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BOOK REVIEWS

Bimal Ghosh, ed., *Managing Migration: Time for a New International Regime?* Oxford: Oxford University Press. 258pp. Index. ISBN 0-19-829764-5. Hardback. £45

For anyone concerned with understanding the complex factors behind contemporary migration and its impact on international refugee law, and especially for those attempting to develop policies to manage migration, this book makes a valuable contribution. This collection of articles from a wide range of contributors of diverse academic disciplines and experiences is a product of the project NIROMP (New International Regime for Orderly Movements of People), operating under the auspices of the International Organisation for Migration (IOM) and directed by Bimal Ghosh, who is well known to the migration academic community for his previous, extensive work in this area.¹

Approaches to migration have been orientated around what Ghosh describes as both liberal doctrines and restrictive 'statist' principles. Yet while it is the restrictive approach that has assumed a dominant role, it has ultimately resulted in limited success (p.22). Contributors to the collection expand on their experiences and note the consistent failures of States' attempts to regulate those who enter and remain within their borders.

The articles by Mark Miller, Henk Overbeek and James Hollifield chart the history of migration and its impact on inter-state relationship and national sovereignty, noting that policies have historically been featured on one hand by *national interest*, namely supporting a climate conducive with employers' demands and an emphasis on bi-lateral labour agreements, and on the other hand by *globalisation*, with a particular emphasis on regulating international trade. These authors further note that the focus of State attention to the issue has changed dramatically in recent years by a reorientation around security-related concerns.

Thomas Straubhaar argues 'why we need a General Agreement on Movements of People (GAMP)', highlighting the fact that contemporary migration is not only characterised by temporary movements, but (in contrast to the past where migration fuelled burgeoning manufacturing industries) is becoming more important to service related activities, ranging from managers to hairdressers. Such an agreement, Straubhaar argues, ought to relate to both economic and political considerations in order to transform irregular migration into, as he puts it 'an economically positive phenomenon' (p.134).

Drawing on the same theme, but from a more critical angle, is the article by Philip Martin, B. Lindsay Lowell and Edward Taylor. They very ably explain, by particular reference to the *Bracero* program for migrant workers from Mexico, how such approaches have not only failed to achieve their own, short-term

¹ Previous works by Bimal Ghosh include *Huddled Masses and Uncertain Shores: Insights into Irregular Migration*, The Hague: Kluwer International, 1998 and *Gains from Global Linkages: Trade in Services and Movement of Persons*, London: Macmillan Press, 1997.

objectives, but have in the long-term contributed to the rise in undocumented or *irregular migration* ('stepping stones', p.145).²

The last two separate contributions to the collection broaden the setting of contemporary migration to address the relationship between migration and international human rights law, including international refugee law. This is not merely for reasons of policy relevance, although with the notable exception of refugee movements, there is currently no international policy regime for regulating the movement of migrants, nor one providing for their protection.³ For many persons seeking to enter a country through formal channels, applying for political asylum is in practice the only legal option, hence the focus in discussions relating to migration on the institution of asylum.

The article by Guy Goodwin-Gill notes at the outset that: 'International human rights law has developed with little direct regard either for migrants or refugees, yet it is clearly and necessarily related to both groups of human beings, who often remain on the periphery of effective protection'.⁴ He highlights the 'interwoven' nature of refugee and migration movements, noting that State responses to new arrivals in European and North American countries have frequently been influenced by racial considerations (p.163). He stresses the significance of the principle of non-discrimination, not only as a key principle in the context of refugee law, but certainly one quite important to migrants in general. He observes, however, that international legal attempts to formulate a standard approach on this matter have been quite unsuccessful (p.172), leaving the courts of a host country as the only recourse for migrants whose rights have been violated, access to which he later notes as being notoriously restricted in the case of foreigners (p.178).

In a similar vein of 'inclusive' thinking on a rights based approach to migration policy, Gil Loescher's emphasises in his article that 'most migration is the result of some form of compulsion' (p.191), whether this be for economic reasons (poverty) or political reasons (persecution). While he explains that the scope of contemporary forced migration is less characterised by ideological conflict and more by localised violence, its numbers are no less considerable. Further, attempts to resolve such conflicts are hampered by economic considerations (also indirectly related to humanitarian assistance) and frequently the personal enrichment of

² *Irregular migration* is becoming a dominant focus (if not a kind of mantra) of States and indeed inter-governmental organisations' attempts to 'combat migration while preserving the institution of asylum'. See notably a recent document prepared by UNHCR in collaboration with IOM for the UNHCR's Global Consultations on International Protection, entitled 'Refugee Protection and Migration Control: Perspectives from UNHCR and IOM', EC/GC/01/11, 31 May 2001, copy available at: www.lhr.org.za/refugee/globalnav.htm; this website also contains commentary on this document.

³ The ILO, however, has been very active in producing numerous documents to promote guidelines and fair treatment with respect to migrant workers, though these are not legally enforceable. See www.ilo.ch.

⁴ Promoting a 'rights-based approach' is indeed an important one. The institution of asylum itself is under considerable threat through States' various attempts to combat irregular migration by a variety of restrictive policy mechanisms, including safe third country policies, interception strategies, restrictive interpretations of refugee definitions and the like. For a useful background document from an NGO perspective, see 'NGO Background Paper on the Refugee and Migration Interface', presented to the UNHCR Global Consultations on International Protection, Geneva, 28–29 June 2001, available at: www.lhr.org.za/refugee/globalnav.htm.

those stimulating the conflict (p.194). In short, policy makers are not prepared for either resolving these conflicts or responding to large-scale influxes of refugees that result.

Loescher concludes his comprehensive overview of the contemporary nature of forced migration movements by issuing a call for multi-lateral action, both in resolving the conflicts that produce them and in responding to forced migration movements in a comprehensive manner, rather than the 'piecemeal' attempts of the past. Both, he recognises, obviously rely greatly on both 'political will' and an improvement in 'institutional capacity' (p.217).

What Ghosh attempts to promote at the start of this collection is an alternative to the dominant, restrictionist tendencies of States, endorsing an approach to migration featured by a 'regulated openness' (p.25). The considerable difficulties in achieving this are made clear by the wide range of contributions. Nevertheless, Ghosh boldly outlines his vision in the final chapter of this collection. Emphasising what he means by a 'regulated openness', the objectives of such a regime should, he states, focus on 'orderly movements, as distinct from free movements of people' (p.221). Such a regime would be featured by a number of areas that often arise in academic discussions on the subject and are the focus of advocacy strategies by NGOs, including the need for transparency, a rights-based approach and an *inter-linkage* between migration and other policy areas.

Ghosh concludes the collection on an optimistic note with an emphasis on the potential gains of such a regime to States, both in curbing the considerable costs involved in maintaining unwieldy and ineffective border control regimes and stressing the long-term value to the world economy.

This is a useful book. While the challenges are considerable, promoting a forward-thinking, rights-based perspective is valuable and indeed necessary if States and international organisations are to respond in a reasonable and thoughtful manner to the challenges of migration, rather than the ad hoc, restrictive approaches of the past. Furthermore, such a collection emphasises the need for a vision, and for such a process to be informed by a thorough understanding of the complex issues facing contemporary migration, as represented by the high quality of the contributions in this volume.

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Walter Kälin, *Guiding Principles on Internal Displacement — Annotations*. Washington D.C.: American Society of International Law; The Brookings Institution. 2000.

Walter Kälin's *Annotations* brings into one volume the process and fruit of the years of work that brought about the *Guiding Principles on International Displacement*. The compilation and drafting process are now fairly well-known,⁵ it is worth recalling both the context and the problems affecting internal displacement, and

⁵ See 10 *IJRL* (1998), with a contribution by Simon Bagshaw at 548–56, an introduction by Walter Kälin, and the text of the *Guiding Principles*, at 557–72.