OPEN SOCIETY FOUNDATIONS – INTERNATIONAL MIGRATION INITIATIVE

Migration Governance and Enforcement

Portfolio Review

Prepared by Anna Crowley and Kate Rosin

May 12, 2016

Introduction

Since its inception in 2010, IMI has gradually built portfolios around migration corridors, starting with Asia/Middle East and Central America/Mexico before adding Russia/Central Asia in mid-2013. Simultaneously, IMI made a small number of grants for projects or to organizations with a global reach. Those early "global" grants were awarded to well-established, leading organizations that cover multiple geographies and a range of thematic issues relevant to IMI's overarching mission.

Under review in this paper are two separate categories of work—Governance and Enforcement. These evolved from earlier work focused on migration policymaking and detention issues. Over time, these two themes became clearer in focus and we combined them into a single category of work in our 2016-2019 strategy, which is now titled Migration Policy and Enforcement.

During the review period (2014-2016), IMI provided 40 grants to 22 organizations. Of these, 18 grants totaling $4,350,705 went to 11 organizations working at the global level or cutting across a range of geographies. An additional 22 grants totaling $3,792,697 went to 11 organizations working on governance and enforcement issues at the corridor level.[1] This review will focus on work at the global and cross-cutting levels, only because much of the corridor-based work has been or will be reviewed elsewhere.

A review of this portfolio at this point in time will help us consider the effectiveness of the approaches we have used to achieve change at the international level. This is all the more relevant now, as the current refugee crisis is creating space to reconsider the governance of migration and the international refugee regime.

Our Ambitions

IMI's 2014-2017 strategy on Governance sought to strengthen norm-setting at the regional and international levels to more effectively protect the rights of migrants. Our support to the field aimed to: (1) strengthen civil society interventions in international policy debates; and (2) build the capacity of policymakers to better manage the challenges of migration.

With respect to Enforcement, we aimed to prevent the violation of migrants' rights by minimizing harsh border controls and decreasing the widespread use of detention and deportation. Our support to the field involved three approaches: (1) increasing documentation, analysis, and reporting of enforcement practices; (2) advocating for improved detention conditions and access to detention facilities; and (3) promoting alternative solutions to immigration detention.

Our premise for engaging in work related to governance was that, in addition to mitigating the negative effects of enforcement, we should also be supporting actors in the field proactively seeking to change the policies, rules, and regulations that govern migration. We also believed

[1] Grants at the corridor level address work across all of IMI's priority areas – governance, enforcement and labor. Until 2016, we did not have the budget tools to accurately document and track exact proportions of each grant allocated to individual categories of work. However, we can estimate that roughly half of the amount for the corridor grants ($3,792,697) went to support work on enforcement and governance, while the other half supported IMI's third category of work, Labor Migration.

that advances at the regional or international levels could create impetus for policy change or implementation of existing norms at the national level. We deliberately avoided the term "global governance" because there is no single system at the global level for managing migration. While there is an international refugee protection regime, there is no global system for other types of mobility, such as forced migration or labor migration. Additionally, migration policy is most often set and enforced at the national or regional levels, even if standard-setting at the international level can impact outcomes elsewhere.

In the subsequent 2016-2019 strategy, we presented a more evolved vision of the relationship between enforcement and governance. Our thinking was that since enforcement practices are a manifestation of migration policy, we should aspire to change the overall approach to migration policy in addition to mitigating harmful effects of current policies. We abandoned the term governance in favor of migration policy because governance had no single institutional target for reform. The assumption underlying this work was that security-centered policies did not stop migration and instead put migrants at risk. Policies that maximized options for movement through safe, legal channels would decrease both the human costs of migration and spending on migration control and border enforcement. While this theory is only now being tested in this first year of the strategy, it developed contemporaneously with the implementation of the work under review, and provides insight into the thinking that informed our decision making with respect to work under both Governance and Enforcement.

As our aspirations have evolved, our targets have shifted from harm reduction to more proactive solutions-based policy influencing. However, our programmatic ambitions have been tempered by the nature of our small and relatively new program. IMI has had to be selective and opportunistic, particularly at the global level, in supporting leaders in the field to push thinking on migration and better coordinate advocacy and reform efforts. We have supported initiatives, organizations, and networks whose work ties directly to our aims in the corridors.

Our Place

In our 2014-2017 strategy, we highlighted trends in international migration, including the dearth of governments willing to advocate for migrant rights at the regional and global levels and the risk that new migration regimes would develop in ways that were antithetical to human rights. We noted opportunities for reform provided by the 2013 UN High Level Dialogue on Migration and Development and the "faltering migration system" in the European Union.

IMI has sought to capitalize on OSF's global reach, treating migration as a phenomenon that should be understood across a broad range of geographies and multiple jurisdictions. We initially described the field as one in which few stakeholders worked effectively across borders, despite the transnational nature of migration and the need for cooperation. OSF and the MacArthur Foundation have been the only private foundations willing to invest in shaping migration discussions at the global level. Development agencies and INGOs tend to deal with the causes and effects of migration at the national or regional levels, often ignoring or overlooking the potential to feed local perspectives and learnings into global processes. A notable exception has been the Swiss Agency for Development and Cooperation, which is actively engaged in global fora on migration.

Early on, IMI identified a handful of organizations able to engage on migration globally and transnationally, elevating IMI's corridor work beyond the national level. These included key

think tanks such as the Migration Policy Institute (MPI) and advocacy networks such as the International Detention Coalition (IDC). IMI initially chose not to work in Europe, and therefore did not engage with leading academic policy centers such as Oxford's Centre on Migration, Policy and Society (COMPAS). We also considered supporting global rights watchdogs, such as Human Rights Watch and Amnesty International, to promote migrant rights. However, we saw greater potential for constructive policy engagement through different approaches than those that solely adopted a rights angle.

Looking back, our baseline assessments and projections were correct. Engagement with the Global Forum on Migration and Development (GFMD) helped galvanize civil society around a common advocacy agenda and served as the foundation for the High Level Dialogue, which set the stage for migration to be incorporated into the Sustainable Development Goals. The European asylum system collapsed, revealing the limitations of the overall global system of protection.

However, we could not have predicted the pace or severity of the migration crisis in Europe, nor how it would affect the global state of play. The situation in Europe created renewed momentum and interest in questions of migration governance at the international level. Most notably, issues of international protection and global responsibility-sharing will feature in high-level events this September, convened by the UN and the US. The refugee crisis and the fear that the interests of migrants fleeing poverty, climate change, generalized violence, or natural disaster would be overlooked at these fora have generated a push from G77 countries to ensure other migration issues remain on the global agenda. This has created space within this year's international cycle of events to examine protections for undocumented and other vulnerable migrants and to explore possibilities for multi-stakeholder collaboration for support to migrants as well as refugees.

These developments have, since late 2015, resulted in a fundamental shift in the field. Events in the Mediterranean have attracted the attention of donor governments, philanthropic actors, and the private sector, and are spurring new partnerships within civil society. While the lead-up to the 2013 UN HLD was characterized by a field of primarily migrant rights actors, this year, action at the international level has expanded to those working on asylum issues, as well as humanitarian and development actors. The current climate presents new opportunities for reforming migration governance at the global level, whether through the existing multi-lateral system, or by bringing together a range of actors to think more innovatively. Our long-standing interest and investment in global work means we have many of the right partners and are positioned to help others navigate this space.

Our Work

Within the categories of work under review (Governance and Enforcement), we have supported leaders in the field, including think tanks and policy centers, civil society networks, and individual members of those networks, to shape migration policymaking and influence regional and global processes affecting the way migration is governed and enforced. This section considers IMI's role in supporting these actors, our efforts to link our global and corridor-level work, and our engagement with peer donors.

Influencing migration policy through think tanks and policy centers

Our grants to three organizations aimed, collectively, to fill critical knowledge gaps and facilitate dialogue (MPI), provide practical recommendations for reforming global migration governance (Columbia Global Policy Initiative), and build the capacity and networks of policymakers (Central European University's School of Public Policy).

The nature of general support makes it challenging to draw a causal relationship between our funding to MPI and specific policy gains. As a leading institution in the migration policy field, MPI has played an essential role in advancing issues to which IMI is committed. MPI is IMI's only grantee working across all our thematic areas (Labor, Governance, and Enforcement), and all our geographies. Its value to IMI and OSF more broadly was such that in 2011, we proposed to Aryeh Neier that MPI support be elevated to the level of a Presidential grant as an anchor grantee.

While MPI is sometimes criticized for its closeness to governments, flexible funding from OSF has allowed it to maintain some independence from the governments it advises. This is particularly important, as its revenue stream increasingly comes directly from government clients. Moreover, our support during the first few years of the program has prompted MPI leadership to develop a greater appreciation for civil society perspectives and civil society's role supporting policy development and implementation. For example, MPI-Europe partnered with the European Council on Refugees and Exiles to engage civil society actors in a process to develop new policy proposals and facilitate civil society engagement with policymakers. Similarly, MPI's Transatlantic Council on Migration and the Central America Migration Study Group have provided opportunities for experts, senior political leaders, policymakers, and civil society to come together to catalyze changes to migration policies.

Despite these successes, IMI could have questioned more deeply MPI's role as the program's primary anchor grantee. MPI's strengths lie in its ability to fill critical knowledge gaps and convene experts and policymakers, but in an increasingly polarized political environment, we could question whether its traditional methods of influencing policy remain effective. While MPI brings together some of the best minds in the field, it does not consider itself part of a community of think tanks. It engages with a variety of actors, but does not give back to the field. In recent years, we arguably could have sought out other groups working on migration policy, but were hesitant to over-invest in work at the global level at the expense of our engagement on the ground. Our high level of commitment—$2,200,000 or 51% of the total funds spent under the review period on our global/cross-cutting Governance and Enforcement work—to a single entity limited IMI's flexibility to take advantage of new opportunities. In hindsight, however, this may not have changed our decision to support MPI at this level.

The Columbia Global Policy Initiative (CGPI), which hosts the secretariat for Peter Sutherland, the UN Secretary General's Special Representative on International Migration, has been able to take advantage of momentum created by the current crisis to shape conversations about rethinking migration governance. IMI provided project support for the drafting of The Sutherland Report, which aims to set the stage for institutional reforms to global migration governance, and to break new ground on protections for migrants outside the asylum system.

When we made the CGPI grant, even we were somewhat skeptical about the appetite for reform of the institutions that govern elements of migration at the international level, and the pace at which it might proceed. Nonetheless, we recognized the importance of starting this discussion, and the political capital Sutherland could leverage to bring high-level attention to the issue. This gamble has arguably paid off: as the September UN and President Obama's

summits on migrants and refugees have taken shape, Sutherland's team has effectively drawn on work and thinking it had already done to influence the scope and deliverables of these two meetings. IMI's access to the Sutherland team's discussions has allowed us to keep civil society partners up-to-date on the latest developments, in order to inform advocacy and campaigning strategies prior to the events and to plan follow up actions.

CGPI's elite-level behind the scenes advocacy through Peter Sutherland, has positioned its team of experts to influence policy and practical follow-up to global events. This has been complemented by MPI's neutral voice and ability to generate the policy-relevant research and evidence base needed to shape migration debates. This pairing has worked well and there is a natural collaboration between the experts that both centers engage. This was more the result of opportunism than a deliberate strategy on IMI's part to ensure that the research and evidence bases found political champions capable of taking ideas and proposals forward. In retrospect, we could have done a better job of developing strategies to balance support to institutions producing research for policymaking with those pursuing advocacy to generate political will for reform both in the corridors and at the global level.

As part of our work on governance we have also maintained a commitment to increasing the capacity of policymakers, supporting Central European University's School of Public Policy (SPP) to develop and deliver a course on Migration Policy in a European Context.[2] The project may be considered a success in that it helped create a bridge between academic, government, and advocacy communities. Moreover, as the refugee crisis continues to develop, the course has become more relevant, and SPP has used this as an anchor for a host of other activities related to migration policy and the crisis. Relevance and popularity of the course aside, we can question the degree to which this type of work has contributed to our goal of building the capacity of policymakers: many of the course's participants aspire to be policymakers, but only a few are currently policymakers in a position to have impact.

Our support to policymaking reflects a diversity of approaches, but an unconvincing diversity of actors. In hindsight, we should have considered which other voices or institutions should have been engaged at this level and whether a greater plurality of perspectives could have helped us achieve our aims or would have produced different results entirely.

Civil society networks and global reach

Support to several civil society networks has formed the core of IMI's approach to advocacy at the global and regional levels. These include the Global Coalition on Migration (GCM) and IDC. GCM is a coalition of regional and international networks working to impact global policy on migration, and on migrant and labor rights. Many members, such as Migrant Forum in Asia (MFA), Alianza Americas, Platform for Cooperation on Undocumented Migrants (PICUM), and the International Catholic Migration Commission (ICMC), are or have been grantees of IMI or other parts of OSF for their work in national and regional contexts. GCM was seeded by the MacArthur Foundation in 2012; IMI complemented that funding starting in 2013. IDC is a network with over 300 members across 70 countries that advocates for, researches, and

[2] This line of work was initially conceived as a series of seminars for senior level government officials to be implemented by CEU's SPP and MPI. Following a series of setbacks, including difficulty in reaching the most appropriate policymakers, challenges in the relationship between SPP and MPI, and operational difficulties, IMI and SPP redesigned the program in 2014 as a course on Migration Policy in a European Context.

provides direct services to refugees, asylum-seekers, and migrants affected by immigration detention.

In addition, IMI supported ICMC to serve as the technical secretariat for civil society coordination leading up to the UN HLD on International Migration and Development in 2013 and the EU-African Union high-level summit on migration in 2015. ICMC has the operational capacity and legitimacy in the field to quickly staff up to perform technical coordination tasks. However, decision-making regarding content and civil society positions has remained the purview of formal or informal coalitions of civil society actors, including members of GCM and others.

IMI made a strategic bet that, given the small size of our program, supporting networks was the best way to represent a broad and diverse set of voices, including those of migrant-led groups. Our support to GCM was based on the premise that it would amplify migrant voices and frontline perspectives into discussions at the global level through a network of networks, and that in turn, the participating organizations would then translate the outcomes of these processes back to a grassroots level. Similarly, we expected that our investment in IDC would build an international movement for alternatives to detention through their members on the ground.

In both cases, we have found that the networks successfully coordinated advocacy agendas and shaped the outcomes of global processes in meaningful ways. In the case of GCM, the five-year, eight-point plan it developed for the UN HLD continues to serve as a guide for civil society engagement with governments on a range of issues, including: redefinition of interaction between international mechanisms for migrant rights protection; inclusion of migration in the SDGs; recruitment regulation and labor rights; and protection of migrants in crisis. IDC has built momentum around alternatives to detention, and has secured commitments and statements from treaty bodies and special mandate holders in support of ending or limiting immigration detention, particularly of children and families. Starting from a baseline at which civil society struggled to coordinate messaging, these successes are remarkable. At the same time, both networks were unable to fully capitalize on these achievements by feeding them back down to advocacy at the regional or local levels.

A combination of problems with their approaches, as well as structural and funding issues not uncommon to networks account for these mixed results. Where GCM succeeded it was due to strong political leadership from a handful of its members. At the same time, it has been plagued by inequalities in the capacity and funding of members. Consensus-based decision making coupled with a poorly defined role for GCM's secretariat hampered its ability to respond to situations as they emerged, or to have an impact beyond the global cycle of events. We underestimated the resources needed to link gains at the global level to national level work and did not adequately plan for follow-up to major events. We made a small grant to GCM in 2015 for an organizational assessment and strategy development after problems had become acute, and they have re-emerged with a new streamlined structure and a clearer understanding of both the value the offer and their own priorities. We will provide somewhat flexible (though still project) support to GCM's secretariat this year; it will help them test their new structure and contribute to September's high-level events, but will also place a greater emphasis on follow-up through the end of 2017.

For its part, IDC has struggled to effectively engage its vast membership. As attention to alternatives to detention has grown over the last five years, so has demand for technical

support and advice from IDC. Immigration detention practices continue to emerge and change, particularly in crisis contexts, putting further pressure on their ability to serve members. However, shortcomings in IDC's model for member engagement and capacity building have not allowed it to adequately support all those members seeking to take advantage of emerging local opportunities. IDC's management has been slow to recognize this gap, and has only recently begun fundraising to cover it. In August 2015, when we transitioned from project to general support, we understood these challenges, and saw flexible funding as part of the solution.

We have been surprised by the lack of political savvy on the part of the networks' leaders, and are now recognizing the need to invest in building their capacity to engage effectively with policymakers outside their home contexts. While there has been increased receptivity to civil society voices in policy circles, and our grantees have made some notable contributions to global events, their interventions tend to be less effective than those of more seasoned policy advocates. This could potentially jeopardize their place at the table. The capacity divide between civil society networks and those, usually more academic actors, operating in policy circles remains significant, and we arguably should be doing more to close it by facilitating closer cooperation between them and investing more to help the former better understand and navigate the political space.

Both networks have the potential for tremendous reach globally, but we also now recognize that networks are not the only way to achieve such reach. In hindsight, we could have considered building a stronger cohort of organizations specializing in migration with capacity to engage across geographies. Alternatively, we could have leveraged OSF partnerships with important players in the field of global rights to conduct advocacy on migrant rights.

Linking global and cross-cutting work and corridor level work

As noted in the background section, work that developed at the global or cross-cutting level across all themes has always been intended to support the aims, strategies, and approaches that we are pursuing within the corridors. The networks discussed above have served as important vehicles for regional-level partners, such as MFA in the Asia/Middle East corridor and Alianza Americas in the Central America/ Mexico corridor, to contribute their insights to global advocacy, while benefiting from comparative approaches. Links between the Eurasia corridor and the global work have begun to develop as a direct result of IMI's engagement. IDC members in the corridors, such as Sin Fronteras in Mexico and Tamkeen in Jordan, have enriched IDC's perspectives and benefitted from in-depth practitioner understanding of national contexts.

These successes have encouraged us to continue to deepening links between projects at the global level and concrete work in the corridors. For example, with respect to governance work, the International Migrants Bill of Rights (IMBR) Initiative at Georgetown Law School is currently collaborating with the Inter-American Commission on Human Rights to develop a set of Guidelines on the Protection of the Rights of Migrants in the Americas. As IMI's partners in the region promote protections for migrants in the context of a serious displacement crisis, the IMBR Initiative has the potential to provide these groups with tools for advocacy. Similarly, IMI's support for the Institute for Human Rights and Business links directly to our work in the Asia/Middle East corridor: funding will be used to organize a series of convenings where the construction industry in the Gulf can come together to discuss common challenges around worker welfare.

Despite positive examples of cooperation between partners at the global and corridor levels, more could have been done to foster formal and informal connections between IMI grantees at all levels. Grantees at the grassroots level often need greater support in identifying and accessing organizations that could share expertise or provide comparative perspectives on strategies or models they might employ in their local contexts. We did not set aside adequate funding to support linkages between these groups by having networks or actors working globally conduct outreach or provide advice to actors on the local level. We could have done more to identify and maximize synergies by involving program officers responsible for corridors more actively in reviews of global grants or by convening IMI grantees from different geographies along thematic lines. Another option might have been to allocate funds for key actors on the ground to engage more systematically with global processes or with partners working at the global level.

Operationally, this work at the global level was initially managed separately from the corridor portfolios. Gradually, however, as IMI has grown, the governance and enforcement work at the global level was assumed by Program Officer Anna Crowley, who was hired to manage not only the Eurasia corridor but also the global grants. This has allowed for greater scope for engagement with each grantee and cultivation of links between those organizations and grantees in the corridors.

Donor coordination and collaboration

IMI has benefitted from a productive relationship with the MacArthur Foundation, one of the first private funders to invest in migration work at the global level. MacArthur, however, is currently exiting the field. In contrast to the corridors, where IMI has had relative success in bringing new donors or influencing other donor approaches, it is difficult for traditional funders to immediately see the value of investing at the global level. We had not initially identified attracting new donors as an explicit goal or strategy. In hindsight, considering the difficulties our advocacy partners have faced in securing unrestricted funds that would allow them to engage in global debates on their own terms, this should have been an integral part of our strategy. The refugee crisis is opening new opportunities for this.

We have, nonetheless, had some success in attracting donors to IMI priority issue areas in Governance and Enforcement, most notably, through the European Program on Integration and Migration (EPIM), a donor collaborative. IMI played a central role in establishing and influencing the goals of two new EPIM sub-funds on the Common European Asylum System (CEAS) and immigration detention. The immigration detention sub-fund, which aims to reduce the use of detention, to improve monitoring and accountability, and to promote alternatives to detention, is a new issue area for many.

Learnings/Conclusion

Reflecting on our portfolio in light of dramatic shifts in the external environment over the past two years, we can draw general conclusions of relevance to the migration field and the current refugee crisis.

Grappling with political environments in influencing migration policies

With the rise of the radical right and growing intolerance toward migrants, the space to design and influence rational migration policies is increasingly constrained. Many of our partners are well-positioned to analyze and produce evidence bases for policy solutions, or to advocate for

protections, but traditional arguments are not working. It is worth reexamining methods of influencing and experimenting with framings and argumentation, both at elite and popular levels.

Accepting the current crisis as the new normal and moving beyond the need to react
Observing our partners as they respond and adjust to the new reality in light of the crisis in Europe and the Mediterranean, we see little attention given to long-term planning or fundamentally new approaches to advocacy. There is a need to create more space for reflection, stock-taking and development of mid- and longer-term strategies.

In addition, analysis of our investments in Governance and Enforcement has produced the following learnings that apply to our decisions as grant-makers:

Influencing policy

- Assess the balance between generating evidence to inform policymaking and the need to engage politically to create will for reform.
- Consider bringing a greater diversity of actors to policy spaces.
- Invest in capacity building of key civil society networks to engage in policy discussions and to navigate the political elements of migration debates.

Supporting networks

- Consider the specificity of supporting networks and build in resources for capacity building or other technical advice.
- Ensure better financial health for secretariats of networks and plan for targeted support to individual members. Use a combination of project support and more flexible core funding.
- When engaging networks in coordinating around global events, ensure project cycles allow adequate time for long-term planning, including substantive follow-up.

Fostering collaboration among IMI grantees

- Actively identify potential opportunities for coordination and cooperation among grantees at various levels—in the corridors and globally.
- Build in funds for grassroots groups to participate in events and processes at regional and global levels.
- Ensure global grantees have sufficient resources, where needed, to do outreach to actors in local contexts.

Donor engagement

- Develop clear messaging targeting other donors, particularly philanthropic actors, on the importance of approaching migration as a global phenomenon.
- Position IMI as a resource to other donors with respect to current discussions on the global stage.