]. Low skilled migrants have limited access to the global mobility infrastructure [30], so they are

most likely to seek jobs in countries that border their home countries. Nearby “destination” countries usually have substantial trade relationships with migrants’ home states, and specific migrant diasporas tend to be larger and more established within geographic regions [24; 15]. These structural features (proximity, trade and cultural integration) are openings for broad-ranging bi-lateral and regional dialogue. While developed countries have little incentive to negotiate immigration policy at the global level, they have a greater need to establish working partnerships on immigration with countries in their region.

On a basic level, developed countries may cooperate with neighboring states to restrict irregular labor migration in exchange for increases in regular LSLM and/or development assistance. M. Panizzon [24] explores how bi-lateral agreements have evolved into more comprehensive systems of governance in the case of France’s arrangements with African states. Several authors have commented on the disappointing lack of legislative progress at the EU-level despite adoption of the Amsterdam treaty (1997), intended to transfer formal responsibility for ex-EU migration to the supra-national level [12; 6; 10; 29]. European states enter into bi-lateral agreements to address this gap. The French “concerted migration management” approach includes many of its government agencies (from security to social welfare) in the dialogue on migration. The French government also works with the private sector on issues such as lowering the cost of sending remittances. By allowing government agencies to work directly with their foreign counterparts, France develops codified migration policies in areas that are sometimes neglected. These include clauses that address “brain drain” concerns by fostering training in France and the return migration of workers with enhanced skills, and engagements with migrant diasporas within France to promote social integration [24]. While M. Panizzon [24] and N. Ward [33] present the French bilateral agreements as a model that may both fit and help to shape migration objectives for the broader EU, Spanish bilateral agreements are described as narrowly focused on the regularization of irregular migrants and potentially disruptive to EU goals [24].

At the other end of the spectrum, smaller wealthy nations may seek multilateral agreements covering regional LSLM and HSLM, to ensure regional labor flows will allow them to compete with the dominant economic powers. The Association of Southeast Asian Nations (ASEAN) has developed such an approach to facilitate labor exchanges among its member states [18]. In addition to directing LSLM to areas where there is a growing need for industrial or service workers, ASEAN established mutual recognition criteria for selected credentials to encourage regional HSLM. While ASEAN’s labor mobility framework has been moderately successful from the perspective of economic growth [18; 25], restrictive rules in receiving countries have ensured that most labor migration is temporary, and that workers’ rights are compromised [21; 5]. Several authors emphasize that onerous unilateral restrictions on migrant worker’s rights persist despite RCPs and other frameworks for regional cooperation [21; 29; 5; 18]; and these authors commonly single out Singapore’s laws prohibiting family reunion migration, restricting migrants’ interactions with Singaporeans, and giving employers authority to deport workers who seek improved conditions. A similar dynamic is reported among states that are members of the Gulf Cooperation Council (GCC) where there is a high dependence on immigrant labor at all skill levels, but restrictions on migrant workers’ rights are very severe [21; 29; 5].

In the case of labor migration into the EU, two structures are used in place of EU-level legislation and in addition to bilateral schemes. Mobility Partnerships (MPs) are “soft law” agreements between the EU and individual sending countries. Trade-centered Economic Partnerships (EPAs) are more binding for all EU states, as N. Ward [33] explains. While S. Lavenex sees some potential in the formation of MPs, there appears to be some agreement that this mechanism has not been successful to date [22; 33]. S. Carrera goes so far as to label MPs “insecurity partnerships” because their non-binding nature provides no assurance that countries on either side will follow through on commitments, and because existing MPs do not safeguard migrant workers’ rights, treating them as “economic units” [10, p. 109].

Non-state organizations as governors of labor migration

Much has been written about the importance of non-state actors, for example C. Counihan [13] and J.-C. Graz [17]. MNCs have the largest influence, but labor migration is also governed in part by domestic employers, transportation companies and recruitment and relocation businesses. Where labor unions are well established, they may also have influence, particularly over the rights and minimum wage levels for LSLM [21]. However, many receiving countries restrict the formation of unions and react aggressively to keep migrant workers from organized protests [5].

MNCs impact global labor migration in many ways, as C. Counihan [13], J.-C. Graz [17] and N. Castree [12] explain. Firstly, trans-national production chains and service networks change demand for certain types of labor in countries where they operate or contract with local businesses [13; 5; 17]. Secondly, MNCs recruit employees internationally and/or send employees on international assignments [13; 12]. Finally, MNCs may adhere to trans-national labor standards as part of corporate “social responsibility”, and these standards apply to migrant as well as local workers [17].

Employers are often given substantial control over migrant workers. Many states require migrants to be invited by an employer before they are issued work permits. National laws also give companies

discretion over how long migrant workers can stay. This ranges from the power to remove workers by force, e. g. Singapore, as discussed by C.S. Bal [5], to making employers the decisionmakers when workers want to become permanent residents [29]. In addition to employing migrant workers, private companies also transport migrants. The high cost of air travel restricts longer-distance LSLM, while its speed and safety provide the means for high-skilled migrants to seek employment almost anywhere [30]. Transportation companies are also tasked with ensuring that migrants carry proper documentation and visas for admission to destination countries [30]. The papers cited above make a strong case that MNCs are highly influential in the stimulation and control of labor migration. However, it is striking that one could find relatively few recent research papers on this topic.

A separate category of company includes those that are in business to broker and facilitate labor migration [12]. Recruiters have a pervasive impact, and they are active in LSLM and HSLM at both regional and global levels [12; 5; 28]. Recruitment agencies may become key filters, by conducting background checks and/or charging migrants fees to be considered for positions [5]. C.S. Bal [5] and R.P. Anwar [28] report that temporary labor migrants in both the ASEAN and Gulf States regions often incur substantial debt due to recruiters' fees. For business executives and high-skilled migrants, relocation companies may be engaged to facilitate physical moves and to help with paperwork, housing and even social integration [31].

Predicting and preparing for future global challenges in labor migration

M. Ruhs [29] and C.S. Bal [5] write that labor migration must conform to a country or region's prevailing production regime and to its competitive position in a global system featuring highly liberalized trade. A. Fink and E. Gentile consider the impacts that the "Fourth industrial revolution" (4IR) may have on labor markets and the flexibility that will be needed to respond to transformative technological change. In the near term, they see a continuation of a trend towards increased HSLM recruitment and decreased demand or tolerance for LSLM [14]. In the longer term, the authors predict large-scale displacement of workers as automation replaces both production and "routine cognitive" labor. A. Fink and E. Gentile are also optimistic, arguing that 4IR can generate enough economic growth to allow workers to be re-absorbed into productive jobs [14]. Their recommendation that technical training and HSLM should be accelerated, is aligned with the arguments for more liberalized labor migration made by M. Ruhs [29] and in some of the literature reviewed above [6; 16]. However, it is recognized that technological change is unpredictable [14]. In addition to the uncertainties created by technologies, the literature suggests global governance regimes have the opportunity to prepare for job placement challenges that are expected due to environmental displacement [8; 23].

Conclusions and areas for additional study. In light of the incoherence of governance in the area of regular labor migration, there is no shortage of knowledge gaps. A preliminary review of contemporary scholarly literature, suggests that case studies to identify best practices in multilateral schemes and public-private partnerships within the regional "layer" of governance, may be a particularly fruitful focus for scholarly research. This conclusion is based on sources that describe immigration politics and policy at the national level as inherently unstable and less likely to yield insights into balancing short vs. long-term economic interests or into the protection of migrant's rights [24; 29]. The slow pace and relative ineffectiveness of efforts at the global level suggests that scholars may find targeting this "layer" of limited value, particularly if they wish to form actionable, forward-looking policy recommendations.

Recent scholarly writing on the governance of labor migration is in general agreement that developed nations set the rules controlling migration from less developed countries. There is also wide consensus that internal politics and a unilateral (cost-averse, security-focused) view of national interest have created unstable governance that inhibits economic growth, human development and workers' rights. In addition, it appears clear from the literature that efforts to increase the authority of global institutions over labor migration (e. g. CRMW) have stalled. Since states view their national interests in the area of labor migration from a competitive perspective, and there is misalignment in the goals of sending and receiving countries, there has not been willingness to establish a "World Migration Organization" (WMO) with binding treaty status. Nevertheless, some writers [6; 32] suggest that it would be beneficial to establish a WMO modeled on the robust framework of the UNHCR, or that existing institutions such as the IOM or the ILO should be restructured and given more power [32]. There appears to be greater activity to address the interests of sending and receiving countries and aspects of migrant workers' rights at the regional level. Since they can be more flexible, and their outcomes can be easier to monitor than global or inter-regional initiatives, bi-lateral and multilateral agreements within regions have established more detailed systems of mutual obligations between countries. While the power imbalance between sending and receiving countries is evident at all levels of labor migration governance, and this continues to constrain the agency and rights of migrant workers, regional labor migration regimes tend to be integrated with regional economic strategies [29; 16]. A variety of approaches have been implemented to manage regional labor migration, and these approaches can often be more comprehensive than unilateral state actions or global initiatives [19].

One understudied area where case-studies could be appropriate, is the governance of circular migration. These are labor migration regimes where workers are admitted (once or multiple times) and permitted to work for a limited time but they are not expected to be offered permanent residency. There is a trend towards temporary migration, and circular migration is a stated goal of several regional labor migration agreements [24; 29; 14]. However, circular migration raises several economic and human-rights questions that do not appear to have been widely studied. One possible research question might be: how do rules governing temporary HSLM in one region differ from those in a second region, and how well do these rules perform? Outcome measures could focus on economic goals or on social objectives, such as identifying challenges returning labor migrants have when trying to re-integrate into home communities. Some authors, like M. Ruhs [29], might argue that the economic benefits of remittances can outweigh workers' temporary sacrifice of "social capital" (their family and community ties). However, this is a topic that deserves to be developed further, with a potential to build evidence to support more liberal family reunion policies.

Since the governance of global labor migration has seen frequent changes, it is important to keep studying ways to stabilize states' unilateral rules, and there is value in exploring the potential of more universal norms and principles within global institutions such as the UN. However, studies of labor migration governance at the regional level may generate findings and recommendations with more immediate potential. A. Betts [8] reports that: "The current trend within global migration governance is the development of exclusive, informal groups of 'like-minded' states engaged in regional and inter-regional dialogues" based on the RCP model. This conclusion is shared by J. Köhler [19] and E. Gentile [16]. These three authors also warn that the dynamics of RCPs need to be better understood because they may exacerbate power imbalances between states, and they may neglect human rights issues.

Засоба Є., Хом'як А., Панченко Л., Козлов Г. Управління глобальною трудовою міграцією: огляд літератури

У статті проаналізовано дослідження за останні 10 років у сфері управління глобальною трудовою міграцією. Зокрема, зосереджено увагу на добровільній та врегульованій міграції, визначено, що норми, які регулюють низькокваліфіковану міграцію, часто формуються для контролю нелегальної міграції.

Міграційна політика щодо мігрантів у країнах прибуття не є однорідною, вона спрямована на різні категорії мігрантів, а саме на тимчасово низькокваліфікованих (наприклад, сезонних працівників, працівників сфери обслуговування), постійно низькокваліфікованих (наприклад, працівників промисловості), тимчасово висококваліфікованих (наприклад, студентів, корпоративних осіб, «емігрантів»), висококваліфікованих (наприклад, медичний персонал, спеціалістів із технологій). Зокрема, залежно від ситуації на ринку праці у країнах прибуття державні структури регулюють норми щодо тієї чи іншої категорії мігрантів.

У розріз загальноприйнятому уявленню про те, що всі ініціативи щодо управління трудовою міграцією мають державний характер, у статті розглядається управління трудовою міграцією на трьох взаємопов'язаних рівнях: національному, регіональному, недержавному (міжнаціональні корпорації, громадський сектор).

Також окрему увагу приділено угодам між країнами у сфері врегулювання міграції. Зокрема, подано аналіз двосторонніх угод між країнами, а також акцентовано на намірах цих країн вивести сферу врегулювання міграцій із державного рівня на наддержавний, прикладом чого є угоди між країнами Європейського Союзу.

Автори стверджують, що, попри значну кількість досліджень у цій сфері, додаткових наукових розвідок потребують гіпотези про ефективність управлінських рішень щодо трудової міграції стосовно різних категорій міжнародних трудових мігрантів на різних рівнях.

Ключові слова: трудова міграція, низькокваліфіковані трудові мігранти, управління трудовою міграцією, міграційна політика.

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