

Two views in comparison

ALEXANDER BETTS AND LOREN LANDAU & TARA POLZER

FOLLOW UP OF THE INTERVIEW WITH ALEXANDER BETTS ON THE SID FORUM. [CLICK HERE](#) TO DOWNLOAD

In his interview on migration and development that was published on the SID Forum on November 22nd 2010, Alexander Betts (University of Oxford, UK) pointed out that there are significant numbers of people who are displaced across international borders and who risk falling outside the framework of international refugee law. As a response, the acknowledgment of these people's conditions and their identification as 'survival migrants', can contribute to making human rights systems and instruments working better. [Click here](#) to download.

Taking a different perspective Loren Landau and Tara Polzer (University of Witwatersrand, South Africa) reveal their reluctance around the idea of a new term to strengthen the recognition of human rights and wonder about the concrete impact that this may bring. They explain that a concept alone can do nothing to alter the situation of powers and interests that hinder the implementation of international law. For Alexander Betts, however, the concept of survival migration is not about simply creating a new categorization; nor it is conceived to create new institutions; rather it is about improving the existing ones by drawing attention to lack of language and knowledge about a certain group of people who are forced to move for a given set of reasons.

Moving on from the definition of 'survival migration' to the broader issue of global governance of migration, they present their different views and positions about relevance and impact of international laws and institutions with regard to the protection of refugees and migrants.

If on one side Alexander firmly believes that international mechanisms laws and structures, although not always providing all of the answers needed, are a fundamental part of the process of recognition and protection of refugees/migrant's rights and entitlements; Loren & Tara on the other side argue that the local politics and the local dynamics are what matter most and without devoting proper attention to local adaptation, the benefits of international policy reforms are undermined.

Migration, development and global governance



ON the basis of his extensive publishing and reviews of international mechanisms for governing the movement of people, Dr. Betts has established himself as one of the central critics of current approaches to managing migration and displacement. At the heart of his work is a faith in the 'international system' to resolve the challenges associated with human mobility. This is rooted in a fundamental etiological belief that what matters, in policy terms, is also dictated at that international level.

THERE are good reasons to consider what he says seriously, but for those of us working closer to the ground – to migrants and policy makers in the areas he describes – his critique and recommendations often seem a bit off the mark. As grounded, empirical analysis is the basis for sound recommendations, we need to be wary about concepts and recommendations that flow from perspectives based mainly in the policy world without detailed consideration of what impacts high level policies actually have on the actions and options of real governments, migrants and hosts.

WE see this most obviously in Betts' discussion of survival migration. Here two problems plague his analysis. First is the degree to which the term provides conceptual traction to a slippery subject. If the main motivation for a neologism is to create a principled, 'non-arbitrary' means of allocating rights to international protection (e.g. a human rights based reason for being displaced), then why not include the internally displaced, who often do not have access to a 'domestic remedy or resolution'. Or, for that matter, other recently urbanised persecuted minorities. One must also ask, how is this term different from the existing broad concept of forced migration, which is also defined by the reasons for displacement and the lack of domestic remedy for the displaced.

MORE concretely, we question the relevance of the term apart from stimulating a discussion framed around his neologism – in policy terms. If the point is not to create new institutions or new laws, as Betts claims, but rather to work towards making existing human rights instruments work better (e.g. making states implement them), how does this new term help achieve that goal? A concept along can do nothing to alter the essential power dynamics and interests which have hindered the implementation of international human rights instruments to date. Even without the term we have seen regional adaptations of the UN 1951 convention definition of refugees in place, notably the OAU Convention definition in the African context. These recognize that individual persecution is not the only reason individuals or groups of people may be forcibly displaced without recourse to national remedies.

THERE is a more fundamental paucity in Betts' perspective on migrant protection. As we see time and time again, even where there are sensible modifications to existing regional instruments, these only provide protection when supported by specific national and sub-regional dynamics at particular points in time:

the local politics, not the principles, of protection are what matters most.

I am grateful to Dr Landau for taking the time to respond to my interview answers. He raises some very important and valid points. It also gives me an opportunity to clarify my position, which I feel is slightly misinterpreted by the comments. In some ways, our positions do not diverge nearly as much as Landau implies. We are in absolute agreement about the fact that international institutions do not hold all the answers, and that their impact is mediated through the way in which they are institutionalised and implemented in particular national and local contexts. However, where our perspectives do appear to diverge is that I believe that international law and international institutions can and do have important impacts on people's lives and that it is a worthwhile endeavour to work to improve international institutions – not just as abstract entities that exist in Geneva or New York - but precisely at the levels at which they are institutionalised and implemented at the national and local levels. I welcome the opportunity to respond to both Landau's specific comments in relation to 'survival migration' and his general comments on the role and relevance of 'international'.

FIRSTLY, Landau poses the question of what is the value of 'survival migration'? To clarify, the concept is a very simply one. It is based on the recognition that there are significant numbers of people who are displaced across international borders and who have a human rights based entitlement to not be returned to their country of origin but who fall outside the framework of international refugee law. What one calls the phenomenon is less important – one might call them 'refugees who are not recognised as refugees', for example. But what is clear is that there is a lack of language to describe the very important existing gap, and that 'survival migration' provides language that can be used to advocate for the existing rights of a very specific group of people under international human rights law. A number of NGOs and advocacy groups are finding the language useful for articulating what they are encountering on the ground. Landau asks 'why not include IDPs within the definition?'. The answer is that we already have an analogous institutional framework that works to ensure that people in similar situations receive rights under international human rights law: The Guiding Principles on Internal Displacement, and the institutional framework used to implement those Principles, are much broader in scope than the institutional framework which exists to oversee the human rights of people who cross borders. What is missing is institutional clarity in relation to the human rights-based claims of people who cross borders.

SECONDLY, the most interesting part of Landau's comments is to challenge the relevance of debates, institutions and laws at the international level. I am sympathetic to this perspective, which doubtless comes from a frustration with the apparent irrelevance of many Geneva and New York-based discussions for what actually happens to refugees and migrants in the Southern African context in which Landau works. I am in agreement that, by themselves, international policy reforms may have little impact on practice, or be distorted in perverse and

THE absence of attention to local adaptation or, indeed, local dynamics and impacts undermines Betts' broader claims about the benefits of reforming the international system of migration governance. While there are indeed areas in which international law and responses have significant effects (although often in unpredictable ways), research consistently shows that domestic politics and the actions of migrants and 'host' populations are often the most effective promoters of human rights. Occasionally these actions may be shaped or influenced by international law and policy, but across much of Africa, at least, such laws have minimal practical effects. Before international policy reform can make a difference to most migrants, an institutional implementation chain needs to be in place. At this point it is not.

BETTS' focus on multilateral discussions surrounding migration and development and the global governance of migration similarly misses the import of politics. For one, it again presumes that the global system is what governs migration. While there are norms that may restrict particular states, much of the migration across borders – and most national and sub-national policies and practices responding to such movements – occurs with little reference to global institutions and laws. Given the current global political climate, which is tending towards more protectionist and security-oriented thinking rather than towards an expansion of liberal, cosmopolitan values, many of those multilateral discussion forums which do exist are really a sideshow while individual states horse-trade incentives and strategies for combating international migration.

WE must recognise that the most important debates over migration and development often take place outside of global forums or, indeed, any forum related to migration at all. Betts notes this but does not go far enough. Rather, the most apposite discussions are over broader policies on trade, state security, urban planning and investments in water, sanitation, health, housing, agriculture, land, judicial reform and other less glamorous but immediate concerns. These may be all but invisible to those who dwell in the sometimes too self-referential world of international politics and diplomacy. Rather than new terms or international reform, we would be better off finding the means of improving the national and sub-national institutions that are most critical for protecting migrant rights and welfare.

unintended ways in their encounters with national and local politics (or 'real governments' as Landau chooses to call them). By itself, abstract discussions often achieve very little in terms of issues relating to refugees and migrants' access to water, sanitation, health, housing, agriculture, land, judicial reform and 'other less glamorous but immediate concerns'.

HOWEVER, where I am in disagreement with Landau is not in having an alleged 'etiological faith in the international system', as he claims, but in believing that – while they may not have all of the answers - international human rights law and international refugee law can and do matter, and that creating the right international institutional structures to ensure their implementation is one important part of realising the rights and entitlements of refugees and migrants. It is not an either/or case of working to make improvements at the institutional level or in basic service provision and advocacy 'on the ground'. Both are important parts of realising rights of migrants. Academically, they are also both important levels of analysis that each needs to be understood through empirical research. There is nothing more inherently 'empirical' or 'evidence-based' about researching international institutions or 'on-the-ground processes'. Both are valid and important, and they need to be drawn together in collaborative ways in order to make international institutions work better at the national and local levels, as one part of the process of working towards realising the human rights of migrants.

MY own academic work begins from the very starting observation that Landau accuses me of neglecting. The intellectual project which is driving my work on survival migration is a desire to better understand how international institutions adapt at the levels of institutionalization and implementation, irrespective of the ways in which they are negotiated and renegotiated at the inter-state level. In my work, I identify how processes of national and local politics shape who is defined as a 'refugee' and what role international actors like UNHCR play in practice. However, my response to those observations is not to throw up my hands and say that international institutions are irrelevant. Instead, my response is to say that international organizations and human rights advocates need to have a much more nuanced understanding of the ways in which international institutions change at the national and local levels, and to work to improve the institutional framework and mechanisms of influence through which international norms are disseminated and implemented.

I would invite Dr Landau and his colleagues at Witwatersrand to work with me to find ways in which we can collaborate constructively in order to better understand the ways in which international institutions interact with national and local processes, power relations and politics, and to identify ways in which international institutions can more meaningfully work to ensure migrants' access to rights.

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