

# Multilayered Governance: More Coherence for the International Migration Regime?

## — Call for Papers

**27 – 28 April 2016**

**University of Bern, Switzerland**

### Concept Note

In light of the current migration challenge, the concept of multilayered governance (MLG) has gained new momentum. The fragmentation of international migration law (IML) into functionally differentiated layers (multilateral and bilateral agreements, regional processes, supranational rules and national laws) is deepened by the unresolved linkages between liberalization and rights protection in addition to risk management and structural biases between labor, refugee, asylum, development and human rights regimes. In result, migrants are exposed to discrimination and indeterminacy and consequentially universality and consensus were dismissed as unworkable values so that IML, like other subfields sought the expertise of embedded regimes (law of the sea, trade, labor standards) and otherwise reverted to the “ad hocism” of migration management. Yet most of these techniques fell short of organizing the linkages between the different layers of norms, the potential prioritization to be given one venue over another. Therefore, the quest for a structure was started, which could limit hegemonic host country control over immigration law, while at the same time lay foundations for an unbiased validation of collective efforts. Beyond the universality of consensus and the dismissal of the asymmetric dominance exerted by territorial control, constructivist calls for common

principles brought to the fore the various governance theories, which all have value-neutrality, plurality, limited statehood, dismantling of universality, but also efficiency and legitimacy inscribed in their mandates. Among these, the concept of MLG disposes of the mechanisms (layering and blurring) to overcome the potential divisiveness and elusiveness of fragmentation, the indeterminacy of deformatization and the ambivalent values inhabiting the migration rule complex. In particular, the constructivist principles of efficiency and legitimacy help to identify the layers (local, national, bilateral, regional, supranational, multilateral) and players (private, public) most optimally suited for regulating a specific migratory issue. At the same time the process of blurring dichotomies between domestic and international spheres or states, passes the kind of value-judgment upon which it becomes possible to construct a legal project.

Vested with post-pluralist power, the problem-solving technique of MLG is well positioned to explain the structural biases of IML, how host states dominate the dialogue, and it has, despite a penchant for technicality and neutrality been capable of explaining why it may be necessary to structurally differentiate the unity of a legal system in view to empower new players and how—i.e. by

recognizing shared responsibility and promote networks among sending countries and migrants. MLG is the only governance concept flexible enough to adapt to trial and error of research agendas, which means it is fuzzy enough to encompass a variety of actors, layers and degrees of rule-making, and vague enough to mix constructivist principles (consensus or « old » governance) with pluralist trends (« networks »). Such mixity promotes MLG to the top of legal theory for understanding the combination of hierarchy, mostly on display in multilateral treaties and the networks of global soft law.

In this conference we focus on the concept of MLG, not only because it has been adopted by a variety of disciplines, but also because it is a flexible, constructive adaptation strategy which seeks to minimize statehood and instead to enable more players to enact new rules at different regulatory levels and thru different venues in view to increase the legitimacy and efficiency of regulation.

## What are the advantages of contouring the migration system in terms of MLG? Does MLG encourage bypassing security-biased norms in favor of development-friendly, market-oriented or rights-based approaches?

### Call for Papers

The international conference “Multilayered Governance: More Coherence for the International Migration Regime?” is framed around select submitted papers, but will also include invited speakers. We welcome paper proposals from diverse disciplinary approaches, methodological positions, including empirical research. Papers can shed light on at least three viewpoints by which to approach MLG: The substantive dimension: devolution of power from the State to sub- and supranational levels, to the market, and specialized venues (trade, sea, health, labor, culture, climate change, environment) combined with the rise of non-state actors, which validates transnational regulation and reveals the structural bias of universality. The procedural dimension: the mechanism of MLG, such as blurring of borders, embedding in other venues, the deresponsibilization, fragmentation – namely between private and public – which creates room for new layers and players to redefine state-society relations. The exploratory dimension: is it possible to construct coherence for IML and to find more plural structures and constructivist values? In addition to the research questions raised above, the papers could explore to what extent MLG contributes to a coherent international migration regime – how self-contained or fragmented would it be?

- To what extent is MLG different or similar to fragmentation?
- What are the advantages/deficits of constructing the international migration system on the basis of MLG? What is the relationship of MLG to universal values of solidarity and shared responsibility which could solidify a right to entry and give sending countries and migrants a universal voice?

- How does the “dominant feature” of “embedding” (environmental protection, climate change, trade, health, education, sea) play out in the field of migration and what is the impact of this mechanism on the unity or coherence of the regime, the quality of the laws, the legitimacy of the process and the accessibility of rights for migrants?
- Does “layering” of MLG lead to confusing overlap of competencies or to coherent plurality and increased legitimacy/efficiency?
- What impact has MLG on the rise of non-state actors, i.e. the role of IOs in “orchestrating” the development of a (soft) global migration law?
- Why is a multi-venue, multi-actor, multi-layered governance more efficient, legitimate and likely to protect human rights than universal settings?
- Is the flexibility and fragmentation of MLG evidence of escape from exclusivity of hegemonic host country control or inversely a design feature of sovereignty-based host country bias?
- Why is there fragmentation between treaties and organizations, bilateral agreements and migration partnerships, RCPs and global soft law? Do constructivist, neorealist or functionalist perspectives play a role?
- What can be said about the ambivalence in migration governance between global soft law and treaty law, including bilateral agreements? Which normativity is more prominent, for which subject and why?
- To what extent do agreements have an experimental, post-regulatory role in regulating migration and do they foster a multilayered, plural migration law?

### Paper Submission Procedure

Senior and junior scholars (including PhD students) are invited to participate in the call for papers. Papers will be selected on the basis of the submitted abstracts. The abstracts must not exceed 800 words and have to be submitted by email to

marion.panizzon@oefre.unibe.ch  
and  
philip.hanke@oefre.unibe.ch.

### Deadline for submission is 23 December 2015.

PhD students are particularly welcome and there will be an opportunity to get feedback on their work from senior academics. In addition to the abstract, each submission should contain a separate file with the author’s name, affiliation, as well as contact details including email address and phone number.

### Timeline

Successful applicants will be informed by 31 January 2015. The deadline for the submission of the accepted papers is 10 April 2016.