Non-binding and therefore irrelevant?
The Global Compact for Migration

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Abstract
One of the most debated and criticized characteristics of the Global Compact for Safe, Orderly and Regular Migration (GCM) is its legally non-binding form. This article analyzes the GCM’s legal form, mechanisms of effectiveness, and legitimacy and finds that while the legal form of the GCM is important, the available mechanisms of effectiveness and legitimacy are equally or, perhaps, more important factors to determine the compact’s relevance and future impact. Although non-binding, the GCM does possess the relevance, capacities, and legitimacy to become a normative force in the field of international migration governance. Compliance with its outlined commitments will, however, be strongly dependent on the political will of the participating states. Perhaps its key function will be to fill the existing gaps in hard law in global migration governance by fostering cooperation and consolidating international obligations, standards, and stakeholders of a crosscutting topic into one instrument.

Keywords
GCM, soft law, legitimacy, effectiveness, migration governance

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In the light of the intense influx of refugees into Europe and the global trend of growing migration, country representatives met in September 2016 in the United Nations General Assembly (UNGA) to adopt the New York Declaration for Refugees and Migrants. This declaration initiated the two-year negotiation and consultation phase for the adoption of the Global Compact for Safe, Orderly and Regular Migration (GCM). The GCM was adopted by the UNGA in December 2018 with 152 votes in favour, 12 abstentions, and five rejections. According to its preamble, the main vision of the GCM is the “enhanced cooperation on international migration in all its dimensions.”1 In order to achieve this vision, the compact defined 23 objectives, each containing a commitment, with corresponding actions for implementation “…considered to be relevant policy instruments and best-practices.”2 One of the, perhaps, most debated and criticized characteristics of the GCM is its legal form. The GCM is not an international treaty, but a “legally non-binding cooperative framework for international cooperation in migration”3 and, therefore, not imposing any novel legal obligations on states. In other words, the GCM can be understood as a declaration of intent producing political obligations for states or soft law operating between politics and law.4

While there are certainly some strategic rationales for a non-binding resolution, such as more flexibility for states, a higher number of signatories, and quicker adoption, one naturally comes to question what relevance and impact such a soft law really can have. From a purely hard law perspective, one could easily denounce the GCM as an irrelevant instrument that has no influence over state actions. This, however, would be a premature judgment ignoring the capabilities and influence that soft laws can have. I argue that, despite being a non-binding treaty, the GCM possesses the characteristics of a relevant international agreement, resulting in normative force that could fill the existing gaps in hard law within international migration governance. On the following pages, I seek to underline this argument by analyzing three aspects of the GCM: legal form, mechanism of effectiveness, and legitimacy.

**Legal form as a determinant for relevance and impact**

Different than soft law, hard law usually signals a stronger commitment, is precisely worded, and includes a delegation of authority for implementation to legal institutions. Nevertheless, binding treaties are not necessarily more effective or relevant than soft law, as states constantly violate binding treaties, withdraw

1. Global Compact for Safe, Orderly and Regular Migration, G.A. Res. 73/195, U.N. GAOR, 73rd Sess., U.N. Doc. 73/195, at 2.
2. Global Compact for Safe, Orderly and Regular Migration, G.A. Res. 73/195, U.N. GAOR, 73rd Sess., U.N. Doc. 73/195, at 6.
3. Global Compact for Safe, Orderly and Regular Migration, G.A. Res. 73/195, U.N. GAOR, 73rd Sess., U.N. Doc. 73/195, at 3.
4. Anne Peters, “The Global Compact for Migration: To sign or not to sign?” *Blog of the European Journal of International Law*, 21 November 2018, https://www.ejiltalk.org/the-global-compact-for-migration-to-sign-or-not-to-sign/ (accessed 28 August 2020).
from international laws, or remake laws to be consistent with their agendas. In the same way that non-compliance with hard law alone does not make such laws irrelevant or ineffective, soft law’s lack of legal enforcement does not automatically render it as useless. Both soft law and hard law possess the capabilities to frame international debates, put a heavy hand on state choices, and influence how states think about their interests.

While some single out the GCM’s legal form as a weakness, the compact does, in fact, continue the trend of a growing use of soft law and other non-binding instruments in international governance. Some of the most prominent and relevant agreements within international governance today are soft laws. Consider, for example, the Sustainable Development Goals (SDGs). They are legally non-binding commitments but have shaped the international debate and governance immensely. The SDG agenda is quite similar to the GCM, as it also bundles several standards, commitments, and stakeholders of a crosscutting topic into one instrument. Considering the high political tension and limited willingness for international cooperation associated with migration, a non-binding agreement may be the only tangible option as it seems unlikely that a legally binding framework for this policy issue would be able to gain sufficient support to evolve into an effective tool.

Given the complexity and scope of migration, producing different challenges in every country, a flexible but comprehensive approach is needed. International law covers only some facets of migration, and several of the agreements suffer from low ratification, such as the International Convention on the Protection of the Rights of All Migrant Workers. The addresses all phases and aspects of migration and, therefore, may be able to fill the gaps in hard law.

It is noteworthy that, while the GCM cannot be considered a legal text itself, the underpinning human rights laws being referenced in the compact are binding international law. If states, therefore, decide to not comply with the GCM’s commitments, they cannot simply escape from all the obligations by not signing or withdrawing from the compact, as they are most likely already bound to many of the underpinning laws. In this context, it is noteworthy that soft law can also reinforce and clarify pre-existing legal obligations. In this respect, the GCM’s

5. Kenneth W. Abbott and Duncan Snidal, “Hard and soft law in international governance,” *International Organization* 54, no. 3 (2000): 421–456; and Daniel Bodansky, “Legally binding versus non-legally binding instruments,” Forthcoming in Scott Barrett, Carlo Carraro, and Jaime de Melo, eds., *Towards a Workable and Effective Climate Regime*, VoxEU eBook (London: CEPR and FERDI, 2015).

6. Hedley Bull, *The Anarchical Society: A Study of World Order in World Politics*, (New York: Columbia University Press, 1977); and Ian Hurd, “The international rule of law: Law and the limit of politics,” *Ethics & International Affairs* 28, no. 1 (2014): 39.

7. Thomas Gammeltoft-Hansen, Elspeth Guild, Violeta Moreno-Lax, Marion Panizzon, and Isobel Roele, “What is a compact? Migrants’ rights and state responsibilities regarding the design of the UN GCM for Safe, Orderly and Regular Migration,” Roaul Wallenberg Institute of Human Rights and Humanitarian Law, 2017.

8. Elspeth Guild, Tugba Basaran, and Kathryn Allinson, “From zero to hero? An analysis of the human rights protections within the Global Compact for Safe, Orderly and Regular Migration (GCM),” *International Migration* 57, no. 6 (2019): 43–59.
functionality is mixed. On the one hand, it does reinforce certain human rights standards by denouncing arbitrary detention or emphasizing labour rights. On the other hand, the ignorance of non-refoulement and firewalls may weaken pre-existing standards.9

Moreover, the GCM may have legal effect after all. Although UNGA resolutions are commonly non-binding and have no autonomous means or authority to enforce them, the International Court of Justice found that such resolutions can have a legally binding effect in some instances.10 Soft law can also be a precursor, paving the way to binding treaties. However, the lack of ratification of past binding treaties in the field of migration, the attitude of states within the GCM drafting process, and the vague provisions, indicate that this scenario is less likely.11 Soft law may produce legal effects in an indirect manner, as a tool for the interpretation of state obligations or as evidence of opinio iuris. Ecuador’s Organic Law on Human Mobility from 2017, for instance, was built on the commitments outlined in the New York Declaration.12

A final point to consider is the controversy among governments around the ratification. The mere fact that some major states decided to not sign or withdraw, as well as the long and intense debates in national parliaments prior to the adoption, indicate that states do indeed acknowledge the GCM as relevant and potentially far reaching. States are very sensitive and careful about expressing political commitments on the international stage. In a sense, the careful considerations by states prior to the adoption, in their commitments within the document, and even their withdrawals, confer a degree of importance to the GCM.

In brief, one cannot automatically denounce the GCM as irrelevant solely based on its legally non-binding form. It is indeed difficult to assess to which degree the legal form of the compact matters. A legally binding agreement can be a double-edged sword. It may signal stronger commitment and compliance but may also lead to fewer states participating. In contrast, a non-binding agreement may be able to include a larger number of state participants but may produce less ambitious commitments.13 If the legal form of the GCM is then, although important, not the crucial indicator for relevance and, consequently, impact, one needs to consider other aspects.

9. Guild, Basaran, and Allinson. “From Zero to Hero?”; and Justin Gest, Ian M. Kysel, and Tom K. Wong, “Protecting and benchmarking migrants’ rights: An analysis of the Global Compact for Safe, Orderly and Regular Migration,” International Migration 57, no. 6 (2019): 60–79.
10. Gammeltoft-Hansen et al., “What is a Compact?”; and Fabio Perocco, “The potential and limitations of the Global Compact for Safe, Orderly and Regular Migration: A comment,” Torture 29, no. 1 (2019): 127–132.
11. Alessandro Bufalini, “The Global Compact for Safe, Orderly and Regular Migration: What is its contribution to international migration law?” Questions of International Law 58 (2019): 5–24; and Peters, “The Global Compact for Migration: To sign or not to sign?”
12. Mixed Migration Centre (MMC), “Wheels in motion. Who’s done what since the Global Compact for Migration was adopted (and what should happen next),” MMC Research Report, 2019, https://reliefweb.int/sites/reliefweb.int/files/resources/078_wheels_in_motion.pdf (accessed 28 August 2020).
13. Bodansky, “Legally binding versus non-legally binding instruments.”
Mechanisms of effectiveness and legitimacy

Having established that the relevance of the GCM is not necessarily determined by its legal form, one needs to look in depth at the design features of the framework and its process of creation. There are several indicators for relevance and impact that need to be considered, which one can largely cluster into two evaluative criteria: effectiveness and legitimacy.14

Mechanisms of effectiveness

Norms and soft laws are established to achieve objectives, and, therefore, the key indicator for effectiveness is the extent to which they attain such objectives. In the absence of binding commitments, it is particularly important to examine how and through which mechanisms the GCM intends to change the behaviour of states. Key mechanisms for norm effectiveness are soft and hard sanctions, schemes of reward, forums of dialogue, and capacity building.

Influencing the motivation to comply. The GCM’s influence over state actions will largely depend on the capacity of its reporting and monitoring mechanisms to motivate and convince states to behave according to the compact’s outlined objectives.15 The key reporting and monitoring instruments of the GCM are the International Migration Review Forum, the regional review of the implementation, and the UN network on migration. The International Migration Review Forum will, beginning in 2022, meet every four years in order to “...discuss and share progress on the implementation.”16 This global monitoring process will be supplemented by regular meetings to discuss progress in implementation on regional levels beginning in the second half of 2020. Moreover, the UN network on migration will assist in the “...follow-up and review of the GCM, in response to the needs of Member States.”17 The network will also report on progress in its annual meetings. Furthermore, the secretary general will report to the UNGA on a semi-annual basis regarding the GCM’s implementation progress.

While these mechanisms can perhaps very gradually contribute to the mobilization of state compliance with the GCM’s objectives, in general, one has to evaluate this monitoring framework as not comprehensive enough. First, the framework does not mention any plans for the use or definition of indicators to measure progress, making the identification of implementation gaps and tangible demonstration of progress unlikely.18 Second, the review meetings are very

14. Sylvia I. Karlsson-Vinkhuyzen and Antto Vihma, “Comparing the legitimacy and effectiveness of global hard and soft law: An analytical framework,” Regulation & Governance 3, no. 4 (2009): 400–420.
15. Bufalini, “The global compact for safe, orderly and regular migration: What is its contribution?”
16. Global Compact for Safe, Orderly and Regular Migration, G.A. Res. 73/195, U.N. GAOR, 73rd Sess., U.N. Doc. 73/195, at 35.
17. Global Compact for Safe, Orderly and Regular Migration, G.A. Res. 73/195, U.N. GAOR, 73rd Sess., U.N. Doc. 73/195, at 34.
18. Guild, Basaran, and Allinson, “From zero to hero?”
infrequent. Third, the GCM’s demands for implementation regarding the states are rather soft. The resolution “encourage[s] all Member States to develop, as soon as practicable, ambitious national responses for the implementation of the GCM.”\textsuperscript{19} Considering these points, the rather soft review mechanisms seem to not considerably enhance the compact’s capacity to influence state practice. Therefore, compliance is mostly dependent on the political will of the participating states. At this early stage, most governments have not yet established national implementation plans, which form the basis for reviews at the national level. States have, however, begun to conduct benchmarking exercises and consultations to prepare national implementation plans. For example, Costa Rica, Ecuador, Morocco, and Belgium are reviewing their existing rules in view of the GCM objectives. The African Union is developing a regional implementation plan and, in cooperation with Morocco, seeks to establish an African Observatory on Migration and Development.\textsuperscript{20}

In the absence of sanctions and rewards, the GCM’s only significant means to influence states’ motivation to comply are peer pressure and self-interest.\textsuperscript{21} The compact may be effective by tapping into governments’ reputation concerns and striving for legitimacy within the international community by making use of naming and shaming. It could, with the help of non-state actors, isolate states that do not comply with the compact’s objectives and its underlying principles in order to, ultimately, pressure them into alignment.\textsuperscript{22} Some interesting non-state reporting and monitoring mechanisms have already emerged, such as the Migration Compact Observatory in Chile and the developed framework to measure child rights compliance in the GCM by the Child Rights Initiative.\textsuperscript{23}

The other means to increase states’ motivation to comply is the appeal to their self-interest. The compact and its discourse need to convince states that the GCM’s objectives are beneficial for them and that it would be in their best interest to align their preferences accordingly. The creation process of the compact, with its consultation phase and intergovernmental negotiations, and the adoption of the final resolution have produced consensus among states that better international cooperation in the area of migration is needed. The resolution underlines this consensus, stating both that, “No country can address … this global phenomenon on its own” and “We unite, in a spirit of win-win cooperation, to address the challenges and opportunities of migration . . . .”\textsuperscript{24} The fact that an agreement on such a multidimensional topic was reached signals a level of political will to cooperate and comply. In order to remain relevant and keep states engaged in the implementation

\textsuperscript{19} Global Compact for Safe, Orderly and Regular Migration, G.A. Res. 73/195, U.N. GAOR, 73rd Sess., U.N. Doc. 73/195, at 35.
\textsuperscript{20} Mixed Migration Centre (MMC), “Wheels in motion. Who’s done what.”
\textsuperscript{21} Kathleen Newland, “Global Governance of International Migration 2.0: What Lies Ahead?” Migration Policy Institute, 2019.
\textsuperscript{22} Bufalini, “The global compact for safe, orderly and regular migration: what is its contribution?”
\textsuperscript{23} Mixed Migration Centre (MMC), “Wheels in motion. Who’s done what.”
\textsuperscript{24} Global Compact for Safe, Orderly and Regular Migration, G.A. Res. 73/195, U.N. GAOR, 73rd Sess., U.N. Doc. 73/195, at 4.
process, the compact needs to continuously emphasize the mutual benefits of promoting regular migration and reducing the dangers in irregular migration. In terms of governments recognizing the mutual benefits of the GCM, the outbreak of the COVID-19 pandemic marked, perhaps, a pivotal moment. The network stressed that many states implemented their GCM commitments in the context of COVID-19 responses, by, among others, temporarily suspending forced returns, providing visa and work permit extensions, and releasing people from immigration detention.

Influencing the ability to comply. The implementation of international agreements can exceed the available capacities and resources of some states; therefore, such agreements usually contain measures for human and technical capacity-building. In particular, when considering that some of the major migration origin and transit countries have limited economic and human resources, capacity-building appears to be a crucial step for the ability to comply with the compact.

The GCM clearly states that the key actors responsible for the implementation are the states, and that the UN system will respond regarding their requests for support in the implementation. A crucial role, in this context, is again the UN network on migration, which seeks to “... ensure effective and coherent system-wide support for implementation, including the capacity-building mechanism...”. The network bundles the capacity and expertise of several UN bodies, led by an executive committee and coordinated by the International Organization for Migration (IOM). Moreover, the network builds partnerships with non-UN actors in order to profit from their knowledge and experience. So far 25 national and seven regional UN networks on migration have been established to provide support to member states. Among others, national IOM offices and other network members have provided support in concept developments and consultations to prepare for the GCM implementation in Armenia, Chad, Turkmenistan, and Ethiopia. The capacity-building mechanism of the network

25. Anne Gallagher, “3 reasons all countries should embrace the Global Compact for Migration,” World Economic Forum, 22 August 2018, https://www.weforum.org/agenda/2018/08/3-reasons-all-countries-should-embrace-the-global-compact-for-migration/ (accessed 28 August 2020).
26. Press Release, UNDP, “The COVID-19 Pandemic is an Opportunity to Reimagine Human Mobility,” 3 June 2020, https://www.undp.org/content/undp/en/home/news-centre/news/2020/COVID19_is_an_opportunity_to_reimagine_human_mobility.html (accessed 28 August 2020); and Press Release, UNICEF, “Forced Returns of Migrants Must be Suspended in Times of COVID-19,” 13 May 2020, https://www.unicef.org/press-releases/forced-returns-migrants-must-be-suspended-times-covid-19 (accessed 28 August 2020).
27. Global Compact for Safe, Orderly and Regular Migration. G.A. Res. 73/195, U.N. GAOR, 73rd Sess., U.N. Doc. 73/195, at 34.
28. Mixed Migration Centre (MMC), “Wheels in motion. Who’s done what.”; Press Release, IOM, “Ethiopia Embarks on Ambitious Roadmap to Implement Global Compact for Migration,” 1 October 2019, https://www.iom.int/news/ethiopia-embarks-ambitious-roadmap-implement-global-compact-migration (accessed 28 August 2020); Press Release, IOM, “Chad Conducts National Consultation on Global Compact for Migration,” 9 July 2019, https://www.iom.int/news/chad-conducts-national-consultation-global-compact-migration (accessed 28 August 2020); Press Release, IOM, “Armenia Elaborates New Migration Concept with IOM Support,” 18 February
also includes an online knowledge platform to facilitate access to knowledge and solutions as well as a connection hub that connects demands for information and assistance with the respective expertise and capacity needed. Furthermore, in 2019 the network established the Migration Multi-Partner Trust Fund to provide start-up funding for projects developed to assist states in the implementation of the compact’s objectives. As of August 2020, the fund has mobilized 12 million USD in voluntary contributions of UN member states and received 59 joint program concept proposals. Among the 30 approved proposals are, for instance, the implementation of a human rights-based border management response to irregular migration in Colombia and capacity-strengthening of the Philippine government to assist overseas workers in migration issues.29

In the short term, this funding of capacity-building measures based on voluntary contributions seems rather weak, and the definition of the network’s scope of assistance rather vague. In the long term, however, these measures could further evolve and prove fruitful.

**Legitimacy**

In order to accept rules and implement decisions derived from a regime, the participating states need to believe that the underlying agreement is fair, reasonable, and honest (i.e., that it is legitimate). The level of legitimacy is determined by its sub-components: source-based legitimacy, procedural legitimacy, and substantial legitimacy. For the non-binding GCM, the basis of legitimacy might constitute one of the key differences compared with a binding treaty.30

**Source-based legitimacy.** One of the sources on which norms and soft laws build their legitimacy is the accumulation of specialized expertise and information.31 Expertise is an important source of legitimacy for the compact and can perhaps offset its weaker legal legitimacy. The GCM gathers and bundles technical expertise from a multitude of specialized UN agencies as well as state and non-state actors. During the drafting phase there was already a clear focus on expert panels and technical

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20. https://www.iom.int/news/armenia-elaborates-new-migration-concept-iom-support?utm_source=IOM%20External%20Mailing%20List&utm_campaign=bf34076613-EMAIL_CAMPAIGN_2020_02_18_04_41&utm_medium=email&utm_term=0_9968056566-bf34076613-43608941 (accessed 28 August 2020); and Press Release, IOM, “First meeting of the Interagency Working Group of Turkmenistan on the implementation of the Global Compact for Safe, Orderly and Legal Migration,” 5 August 2020, https://turkmenistan.un.org/en/86576-first-meeting-inter-agency-working-group-turkmenistan-implementation-global-compact-safe (accessed 28 August 2020).

29. UN Network on Migration Secretariat, Migration Multi-Partner Trust Fund, Progress Report May 2019–June 2020, June 2020, http://mptf.undp.org/document/download/25027 (accessed 28 August 2020).

30. Peters, “The Global Compact for Migration: to sign or not to sign?”; and Fritz W. Scharpf, *Governing in Europe: Effective and Democratic?* (Oxford, UK: Oxford University Press, 1999).

31. Sylvia I. Karlsson-Vinkhuyzen and Antto Vihma, “Comparing the legitimacy and effectiveness of global hard and soft law: An analytical framework,” *Regulation & Governance* 3, no. 4 (2009): 400–420.
inputs. This move toward concrete technical expertise and best practices is further enhanced by the inclusion of the IOM, with its expertise on migration, as the coordinator.

Moreover, it is important that the source of authority behind a cooperative agreement can be considered as legitimate. The GCM was initiated by a UNGA resolution and later endorsed by the UNGA. As the most prominent international organization, with the most universal membership and its enshrined rule of equality among member states, the UNGA can clearly be considered as a legitimate authority for the GCM. Member equality is particularly important for generating trust among the developing states with fewer resources and less power.32

**Procedural legitimacy.** Procedural legitimacy is mostly associated with a fair and, to some extent, democratic norm development process, focusing on inclusive participation, transparency, and accountability.33 When examining the compact’s framework, one can clearly identify its aspiration to conform to such good governance components.

A key feature of the compact is its joint implementation by states and various non-state actors. Such collective ownership of the implementation, or a whole-of-society approach, can promote accountability and transparency as well as challenge states that lack commitment.34 Beyond participation in national consultations, non-state initiatives appear to emerge as important drivers of the implementation process. The Mayors Migration Council, for example, assists local authorities in the implementation of the GCM, and the Initiative for Child Rights in the Global Compacts seeks to safeguard that a child-sensitive implementation of the GCM is fulfilled.

Likewise, the development process of the compact emphasized transparency and participation. The UN organized various hearings that were open to parliamentarians, in which civil society organizations were able to provide input. The inclusion of such a comprehensive range of actors and the level of transparency might be considered as partial mitigation for the lack of democracy, as there was no official voting in national parliaments.35

On the other hand, the rather sudden rejection by some governments could mean that the compact’s drafting process was not that transparent in the end. However, many of the refusals must be attributed to domestic politicians pleasing populist and nationalistic opinions of their constituents by demonstrating a tough stance on immigration policies.

32. Kathleen Newland, “Global governance of international migration 2.0: What lies ahead?” Migration Policy Institute, 2019.
33. Karlsson-Vinkhuyzen and Vihma, “Comparing the legitimacy,”; and Daniel Bodansky, “The legitimacy of international governance: A coming challenge for international environmental law,” American Journal of International Law 93 (1999): 596.
34. Guild, Basaran, and Allinson, “From Zero to Hero?”
35. Peters, “The Global Compact for Migration: To sign or not to sign?”
**Substantial output legitimacy.** An important source of substantial output legitimacy is equity. In particular, developing countries may develop antagonistic feelings toward a system that does not acknowledge and resolve their poorer position and will, therefore, regard norms evolving from such a system as less legitimate.\(^{36}\)

For the GCM, one can observe a certain preservation of inequity in the debate and resolution formulations regarding the different interests of the global North and South. Indeed, some argue that the compact is predominantly rooted in the interests of the more powerful and developed countries in the global North, not sufficiently taking into account the demands for equal rights from African migrants, states, and civil society organizations.\(^{37}\) The inequity in migration is apparent. Richer states in the global North create additional barriers by, for example, enhancing visa obligations to prevent people from moving from the global South, making their conditions on the move even more precarious. Most citizens of Western countries, on the other hand, can easily and freely travel around the world.

The GCM and its ambitions have been seriously limited by the efforts to please wealthier states from the global North. These are commonly very careful regarding matters of migration and potential trade-offs with sovereign self-interests. By following the exclusive demands and objectives of a few powerful countries, these compromises and the focus on upholding state sovereignty might override real progress and increased equity in migration governance.\(^{38}\) The fact that all votes against and almost all abstentions from the compact came from developed countries of the global North, compared with the vote in favour of nearly all developing countries, does not help in reducing this skewed policy debate.

**Concluding remarks**

One cannot automatically denounce the GCM as irrelevant solely based on its legally non-binding form. Binding treaties are not necessarily more effective or relevant than soft laws. Both possess the capabilities to influence the debate in the international community and state behaviour. Although the GCM cannot be considered a legal text itself, its underpinning human rights laws are binding obligations. In this sense, the GCM is a regime that is subject to legal thinking. Besides, to an extent, the compact might have legal effect after all—if only in an indirect manner—as a tool for the interpretation of state obligations or as evidence of opinio iuris.

While the legal form of the GCM is important, the available mechanisms of effectiveness and legitimacy are equally or, perhaps, more important factors to determine the compact’s relevance and future impact. The GCM’s influence over

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36. Moshe Hirsch, “Compliance with international norms in the age of globalization: Two theoretical perspectives,” in Eyal Benvenisti and Moshe Hirsch, eds., *The Impact of International Law on International Cooperation: Theoretical Perspectives*, (Cambridge: Cambridge University Press, 2004), 166–193.

37. Vicki Squire, “A milestone missed: The Global Compact on Migration and the limits of solidarity,” *Global Affairs* 5, no. 2 (2019): 155–162.

38. Ibid.
state actions will largely depend on the capacity of its reporting and monitoring mechanisms to motivate states to behave according to the compact’s objectives. The rather soft review mechanisms in place, however, are unlikely to considerably enhance the compact’s capacity to influence state practice.

Considering that some of the major migration origin and transit countries have limited economic and human resources, the capacity of states to comply is another crucial factor determining the relevance and impact of the GCM. The GCM presents several capacity-building measures, with a key role being played by the UN network on migration. Although the funding and scope of support of these measures are rather vague, in the long term they could evolve and prove fruitful.

An essential factor for the GCM’s relevance and success is legitimacy. Expertise is a central source of legitimacy for the compact and can perhaps offset its weaker legal legitimacy. The GCM accumulates and bundles technical expertise on migration from various actors. The collective ownership of the implementation process with non-state actors and the emphasis on transparency and inclusive participation during the GCM development process promote procedural legitimacy. In terms of output legitimacy, on the other hand, one can observe a certain preservation of inequity in the resolution formulations reflecting the exclusive interests of powerful countries in the global North. The efforts to appeal to wealthier states from the global North have limited the GCM’s ambitions.

Overall, the GCM does possess the relevance, capacities, and legitimacy to become a normative force in the field of international migration governance. Compliance with its outlined commitments will, however, be strongly dependent on the political will of the participating states. Perhaps its key function will be to fill the existing gaps in hard law in migration governance by fostering cooperation and by consolidating international obligations, standards, and stakeholders of a crosscutting topic into one instrument.

Declaration of Conflicting Interests
The author declared no potential conflicts of interest with respect to the research, authorship, and/or publication of this article.

Funding
The author received no financial support for the research, authorship, and/or publication of this article.

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