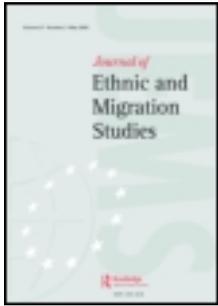


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The Politics and Discourse of Migrant Return: The Role of UNHCR and IOM in the Governance of Return

Anne Koch

This article proposes that there is added value in moving beyond isolated studies of return-related migration policies in order to consider both deportations and so-called assisted voluntary returns under the common heading of 'state-induced returns'. Based on official documents and interviews with staff members of the United Nations High Commissioner for Refugees and the International Organisation for Migration, it argues that international actors working in the field of migrant return engage in a type of task-sharing that goes beyond functional complementariness. With regard to the return of rejected asylum seekers, for instance, they legitimise each other's engagement as well as the overarching return objectives of governments, and are, therefore, involved in norm-building regarding the acceptability of state-induced returns. In addition to setting certain minimum standards regarding states' treatment of their immigrant population, international actors assist states in upholding control over them. Rather than merely replacing state-led regulation, international actors thus support domestic governments in reaching their migration control objectives, and thereby contribute to a stabilisation of state sovereignty in the governance of migration.

Keywords: Migration Policy; International Regime Complexity; Migrant Return; UNHCR; IOM

1. Introduction

The discretionary power to grant access to the national community (either through residence permits or through full citizenship rights) lies at the heart of states' sovereignty. From a nationalist perspective, immigrants may be perceived as 'antinomies to an orderly working of state and society' (Wimmer and Glick Schiller 2003, 583). The fact that in liberal democracies, irregular migrants tend to accrue

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rights to belonging over time, poses a threat to the state monopoly on controlling access to membership. One well-known and well-studied response to this threat is the strengthening of entry controls through an increasing fortification of borders. Once people have entered a given state's territory, the attention of both the media and social scientists tends to shift towards questions of integration. This double focus on border management and integration policies threatens to ignore both the variety of ways in which return expectations are directed towards different groups of immigrants, and the fact that these very expectations often preclude individuals from benefiting from integration-related measures.

The question of migrant return constitutes an area of contestation between states' right to control access to their territory on the one hand, and the human rights discourse that demands equal treatment of aliens and citizens on the other hand. It therefore offers valuable insights into the ways in which states reassert their sovereignty, balance competing claims, or make concessions to the demands of international norms and legal obligations. However, the variety of measures that aim at the return of migrants to their home countries are not normally regarded as constituting a policy field in its own right. Neither has the international dimension of migrant return policies been subjected to a structured analysis.

This article conceptualises the field of migration governance as being composed of three distinct fields: entry, integration and return. It argues that this conceptualisation allows us to take a fresh look at return-related actors and developments over time, and on this basis sets out to delineate the international governance of return. It proceeds as follows: it first identifies a gap in the migration policy literature and develops an argument of why there is added value in studying schemes aimed at the return of migrants as constituting a policy field in its own right. Second, in drawing on ideas advanced by scholars of international regime complexity, it maps the international bodies and fora involved in migrant return. Third, it investigates how the roles of two key actors in the realm of return—the United Nations High Commissioner for Refugees (UNHCR) and the International Organisation for Migration (IOM)—are shaped by their interaction with states and with one another. This empirical analysis draws on two main sources of data: (i) In-depth interviews with staff members of IOM and UNHCR whose work relates directly to migrant return and (ii) return-related policy documents issued by these two organisations.

Over a decade ago, Guiraudon and Lahav observed a shifting upwards of migration control to international actors, yet noted that this phenomenon was in its infant state (Guiraudon and Lahav 2000, 180). This article substantiates this claim with novel empirical evidence. It traces how after an initial period of growing competition between IOM and UNHCR, the two agencies turned to emphasising the complementary nature of their involvement in the area of migrant return. Based on these findings, it argues that international actors implicated in migrant return engage in a particular type of task-sharing that goes beyond functional complementarity. Instead, the different actors engaged in the involuntary return of migrants legitimise each other's engagement, as well as the overarching return objectives of governments,

and are, therefore, involved in norm-building regarding the social and political acceptability of state-induced returns. In addition to setting certain minimum standards regarding states' treatment of their immigrant population, international actors assist states in upholding control over them. Rather than merely replacing state-led regulation, international actors thus support domestic governments in reaching their migration control objectives, and thereby contribute to a stabilisation of state sovereignty in the governance of migration.

2. Restructuring the Migration Policy Debate

With regard to migrants wishing to live or work in a certain country, the states affected by immigration have to make two basic decisions. The first one concerns potential immigrants who have not yet entered the country. The question here is whether or not to allow a migrant to enter or not. The second choice concerns the treatment of people who have already entered the state's territory. In accordance with these two basic fields of decision-making, the study of migration policy has often been separated into two distinct subfields of study, in the sense that even recent writing refers back to Hammar's (1985) classic distinction between immigration control and immigrant policy: 'the former regards the framework that regulates the entry and stay of foreigners whereas the latter is concerned with their integration into host societies' (Lahav and Guiraudon 2006, 203).

What is conspicuously missing in this categorisation, however, are instances in which the state pursues the return of immigrants who are already resident on its territory. While 'the stay of foreigners' may also allude to the endpoint of their stay, the term 'immigration control' seems inappropriate in a situation in which the object of regulation or control has shifted to emigration or re-migration. Migrant return could, in theory, be accounted for by the term 'immigrant policy', since it concerns the state's treatment of its resident immigrant population. Lahav and Guiraudon's interpretation of the term is, however, symptomatic of a persistent bias towards integration-related measures. A closer look at the literature reveals that the study of immigrant policies exhibits an almost singular focus on integration measures, and on policies aimed at incorporating newcomers into the political community. The flip side of these measures—the pursuit of the return or onward travel of migrants—is usually not integrated into the systematic study of state responses to migration. To summarise, while both immigration control and immigrant policy could potentially be considered to subsume policies aimed at the return of migrants, both the terms chosen and the actual research carried out are indicative of the fact that states' pursuit of migrant return remains heavily under-researched in comparison to the politics of entry and integration.

While remaining influential, Hammar's distinction between immigration control and immigrant policy is not the only categorisation available. In recent years, an increasing number of scholars have engaged in the study of deportation policies and practices. This object of study is often grouped under the term 'migration control' which fully captures the return dimension of migration policy. While migrant return

policies have, therefore, not been disregarded altogether, scholarly engagement with this field is largely limited to the study of overtly coercive returns. Such measures, i.e. mass expulsions or deportations of rejected asylum seekers, have been subject to much academic scrutiny (cf. among others Gibney and Hansen 2003; Pacurar 2003; Jones 2006; Gibson 2007; Kanstroom 2007; Gibney 2008; Ellermann 2009). The almost singular focus on this indeed striking measure—‘Deportation, the removal of unwanted or illegal foreigners is, in important respects, the ultimate act of a sovereign state in defining its membership’ (Gibney 2008, 17)—tends to obscure the fact that there are other more ambiguous and more subtle ways in which states pursue the return of migrants. The study of migrant return policies, therefore, remains fragmented, with studies mostly focusing on deportation policies and the analysis of alternative measures like assisted voluntary return (AVR) programmes being restricted to isolated case studies and policy papers. In sum, the various measures that aim at the return of migrants to their home countries are not normally treated as a distinct policy field. This article proposes that studying both coercive and so-called AVRs under the common heading ‘state-induced returns’ sheds light on previously neglected aspects of international migration governance and allows for an analysis of linkages between different actors implicated in different forms of return.

3. Delineating the International Governance of Return

3.1. International Legal Provisions Pertaining to Return

Return-related norms and legal provisions at the international level feature two distinct aspects: on the one hand, there are provisions aimed at the protection of refugees against coercive return, typically encompassed under the principle of *non-refoulement* that was first defined in Article 33(1) of the Refugee Convention. On the other hand, return is a fundamental right contained in the Universal Declaration of Human Rights. Since its initial formulation, this right has become increasingly differentiated, from the basic right to return to one’s country of origin to the more detailed right to return home and its most recent substantiation as the right to housing and property restitution upon return (Philpott 2006). The norm developments subsumed under these two broad headings have been driven forward by a number of international actors. Far from being the sole prerogative of the state, return is in fact internationally regulated.

At the international level, return is thus framed both as a right and as a threat necessitating legal protection mechanisms. This provides scope for political instrumentalisation: states may enforce returns with reference to the rights-dimension, disregarding the fact that voluntariness is an essential element to make rights effective. Official return policies, therefore, constitute a mixed blessing for the migrant population at large: they encompass both rights-based considerations that support people in regaining part of what they lost through flight and displacement, and coercive measures that exclude individuals from the potential benefits offered to other residents of the respective host country. These alternatives are far from clear-cut, with

so-called AVR schemes often including coercive elements. International organisations like the IOM that acts as a service provider for states in the realm of migration may be complicit in these processes, thereby shifting return decisions from the national to the international level.

3.2. Regional and International Bodies and Fora in Migrant Return

Overall, a small number of legal principles constitute the basis for states' and international actors' conduct regarding migrant return. Beyond these, however, there are multiple venues, both regional and international, at which states discuss and coordinate return policies, and various international actors whom they approach for assistance regarding different aspects of return. A brief survey of the main regional and international migration-related initiatives indicates that the topic of return has moved to the top of the international agenda.

The most prominent standard-setting initiative in a regional context is the 2008 EU Return Directive that aims at harmonising standards of protection pertaining to the return of irregular migrants across EU member states. This Directive upholds the principle of *non-refoulement* and stipulates that voluntary return ought to be prioritised over forced return whenever possible. Temporary fora for dialogue on return include the IOM's International Dialogue on Migration that in 2008 focused on the overall theme 'Return Migration: Challenges and Opportunities', the Global Forum on Migration and Development that discussed the developmental impact of migrant return and reintegration during its 2009 Athens meeting, and the Global Migration Group (a forum used for inter-agency dialogue between different international organisations) whose agenda includes the theme 'Enhancing governance of labour and return migration'. The International Labour Organisation's (ILO) migration branch has produced guidelines for a rights-based approach to labour migration that includes provisions for migrant return (ILO 2006). In the European context, discussions and policy initiatives regarding migrant return are not limited to the EU Directorate-General Home Affairs, but take place in the context of several regional consultative processes: the Budapest Process, for instance, entails a separate working group on return and readmission, while the Söderköping Process conducted a thematic seminar on return, readmission and reintegration in 2011.

The international governance of migrant return can be described as an 'overlapping regime' (Keeley 1990; Aggarwal 1998; Rosendal 2001). Alter and Meunier note that 'international regime complexity reduces the clarity of legal obligation by introducing overlapping sets of legal rules and jurisdictions governing an issue' (Alter and Meunier 2009, 16). Faced with state demands, and situated in an increasingly competitive environment in the field of migration management (Betts 2009; Geiger and Pécoud 2010), key international organisations have adapted and redefined their roles and mandates in the realm of return. In order to understand these changes, we have to investigate both the return-related internal policy-making processes of relevant international actors and their interactions with one another.

This article links in with research on the consequences (rather than the causes) of international regime complexity (Alter and Meunier 2009, 21). While acknowledging the relevance of a multiplicity of fora and institutions in the international governance of return, it focuses on the interplay between two key actors—IOM and UNHCR—who are engaged in return migration on a permanent basis.

4. IOM and UNHCR in the Governance of Return

The so-called globalist perspective holds that the international level exerts a liberalising influence on domestic policy-making in the realm of migration and citizenship (Soysal 1994; Jacobson 1996; Sassen 1996, 1999). Critics of this claim typically refute the effectiveness of this influence rather than its content: Based on empirical evidence of restrictive policy developments, they argue that domestic governments have the power to resist these liberalising forces and pursue their own policy preferences (Koopmans et al. 2005; Freeman 2006; Howard 2006, 2010; Koopmans 2012). The basic consensus on the liberalising trajectory of the international level has been called into question by a small number of studies that point to the fact that the international level may in fact be implicated in restrictive migration policies (Guiraudon 2000; Schain 2009). Both Guiraudon and Schain focus on the role of the international level as providing alternative policy venues that actors pursuing restrictive migration policies turn to because they are somewhat removed from the scrutiny of domestic critics. In contrast to this venue-shopping approach, this article is informed by Barnett and Finnemore's (1999) sociological perspective that regards international organizations (IOs) as autonomous actors. Following basic constructivist assumptions, it regards the identities and self-perceptions of international actors as constitutive of their role in the overall migration regime. This perspective requires certain methodological choices: in order to account for IO agency, this article goes beyond an analysis of documents reflecting the institutions' official positions, and draws on semi-structured interviews with staff members of IOM and UNHCR that were directly involved in negotiating and drafting return-related policies. Respondents were asked to reflect on their organisation's role in migrant return, as well as on the role of other relevant actors. The necessarily subjective nature of data generated through interviews does not constitute a shortcoming in the context of this research project. Instead, interviews constitute an appropriate empirical source for studying the motivations and concerns of international policy-makers working in the field of migrant return. These insights are crucial for gaining an understanding of the self-perceptions of those individuals who drive the international governance of return, and for contextualising the official documents on migrant return that are also analysed.¹

4.1. IOM

The IOM is an intergovernmental organisation that is not based on an international convention. It offers 'migration management services' to governments in a wide range

of areas, including labour migration and refugee resettlement programmes. Having been established in 1951 by a group of 16 states, by 2013 its membership had grown to 151 states. The IOM's involvement in migrant return focuses on the administration and implementation of so-called AVR programmes that currently operate in more than 30 countries. These programmes offer return assistance mainly to irregular migrants and rejected asylum seekers, and governments often stipulate that they entail a temporary ban on re-entry.

On its public website as well as in its key training materials, the agency distinguishes between three types of return: (i) 'Voluntary without compulsion, when migrants decide at any time during their sojourn to return home at their own volition and cost'; (ii) 'voluntary under compulsion, when persons are at the end of their temporary protected status, rejected for asylum, or are unable to stay, and choose to return at their own volition'; and (iii) 'involuntary, as a result of the authorities of the host State ordering deportation' (IOM 2012). While the first category fits our common-sense understanding of the term voluntary, the second—'voluntary under compulsion'—describes very much the nature of the IOM's AVR schemes and raises some questions. In this context, voluntariness often does not entail a real choice between return and stay, but instead a choice between different forms of return: Either as a free person receiving certain financial benefits in the form of return or reintegration assistance, or in shackles without any financial assistance. Unsurprisingly, the IOM is regularly criticised, both for carrying out returns under compulsion, and for referring to these as voluntary (Amnesty International 2003; Human Rights Watch 2007). IOM staff members are aware of this:

It's important that there is a comprehensive range of options within the migration management system. So in countries where there is not many other options available, of course the assisted voluntary return programs may be there, but they are a little bit more—how can I say—a little bit more limited in terms of the aspect of voluntariness as such. (Personal Interview with IOM staff member)

This statement is an example of how staff members throughout the organisation struggle with, yet at the same time cling to the IOM's concept of voluntariness. Irrespective of the fact that criticism of the IOM's definition of voluntariness abounds and cannot be adequately countered by staff members, the terminology serves the overarching purpose of facilitating the legitimisation of returns, and of carving out a unique place for the institution within the overall migration management system. While AVR programmes are just one aspect of the IOM's broad portfolio of activities, they are central to the agency's identity. When asked about the relative weight of migrant return in comparison to the organisation's other activities, a staff member responded:

It is quite a key thing, I think, because IOM was created as an agency after the second world war for refugees in Europe, so it's been sort of our bread and butter, our heart and soul is return activities, voluntary return activities, (...) there are some donors and some

member states who are more traditional or limited in how they view IOM or our mandate and would prefer that we understood migration more traditionally and think literally just about human movement, and wish we were focused even more or primarily on things like AVR. (Personal Interview with IOM staff member)

The IOM is heavily dependent on project-based funding. While the organisation has over the course of the past 20 years experienced a continuous growth in terms of both member states and budget, the percentage of its budget that is funded through member states' regular contributions is decreasing as the organisation's overall budget is growing (IOM 2000, 2011). The current volume of offices and staff needs to be sustained through the regular recruitment of projects. In this context, return-related activities constitute an important element that accounts for the largest share of IOM funding from most European member states (IOM 2011). Given that states approach the IOM in order to find an alternative to deportation, the label 'voluntary return' constitutes a unique selling point that the agency is unwilling to give up and eager to develop even further.

The third category above ('involuntary return') captures the types of return that lie outside the IOM's activities, i.e. deportations. However, apart from the fact that it refuses to become actively engaged, the organisation considers deportations to constitute a necessary element of a comprehensive approach to migration management. Its public website states:

Migration management requires a number of approaches, including the provision of assistance for the voluntary return of irregular migrants. This management tool is particularly effective when combined with competent border management and asylum management systems, including timely asylum adjudication and, as a last resort, expedited deportations of asylum-seekers who have been rejected for consideration. (IOM 2012)

This account encompasses the IOM's comprehensive vision of migration management, many elements of which it supports through its services. Several authors have noted that the terminology of migration management serves to depoliticise migration (Betts 2009; Geiger and Pécoud 2010). At the same time, IOM staff members are keenly aware of the political functions they fulfil for governments:

Immigration is based on national interest—the government wants to show to its electorate that it is in control of its immigration system. AVR programmes can be useful for governments, can fit in their agenda. (Personal Interview with IOM staff member)

While interviewees emphasised the IOM's clearly delineated sphere of activity and the organisation's principled stance of not engaging in forced returns, it became clear during the interview process that the boundary to involuntary return practices in which an engagement of IOM staff members is prohibited remains contested. While individual staff members may have a clear stance, interview respondents noted that the organisation has been repeatedly approached by governments who demand

assistance in returning people from detention and providing support in the area of forced returns. While the IOM has reportedly refused these requests, the fact that it is being approached indicates that it is perceived as a service provider that does not have an inbuilt mechanism to check its actions against a specific normative framework or protection mandate, and that is likely to go a long way in securing projects. This perception is shared by other international actors:

I think they find problematic when they have to return people from detention. They claim to us that they don't, but I think they do. (Personal interview with UNHCR staff member)

Irrespective of the extent to which this perception corresponds to reality, it constitutes an important factor for understanding the IOM's interaction with other actors, and thus its role in the overall governance of return.

4.2. UNHCR

While the basis of UNHCR's mandate, the 1951 Refugee Convention and its 1967 Protocol, has remained unchanged, the work of the agency has, nonetheless, undergone important changes. In particular, UNHCR's shift towards regarding repatriation as the preferred solution to refugee crises has been discussed in the literature (Chimni 2004; Barnett and Finnemore 2004). During the cold war, when most of UNHCR's funding came from Western governments and most asylum seekers were fleeing political persecution, the return of refugees was neither likely nor encouraged (Loescher 2001, 41). Resettlement or local integration constituted the preferred solutions for refugees. When more and more asylum seekers from developing countries arrived in Western countries in the 1980s, this changed and greater emphasis was placed on voluntary repatriation (Takahashi 1997). With the onset of large refugee flows to Western Europe in the early 1990s, the initial emphasis on voluntariness came to be replaced by the notion of 'safe return', part and parcel of the newly established temporary protection schemes (Chimni 1993). In 1996, UNHCR for the first time officially recognised the need to 'contextualise standards of voluntary repatriation', thereby in effect recognising the legitimacy of imposed return under certain circumstances (Chimni 2004, 63). The agency's earlier principle of three equally valid durable solutions to refugee situations has by now given way to a clear preference for return.²

UNHCR's increasing willingness to return refugees has been criticised as lowering the standards of refugee protection (Betts 2009). This development can be partially attributed to the competition from a rapidly expanding IOM (Loescher 2001; Betts 2009; Geiger and Pécoud 2010) that forced UNHCR to reconsider its role in the international governance of migration and to respond to the demands of its state constituency in order to retain its relevance.

The development recounted above refers to UNHCR's stance regarding the return of individuals whose claim to asylum has been recognised, and who, therefore, falls

under the institution's so-called population of concern. Individual migrants who never applied for asylum and rejected asylum seekers do not fall under this mandate. However, debates regarding UNHCR's involvement in return that go beyond the groups falling under its mandate have been ongoing since 1990, when an ExCom 'Note on International Protection' first acknowledged the possibility of UNHCR's involvement in the return of rejected asylum seekers (Noll 1999). Current discussions normally refer back to the 2003 ExCom 'Conclusion on the return of persons not to be found in need of international protection' (UNHCR 2003a). Its key provision serving as the basis for UNHCR's involvement in the return of rejected asylum seekers proclaims UNHCR's readiness:

on a good offices basis, to support States, upon their request, in their endeavours to return persons found not to be in need of international protection, in particular where obstacles to return are encountered and provided that the involvement of the Office is not inconsistent with its humanitarian mandate to provide international protection to refugees. (UNHCR 2003a, k)

This provision is not limited by a condition of voluntariness. Instead, force may be used but must, 'should it be necessary, be proportional and undertaken in a manner consistent with human rights law' (UNHCR 2003a, c). The document further spells out the key rationales for UNHCR's engagement in the return of rejected asylum seekers in stating that 'the efficient and expeditious return of persons found not to be in need of international protection is key to the international protection system as a whole', and that the difficulties in returning these people 'have served to undermine the integrity of individual asylum systems' (UNHCR 2003a, c). These rationales constitute systemic interests (Noll 1999, 7). They are characteristic examples of the reasoning driving the migration management approach in that they are formulated not in form of individual countries' or migrants' preferences, but as necessary for the proper functioning of a comprehensive system for the management of migration.

The same document recommends that the agency ought to 'Tak[e] clear public positions on the acceptability of return of persons found not to be in need of international protection' (UNHCR 2003a, i-j). This points to the fact that states accord an important legitimising function to UNHCR. Irrespective of its operational involvement, its moral sanctioning powers are regarded as an important added value in the return of rejected asylum seekers. However, while this provision may well be in line with UNHCR's narrow humanitarian *mandate*, it nonetheless clashes with the agency's broader humanitarian *identity*—that underlies its moral authority vis-à-vis states, and with which the majority of its staff identifies strongly.

Even though in legal terms, UNHCR is responsible for a clearly delineated group of persons, it is generally expected to be 'migrant-friendly' and has in fact expanded its protection services to vulnerable groups not subsumed under its original mandate. Being faced with calls for an increased engagement in the (enforced) return of rejected asylum seekers thus constitutes a mismatch between the agency's identity and its tasks, and a dilemma that UNHCR needs to address on a continuous basis.

In 2003, an additional rationale was introduced in the discourse of UNHCR's involvement in the return of rejected asylum seekers. Faced with the novel challenge of so-called mixed migration flows, UNHCR and its member states included the desirability of UNHCR involvement in the return of rejected asylum seekers in their 'Agenda for Protection' by calling for 'States, IOM and UNHCR to cooperate, as appropriate, in removing obstacles to the speedy return of asylum-seekers found not to be in need of international protection' under the overarching goal 'Protecting refugees within broader migration movements' (UNHCR 2003b, 51). This moves the rationale for UNHCR involvement in return activities from the systemic to the individual level: the agency's engagement is not only needed for preserving the integrity of the asylum system, but also for the protection of individual refugees. This linkage amounts to the claim that the return of rejected asylum seekers is not an issue independent from refugee protection (and therefore arguably does not fall under UNHCR's responsibility), but that it is instead central to fulfilling UNHCR's core mandate.³ By presenting the return of rejected asylum seekers as a necessity rather than a choice, it further contributes to the depoliticisation of migration-related policy-making that Geiger and Pécoud (2010, 14) point to when asking 'how can one contest migration management initiatives meant to "protect" people?'

In 2010, UNHCR saw the need to further clarify its role in the return of rejected asylum seekers and issued an accordant policy paper (UNHCR 2010). This paper's references to and reiterations of rationales developed in earlier UNHCR documents amount to a stabilisation of discourse. It traces a development over time in saying that:

The return of persons found not to be in need of international protection has become a key component of the debate relating to the interface between asylum and international migration and is increasingly regarded as an integral part of the migration policies and strategies of destination countries. (UNHCR 2010, 2)

The footnote substantiating this claim refers to 'the increasing number of readmission agreements concluded between the European Union and/or European Union Member States with countries of origin and transit in Africa and Asia'. This exposes the international governance of return as state-driven: since countries of destination are increasingly focusing on return, and given the increasingly competitive nature of migration management as a whole (Loescher 2001, 50), UNHCR sees the need to position itself. In doing so, it faces the challenge of remaining relevant for states while at the same time not undermining its humanitarian identity. The policy paper provides an insight into how this is being achieved. Its more specific provisions list 'preparing for return in the host country', 'facilitating inter-State cooperation', 'assisting with reintegration' and 'post-return monitoring' as possible fields for UNHCR's operational engagement. UNHCR thus does not envisage to become engaged in the actual implementation of return, but sees its role as a facilitator and a monitoring authority.

The section on potential benefits of UNHCR's involvement notes that voluntariness is not a necessary prerequisite for the agency's involvement in returns: individuals to be returned would 'benefit from a facilitated, preferably voluntary and certainly orderly and humane, return that respects their human rights and dignity' (UNHCR 2010, 6). The paper further singles out the IOM as a particularly important partner in returns (UNHCR 2010, 12). Here, we can trace how the meaning of concepts is shaped by interactions between different actors. While the document's glossary of terms entails a definition of AVR that matches the IOM's criteria of a 'free and informed' decision, its section on partnerships characterises the IOM's AVR programmes as aiming 'for the humane and cost-effective return and reintegration of migrants *wishing* to voluntarily return to their countries of origin' (emphasis added).

From the interviews conducted for this project, it was clear that IOM staff members are perfectly aware of the potential gap between a migrant's preference and his or her decision to sign up for an AVR programme, and that 'wishing' is hardly an appropriate term in this context. This is an example of the blurring of concepts traded between different actors: While each agency carefully considers the terms used to describe its own activities, the wording used to describe the activities of partners may be conveniently less exact. The resulting blurred notion becomes part of an authoritative document and is, therefore, introduced in the overall discourse.

Official documents provide a legal basis for UNHCR's involvement in the return of rejected asylum seekers and delineate the possible scope of UNHCR activities. However, the decision to become active is made on a case-by-case basis. This requires careful moral judgement on the part of UNHCR staff members, and many of them worry about the agency's involvement:

For states, having UNHCR involved in the return of rejected cases gives them a certain reassurance that an independent agency like UNHCR, that is so rights-minded and protection-minded said "look, it's ok, these are not refugees". So for states there is clearly an interest in having that happen that way. For us, we're afraid – because as we know there are wild variations in recognition rates in Europe for the recognition of the self-same group. (Personal Interview with UNHCR staff member)

This statement indicates that UNHCR staff members are acutely aware of the legitimising function they fulfil for national governments in the realm of return. The difficulties of UNHCR's engagement in return arise not primarily from legal uncertainties, but from a mismatch between UNHCR's humanitarian identity and its potential engagement in forced returns that some of its member states would like to see. Faced with this dilemma, UNHCR staff members place high expectations in the IOM's return-related activities:

IOM has this AVR program, but the parameters of that are relatively limited, in the sense that it has to be voluntary (...). What we have been telling IOM for the past two

or three years is that the return of non-refugees has to happen if we are to preserve the institution of asylum in developed countries. (...) We want to go back to IOM and say 'look, your AVR program is fine, but it is so narrow in scope that it doesn't help us a lot'. (Personal Interview with UNHCR staff member)

As mentioned above, the IOM's rapid growth since the early 1990s initially led to competition between the two agencies. While most authors emphasise the threat to UNHCR, there have also been instances in which the IOM worried about UNHCR initiatives. In particular, UNHCR's initiative to address the phenomenon of 'mixed migration' in its afore-mentioned 10-point plan was initially not well-received by the IOM:

I think our motives were misunderstood and misread, I think IOM thought we were getting into the migrant business, and were trying to muscle them out of the picture. (...) IOM still has very mixed feelings about the 10 point plan, they see it as UNHCR's plan, but now I think they understand better our entry point – and our entry point is not migrants, it is the protection of refugees. It's not like we want to shake the trees to steal migrants from IOM. (Personal Interview with UNHCR staff member)

The statement illustrates both the competitive struggle over different sections of the 'migrant business', and UNHCR's strategic positioning within this business. The field of return in fact constitutes an area where the IOM's involvement can further UNHCR's own goals while allowing the agency to not become overtly engaged in activities that would blemish its humanitarian identity and thereby undermine its moral authority to assess states' conduct vis-à-vis their migrant population. This leads UNHCR to support the IOM's return activities. One way of doing this is by convincing states to fund IOM return projects:

Sometimes our operational involvement is to get other actors like the IOM to come into a country and open a project for the return of non-refugees. So sometimes we are just lobbying (...) states to provide resources to IOM. (Personal Interview with UNHCR staff member)

Another way in which UNHCR supports the IOM while at the same time practising—and thereby strengthening—its role as a moral authority is by providing assessments of return projects' compatibility with international human rights law:

In all situations we provide advice, and sometimes IOM refers cases to us where they are not sure whether people are in need of international protection, so they may refer them to us and if we say it's fine, we don't have a problem, then they go ahead. (Personal Interview with UNHCR staff member)

These statements indicate that, for the time being, competition between the two organisations has given way to cooperation and task-sharing. Given that there is a mismatch between its own preferences in the realm of return and its willingness to actively implement the measures necessary to achieve these, UNHCR has chosen to

focus on the complementary rather than on the conflicting aspects of the two agencies' identities and willingly promotes the expansion of IOM activities in this field. This approach allows UNHCR to balance the demands of states with the moral constraints arising from its own institutional identity. This institutional balancing exercise does not preclude individual UNHCR staff members from reflecting about the underlying purposes of states' return initiatives:

They want to show that they are managing the migration, and by returning people you are controlling your borders, which is an absolutely fictitious way of showing that, because most of the people come in anyway with regular visa, and then overstay their visa. (...) [Return] is more an issue with the political impact that this has on the public opinion. And very much less on the impact it has on the economy or the migration management of that country – because there is no way you're gonna be able to do that with return. Return policy is not a migration management tool – return can only be used selectively, for individual cases. (Personal Interview with UNHCR staff member)

This statement neatly exposes the contradictions inherent in attempts to 'manage' migration. Some of the tools heralded as control instruments have a very limited impact and obscure alternative policy options, yet still serve their purpose by showcasing control to the general public.

5. Analysing Task-sharing in Migrant Return

When juxtaposing the roles that different actors play in the governance of return and relating them to each other, the following picture emerges: governments are torn between the need to showcase control in the field of migration, and their desire to act in accordance with humanitarian considerations that foreclose the return of many immigrants who on purely legal terms would be expected to return. Furthermore, deportations are both costly and—at least when used extensively—unpopular.

Governments therefore turn to the so-called voluntary return services offered by the IOM as an agency that relies on project-based funding and, therefore, has limited power to reject the demands of states. Apart from this apparent functional imperative, however, Barnett and Finnemore (1999, 703) claim that states often turn to IOs 'for their "normative fit" or legitimacy reasons rather than for merely material interests'. Since UNHCR's *raison d'être* as well as its authority vis-à-vis states is based on its humanitarian identity, the agency is reluctant to become operationally involved in the return of non-refugees. Faced with increasing competition by the IOM, UNHCR thus emphasises the legitimising rather than the operational aspect of its identity in order to retain an authoritative role. Based on the systemic rationale of 'freeing up asylum space' in order to fulfil its core mandate of protecting those that qualify for asylum under the Geneva Convention, it opts for various facilitating measures: publicly endorsing return initiatives, legitimising them by ascertaining their compliance with human rights, lobbying for increased funding for IOM-administered return programmes, and providing pre-departure and post-arrival assistance. In line

with Claire Inder's notion of 'hyperlegalism', the political choices underlying these activities are obscured by the legal and technical compliance with international law (Inder 2010, 221):

To be square and straight, if you want to be a legalist about this: If someone has been through a free and fair process, they are not refugees. So for us it's a mandate issue. (Personal interview with UNHCR staff member).

By claiming that the protection of refugees necessitates the return of non-refugees, UNHCR redefines the promotion and facilitation of return as being part and parcel of its humanitarian and rights-oriented identity. *Vis-à-vis* states and the IOM, its engagement in return, therefore, strengthens rather than detracts from its normative authority.

To summarise, the roles of UNHCR and IOM in the return of irregular migrants and rejected asylum seekers complement and reinforce one another in ways that makes for a much more consistent and less-contested return regime than one would assume when considering the overtly rights-based identity of UNHCR. While national governments' reliance on these organisations is unsurprising, the relationship between these two international actors warrants attention. UNHCR's active encouragement of IOM's involvement of return in order to (1) protect the institution of asylum and (2) not be forced to act contrary to its own rights-based identity amounts to a type of mutually reinforcing task-sharing. This can be called 'normative task-sharing' in that it allows for a situation in which a humanitarian agency retains the moral authority to judge certain return procedures acceptable or non-acceptable, while cooperating with an operations agency that carries out returns of dubious voluntariness with the moral support of this first actor. Taken together, the two international agencies enhance states' control over their immigrant population and thereby contribute to a stabilisation of state sovereignty in the governance of migration.

6. Conclusion

The institutional proliferation in the field of migration management and international actors' accordant strategic positioning has been noted before. By using return as a lens through which to assess the positioning of two important international actors, this article goes beyond the diagnosis of increased competition and describes how actors emphasise the complementary nature of their mandates and engage in task-sharing in a way that is compatible with their respective institutional identity, and serves to justify their continued existence. The findings presented here speak to the core insight of complexity studies that 'understanding units does not sum up to the whole and that the dynamics of the whole shape the behavior of units and sub-parts' (Alter and Meunier 2009, 15). While this article falls short of setting out the full complexity of the international governance of return, it provides an insight into the interdependencies between two key actors that order, legitimise, facilitate and

implement the return of migrants, and in doing so carefully balance the requirements arising from their institutional identities and the demands of both states and other international actors.

Alter and Meunier (2009) point to the multiple possible outcomes of regime complexity. This article has argued that in the field of migrant return, the existence of multiple actors sharing the different return-related tasks ultimately serves national governments' interests. However, the findings presented here do not contradict the notion that IOs in general, and UNHCR in particular, should be considered purposive actors rather than mere passive recipients of state orders (Barnett and Finnemore 1999; Loescher 2001). The IOs analysed in this article have strong institutional identities that place constraints on their actions. Faced with the demands of states to engage in returns, they negotiate these different imperatives and end up emphasising aspects of return that can be aligned with their respective identities.

Given that IOs, apart from facilitating state cooperation and therefore offering material benefits, also fulfil certain ideational functions for states, this safeguarding of institutional identities ultimately also lies in the interest of states. Overall, control tightens: while there is no global migration agency, the closer cooperation between existing agencies allows for a pooling of information and greater enforcement capacities. This matches the observation that international migration management, 'Rather than organizing the disappearance of states, [constitutes] an attempt to find new ways for them to retain their influence over migration flows' (Geiger and Pécoud's 2010, 15).

Barnett and Finnemore (1999, 710) argue that one of the sources of IOs' power is their ability to classify and order the social world in an authoritative way that gives rise to actions. UNHCR's definition of refugees is a classic example of this. While most existing research has focused on UNHCR's treatment of those subsumed under the category 'refugee', this article has shifted the focus to its approach towards those falling outside this category. While during the main part of its existence, UNHCR remained neutral towards those not falling under its mandate, the agency has increasingly changed its approach towards rejected asylum seekers: instead of simply being excluded from UNHCR's protection, they are now defined as a group obstructing international protection for those who, in legal terms, deserve it. In order to understand the full reach of the power exerted by IOs, we thus have to distance ourselves from the classifications IOs themselves provide. Conceptualising migrant return as a policy field in its own right, regardless of the type of migrants whose return is pursued, enables us to achieve this crucial distance and allows for insights into the role international actors play in this process. Future research should extend the empirical scope of this research to include a broader range of relevant actors.

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Notes

- [1] This paper draws on 13 semi-structured interviews with staff members from IOM and UNHCR that were conducted in February 2010 at the two institutions' headquarters in Geneva and lasted between 30 and 70 minutes. The interview sampling consisted in contacting those individuals responsible for migrant return within the two organisations, and interviewing them or their junior colleagues in case the heads of department were not available. Apart from those specifically working on migrant return, staff members responsible for the fields of temporary protection (UNHCR), labour migration (IOM) and donor relations (IOM) were interviewed about the return-related aspects of their work.
- [2] Cf. the agency's website: 'Returnees are the ones who get to go back home—the best durable solution'. <http://www.unhcr.org/pages/49c3646c11c.html> (17 May 2011).
- [3] This notion was confirmed in 2007 by the inclusion of return arrangements for non-refugees under UNHCR's '10 Point Plan' on refugee protection and mixed migration (UNHCR 2007).

References

- Aggarwal, V. K. 1998. *Institutional Designs for a Complex World: Bargaining, Linkages and Nesting*. Ithaca: Cornell University Press.
- Alter, K. J., and S. Meunier. 2009. "The Politics of International Regime Complexity." *Perspectives on Politics* 7 (1): 13–24. doi:10.1017/S1537592709090033.
- Amnesty International. 2003. *Statement to the 86th Session of the Council of the International Organization for Migration*, Geneva, November 20.
- Barnett, M. N., and M. Finnemore. 1999. "The Politics, Power, and Pathologies of International Organisations." *International Organisation* 53 (4): 699–732. doi:10.1162/002081899551048.
- Barnett, M. N., and M. Finnemore. 2004. *Rules for the World. International Organizations in Global Politics*. Ithaca and London: Cornell University Press.
- Betts, A. 2009. "Institutional Proliferation and the Global Refugee Regime." *Perspectives on Politics* 7 (1): 53–58. doi:10.1017/S1537592709090082.
- Chimni, B. S. 1993. "The Meaning of Words and the Role of UNHCR in Voluntary Repatriation." *International Journal of Refugee Law* 5 (3): 442–460. doi:10.1093/ijrl/5.3.442.
- Chimni, B. S. 2004. "From Resettlement to Involuntary Repatriation: Towards a Critical History of Durable Solutions to Refugee Problems." *Refugee Survey Quarterly* 23 (3): 55–73. doi:10.1093/rsq/23.3.55.
- Ellermann, A. 2009. *States against Migrants. Deportation in Germany and the United States*. Cambridge: Cambridge University Press.
- Freeman, G. P. 2006. "National Models, Policy Types, and the Politics of Immigration in Liberal Democracies." *Western European Politics* 29 (2): 227–247. doi:10.1080/01402380500512585.
- Geiger, M., and A. Pécoud. 2010. "The Politics of International Migration Management." In *The Politics of International Migration Management*, edited by M. Geiger and A. Pécoud, 1–20. Basingstoke: Palgrave Macmillan.
- Gibney, M. 2008. *Precarious Residents: Migration Control, Membership and the Rights of Non-citizens*. New York: United Nations Development Programme (UNDP), Human Development Research Paper 2009/10.
- Gibney, M. J., and R. Hansen. 2003. *Deportation and the Liberal State: The Forcible Return of Asylum Seekers and Unlawful Migrants in Canada, Germany and the United Kingdom*. Geneva: UNHCR Evaluation and Policy Analysis Unit, Working Paper No. 77.
- Gibson, J. 2007. *The Removal of Failed Asylum Seekers: International Norms and Procedures*. Geneva: UNHCR Policy Development and Evaluation Service, Research Paper No. 145.

- Guiraudon, V. 2000. "European Integration and Migration Policy: Vertical Policy-making as Venue Shopping." *Journal of Common Market Studies* 38 (2): 251–271. doi:10.1111/1468-5965.00219.
- Guiraudon, V., and G. Lahav. 2000. "A Reappraisal of the State Sovereignty Debate. The Case of Migration Control." *Comparative Political Studies* 33: 163–195. doi:10.1177/0010414000033002001.
- Hammar, T. 1985. *European Immigration Policy: A Comparative Study*. Cambridge: Cambridge University Press.
- Howard, M. M. 2006. "Comparative Citizenship: An Agenda for Cross-National Research." *Perspectives on Politics* 4 (3): 443–455. doi:10.1017/S1537592706060294.
- Howard, M. M. 2010. "The Impact of the Far Right on Citizenship Policy in Europe: Explaining Continuity and Change." *Journal of Ethnic and Migration Studies* 36 (5): 735–751. doi:10.1080/13691831003763922.
- Human Rights Watch. 2007. *Statement to the 94th Session of the IOM Council*, Geneva, November 27–30.
- Inder, C. 2010. "International Refugee Law, 'Hyper-legalism' and Migration Management: The Pacific Solution." In *The Politics of International Migration Management*, edited by M. Geiger and A. Pécoud, 220–251. Basingstoke: Palgrave Macmillan.
- ILO (International Labour Organisation) 2006. *ILO Multilateral Framework on Labour Migration. Non-Binding Principles and Guidelines for a Rights-Based Approach to Labour Migration*. Geneva: ILO.
- IOM (International Organization for Migration) 2000. *Financial Report for the Year ended December 31, 1999*. Geneva: IOM. http://www.iom.int/jahia/webdav/shared/shared/mainsite/about_iom/en/council/80/MC2005.pdf.
- IOM (International Organization for Migration) 2011. *Financial Report for the Year Ended December 31, 2010*. Geneva: IOM. http://www.iom.int/jahia/webdav/shared/shared/mainsite/about_iom/en/council/100/MC_2313.pdf.
- IOM (International Organization for Migration). 2012. *Return Migration*. Geneva: IOM. <http://www.iom.int/jahia/Jahia/about-migration/managing-migration/managing-migration-return-migration>.
- Jacobson, D. 1996. *Rights across Borders: Immigration and the Decline of Citizenship*. Baltimore: John Hopkins University Press.
- Jones, M. 2006. "Lies, Damned Lies and Diplomatic Assurances: The Misuse of Diplomatic Assurances in Removal Proceedings." *European Journal of Migration and Law* 8 (1): 9–39. doi:10.1163/157181606776911941.
- Kanström, D. 2007. *Deportation Nation. Outsiders in American History*. Cambridge: Harvard University Press.
- Keeley, J. F. 1990. "Toward a Foucauldian Analysis of International Regimes." *International Organization* 44 (1): 83–105. doi:10.1017/S0020818300004653.
- Koopmans, R. 2012. "Citizenship Rights for Immigrants: National Political Processes and Cross-National Convergence in Western Europe, 1980–2008." *American Journal of Sociology* 117 (4): 1202–1245. doi:10.1086/662707.
- Koopmans, R., P. Statham, M. Giugni, and F. Passy. 2005. *Contested Citizenship: Immigration and Cultural Diversity in Europe*. Minneapolis: University of Minnesota Press.
- Lahav, G., and V. Guiraudon. 2006. "Actors and Venues in Immigration Control: Closing the Gap between Political Demands and Policy Outcomes." *West European Politics* 29 (2): 201–223. doi:10.1080/01402380500512551.
- Loescher, G. 2001. "The UNHCR and World Politics: State Interests vs. Institutional Autonomy." *International Migration Review* 35 (1): 33–56. doi:10.1111/j.1747-7379.2001.tb00003.x.
- Noll, G. 1999. 'Rejected Asylum Seekers: The Problem of Return.' New Issues in Refugee Research, Working Paper No. 4. UNHCR: Centre for Documentation and Research.

- Pacurar, A. 2003. "Smuggling, Detention and Expulsion of Irregular Migrants. A Study on International Legal Norms, Standards and Practices." *European Journal of Migration and Law* 5 (2): 259–283.
- Philpott, C. B. 2006. "From the Right to Return to the Return of Rights: Completing Post-war Property Restitution in Bosnia-Herzegovina." *International Journal of Refugee Law* 18 (1): 30–80. doi:10.1093/ijrl/eei046.
- Rosendal, G. K. 2001. "Impacts of Overlapping International Regimes: The Case of Biodiversity." *Global Governance* 7 (1): 95–118.
- Sassen, S. 1996. *Losing Control? Sovereignty in an Age of Globalization*. New York: Columbia University Press.
- Sassen, S. 1999. "Beyond Sovereignty: The De Facto Transnationalism in Immigration Policy." *European Journal of Migration and Law* 1 (2): 177–198. doi:10.1163/15718169920958513.
- Schain, M. A. 2009. "The State Strikes Back: Immigration Policy in the European Union." *European Journal of International Law* 20 (1): 93–109. doi:10.1093/ejil/chp001.
- Soysal, Y. N. 1994. *Limits of Citizenship. Migrants and Postnational Membership in Europe*. Chicago: University of Chicago Press.
- Takahashi, S. 1997. "The UNHCR Handbook on Voluntary Repatriation: The Emphasis of Return over Protection." *International Journal of Refugee Law* 9 (4): 593–612. doi:10.1093/ijrl/9.4.593.
- UNHCR (United Nations High Commissioner for Refugees) 2003a. *Conclusion on the Return of Persons Found not to be in Need of International Protection*. Geneva: UNHCR, Executive Committee 54th session. <http://www.unhcr.org/refworld/docid/3f93b1ca4.html>.
- UNHCR (United Nations High Commissioner for Refugees) 2003b. *Agenda for Protection*. Geneva: UNHCR. <http://www.unhcr.org/refworld/docid/4714a1bf2.html>.
- UNHCR (United Nations High Commissioner for Refugees) 2007. *Refugee Protection and Mixed Migration: A 10-Point Plan of Action*. Geneva: UNHCR.
- UNHCR (United Nations High Commissioner for Refugees) 2010. *The Return of Persons Found not to be in Need of International Protection to Their Countries of Origin: UNHCR's Role*. Geneva: UNHCR. <http://www.unhcr.org/refworld/pdfid/4cea23c62.pdf>.
- Wimmer, A., and N. Glick Schiller. 2003. "Methodological Nationalism, the Social Sciences, and the Study of Migration: An Essay in Historical Epistemology." *International Migration Review* 39 (3): 576–610.