

STRATEGY

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People smugglers globally, 2017



Edited by John Coyne and Madeleine Nyst

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October 2017

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Cover image: Turkish traffickers board Syrian refugees on the inflatable boat with destination the Greek island of Lesbos © Aristidis Vafeiadakis/ZUMA Wire/Alamy Live News.

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PREFACE

By its very nature, any treatment of irregular migration, asylum seekers, human trafficking and people smuggling is highly controversial. To avoid unnecessary controversy, this report focuses on the organisation and business models of the globe's people-smuggling organisations, but the authors have maintained an explorative outlook.

This report has drawn together the work of authors from multiple disciplines to explore the global phenomenon that is people smuggling. While it's expansive in its breadth and depth of coverage, it isn't meant to be the definitive source on the subject. Rather, it has been developed to provide readers with a clear, concise and obtainable understanding of the issue and its complexity. The multidisciplinary approach means that each of the chapters explores a different geographical region or issue with a different methodological approach (ethnographic, explorative, legal). Understandably, such an approach exposes and brings together the many disconnects and inconsistencies in knowledge in this area of study. One particularly challenging dimension for this global body of research was dealing with the plethora of legal and non-legal terms used in public discourse on refugees and people smugglers.

The report is an exercise in applied research and analysis with a clear policy focus. While its analytical focus is global, its conclusions and recommendations have been made with Australian policymakers in mind.

ASPI wishes to acknowledge the Department of Immigration and Border Protection's financial support for its Border Security Program.

The department and the Australian Border Force were both kind enough to look over a preliminary draft of this report and provide valuable comments. Those comments helped to clarify a number of salient points, which improved the quality of the report in a number of areas. This does not in any way imply that either the department or the border force endorses this report or supports its conclusions.

FOREWORD



Over some 40 years in public life, I have taken a keen interest in the plight of refugees and the circumstances that give rise to their displacement.

Having witnessed at first hand the hardship endured by so many in Eastern Europe, the Balkans, the Middle East, Afghanistan, Pakistan, Southeast Asia and Africa, I put in place programs to assist those in greatest need of protection. In managing such efforts, Australia was, and is always, constrained by our capacity to provide a comprehensive refugee and humanitarian resettlement program. In other words, we can't resettle everyone.

Today there are many more people dislocated and oppressed than we've seen before.

With resettlement countries historically providing little more than 100,000 places a year, resolving the challenge of some 65 million displaced people requires the immediate attention of the international community. The best way forward is clear. We need to work with other nations to secure the circumstances in which those who are displaced can return home in safety and security. That said, Australia should continue to play its longstanding role in contributing resettlement places for those in greatest need. Protection of the integrity of our borders is essential, if not critical, to ensure that Australia can fulfil that role as a good international citizen.

Sadly, hardly a day goes by when the world doesn't witness some form of refugee disaster at sea resulting in the unnecessary loss of countless young lives.

The magnitude and complexity of the issues arising from the flow of asylum seekers globally and, in particular, the 'unauthorised' or 'illegal' mode of their arrival across borders, poses huge challenges for policymakers. The governments of destination countries around the world—including Australia—all struggle to maintain a reasonable balance between attending to the immediate needs of displaced people seeking assistance and controlling movements across national borders.

From violent conflict and civil war in many parts of Africa and the Middle East, to political instability in some parts of Southeast Asia, the contemporary migration picture is now incredibly complicated. In the light of these circumstances, people smugglers have become a vector in irregular migration—shaping not only who moves, but also how they move and where they go. Theirs is a business model that's highly responsive to its environment and, like all sound businesses, is designed around economies of scale.

The space for the people-smuggling industry to thrive comes directly from the policies of source, transit and desired destination countries. In situations where it's difficult to get out, or where borders are difficult to cross, the demand for smugglers is increased, and the balance of power between clients and smugglers shifts. Where a migrant or refugee is afforded few, or no, safe or legal options for movement, and where demand for movement is particularly high, as in a refugee context, the power of the smugglers is high. Consequently, the prices they can charge and the care they're required to take of the migrant is low.

Understanding the organisational structure of these operations—networks of leaders, recruiters, spotters, drivers and enforcers—is central to understanding how this opaque and complex business works. Everyone agrees that there isn't enough data. No-one knows how many migrants are smuggled. However, enough is known about the money paid—by Eritreans, Syrians, Rohingya, Indonesians and Afghans, among others—to demonstrate that it's a multimillion-dollar business. Moreover, the shocking number of deaths being reported on a daily basis is surely enough to recognise that this is an issue that warrants attention.

To that end, this ASPI Strategy is the first of its kind for the institute, providing a concise explorative analysis of the various people-smuggling syndicates operating in the globe's people-smuggling hotspots. It reports on key people-smuggling developments around the world to provide a better understanding of the organisation of the smugglers' networks, along with policy recommendations for interventions.

The report brings together a diverse group of subject-matter experts with hundreds of years of collective experience in the field. Each chapter covers a region or specific country, providing in-depth analysis on the organisational structure and everyday operations of the smuggling networks that operate across the globe, as well as the complexity of the people-smuggling policy challenge.

As a senior member of the Honourable John Howard's cabinet, I was involved in the early chapters of ASPI's history. And I welcomed, and continue to welcome, ASPI's independent and contested policy advice. It's my sincere hope that this publication will help policymakers and the community alike understand the nature of the people-smuggling challenge and what is being done globally to make the world safer. In a security environment that appears sometimes dominated by the perceived threat of mass migration trends, it's clearly time to focus on the organisational structure of people-smuggling networks in order to better understand them and assist the many and varied efforts to counter this problem.

It has always been my perspective that a cohesive, resilient, multicultural Australia can be generous within our capacity to help those in greatest need. That is reliant upon strong border security. I'm therefore pleased to commend this publication to you as an authoritative reference on global people-smuggling operations and their organisational structure.

The Hon. Philip Ruddock

Australian Special Envoy for Human Rights
October 2017

CHAPTER 1

Introduction

John Coyne

Early on 2 September 2015, 16 Syrian refugees hopped onto a small boat, built for eight passengers, on a remote beach in Bodrum, Turkey. Each person had paid a people smuggler around US\$6,000 for passage from Turkey to the Greek island of Kos. Among the passengers was Abdullah Kurdi, his wife Rehana and their young sons Aylan and Galib. Four kilometres into the journey, the boat sank.

The next day, images of the lifeless body of a three-year-old Syrian refugee, face down on a Turkish beach, spread virally across the world. A second image, showing a Turkish paramilitary officer carrying the boy, Aylan Kurdi, from the beach soon followed. Within hours, the pictures became synonymous with the Syrian war and provided a human face to the European migration crisis.

The photos of this lost little boy sparked a global response. From Canberra to Berlin, there were calls for greater assistance for those working on the front line of one of modern history's greatest migration crises, at least in terms of numbers. For many of those hardened to the plight of the Syrian refugees, their feelings softened overnight.

In the days that followed, several media outlets began reporting that Aylan's father, Abdullah, was in fact the captain of the boat: he was allegedly a people smuggler (Booker 2015). Moreover, he was accused of steering the boat at the time it capsized. For many, Abdullah was transformed from grieving father to evil people smuggler (AAP 2015). Then there were the accusations that the photographs that had drawn the world together in collective horror had been staged.

However, several facts remain. Abdullah had lost his family while trying to flee war, to find a safe place for his wife and children. In all this media coverage, and the associated political commentary, the complexity of the people-smuggling problem was at best lost, at worst ignored. Before and after this event, public opinion had reduced the people-smuggling phenomenon into a simple equation: 'people smugglers are evil' (Syvret 2015). The alternative perspective on this sad chain of events is that it's symptomatic of the complexity of today's global people-smuggling and migration policy challenge.

For many Western liberal democracies, the whole irregular migration political debate has been deeply polarised by irreconcilable, value-laden ideological perspectives. On one side sit the humanists upholding human rights arguments; on the other, those espousing isolationist security-focused perspectives, seen as protecting the nation-state from those it deems to be something 'other' than citizens. Somewhere in the middle of this political ideology spectrum are those trying to operate orderly and sustainable migration programs, which not only discourage irregular migration but also stop the unnecessary loss of irregular migrants' lives.

Putting those philosophical debates aside, the global drivers for the irregular movement of people, from human security to economics, are growing, not dissipating. In 2016, the UN High Commissioner for Refugees (UNHCR)

reported that there were 65.6 million ‘forcibly displaced people worldwide’, 22.5 million refugees and 10 million stateless people (UNHCR 2017). Globally, there are some 767 million people living below the poverty line (World Bank 2016). In Africa alone, there are some 200 million people ‘aged between 15–24 and this will likely double by 2045’ (Ighobor 2013). While these figures are startling, the fact that in 2016 only 189,300 refugees were resettled highlights the scale of the likely demand for irregular migration (UNHCR 2017).

It may be clichéd to argue that the world is experiencing unprecedented uncertainty about economic, human and global security but, unfortunately, that is the case. And, in the face of such uncertainty, isolationism is on the rise across the Western world. Hundreds of years of regional and global human migration trends have given way to new legislative constructs that have criminalised irregular migration and those involved in it. In this trend, the complexity of the people-smuggling policy challenge is oversimplified into a moralistic zero-sum game, with labels of ‘good’ and ‘evil’.

In this discourse, the granularity of the problem is lost in the imprecise application of terminology. While public discourse talks of economic refugees and irregular migrants, those terms are of little legal value to those who work in a policy space in which legal frameworks dictate far different terminology: migrants, asylum seekers and refugees. Similarly, while governments are concerned with irregular migration as a singular problem, they often neglect to see its inter- and intra-regional flows and dimensions.

While countries across the globe are struggling to find effective policies to deal with the global migration trend, Australia’s policies, aided by its unique geography, have been successful from a border-security perspective. Australia has proven, with its Operation Sovereign Borders (OSB), that a decisionist approach can be rapidly changed to an absolute deterrence approach: ‘No boats’. Moreover, Australia has demonstrated that such an approach can indeed stop people-smuggling networks, delaying or displacing their global supply chains. Australia’s OSB model has successfully disrupted people-smuggling networks by coordinating all government policy measures into a single strategy (Turnbull 2016). OSB’s success can be attributed to its central policy basis, which drew in a range of policy perspectives and operational activities in the development of a cohesive and coordinated national strategy aimed at disrupting the people-smuggling business model.

However, the absolute deterrence approach or strategy shouldn’t be confused with the ‘absolute deterrence effect’ of such strategies. Chapter 2, on Southeast Asia, for example, demonstrates that there are still many migrants trying to reach destinations via irregular maritime means. While potential irregular migrants may perceive Australian borders to be ‘closed’, they’re still considering other destinations. Moreover, there’s much more to disrupting people-smuggling networks than OSB’s popular image of maritime blockades.

In the public sphere, much has been said and published on irregular migration from the perspective of the migrant (McKinsey & Company 2017). In the process, it has become politically expedient to homogenise perceptions of people smugglers. Even within academia, there are few researchers examining the organisation of people-smuggling syndicates. Academic and policy literature is already awash with ethnographic and sociological studies of the irregular migrant experience, but little outside of government has been focused on people-smuggling syndicates (Koser & McAuliffe 2013). This report aims to address that gap by deliberately focusing on people-smuggling syndicates globally, rather than global people-smuggling networks with flows to Australia.

This study brought together a diverse group of subject matter experts with hundreds of years of collective experience in the field. Each author has extensive practical experience working in their region on the challenge of people smuggling. To the casual observer, there may appear to be a lack of consistency among the authors in their understanding of the term ‘people smuggling’. While the authors have tried to avoid, wherever possible, conflating people smuggling with other phenomena, such as human trafficking, at times these issues are transposed in some of the case studies. This report uses the UN’s definition of ‘smuggling of migrants’:

‘Smuggling of migrants’ shall mean the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident (UN 2000).

This ASPI Strategy provides a concise explorative analysis of the various people-smuggling syndicates operating in the globe's people-smuggling hotspots. It has been written in such a way as to provide policymakers with a concise analysis of each hotspot, with accompanying policy recommendations for interventions.

Chapter 2 begins the study with an examination of people smuggling in Southeast Asia. The authors point out that the region's people-smuggling networks are highly resilient but not very rigid in their organisational structures. For policymakers, the diverse nature of the networks provides a rather inconvenient platform from which to develop and sell a coherent strategy to counter such activities. However, the identification of certain organisational elements, such as their use of social media to advertise their services, offers points from which policymakers could potentially disrupt the networks.

In Chapter 3, Ramesh Sunam explores people-smuggling networks in India, Bangladesh and Sri Lanka. Sunam paints a picture of a region where greater mobility is the norm and where people-smuggling networks are hardly a new phenomenon. Throughout the chapter, Sunam argues that in these regions people smugglers are considered heroes or facilitators, rather than criminals. Moreover, the chapter argues that such an understanding should inform any efforts to create policy aimed at disrupting the networks.

Jiyoung Song's analysis of people smuggling in North Asia in Chapter 4 reviews migrant smuggling in the People's Republic of China, Japan, North Korea, South Korea, Mongolia and the eastern part of the Russian Federation. Song argues that the region's migrant smugglers are generally considered connected with, or part of, transnational criminal organisations.

In Chapter 5, Seefar's authors highlight the use of social media by smuggling networks operating out of Afghanistan and Pakistan to not only advertise services but to facilitate and build trust among potential clients. In this analysis, a strong emphasis is placed on the importance of the personal relationships that sustain smuggling networks in this region.

In Chapter 6 Ayşem Biriz Karaçay explores Turkey's people smugglers and their operation of a global smuggling hub. Biriz presents a theory that the main actors taking part in the loosely connected networks of migrant smugglers are leaders who coordinate activities along a given route, recruiters (organisers) who manage activities locally through personal contacts, and low-level facilitators who provide various services, such as transportation or accommodation. Biriz recommends finding alternative channels for refugees to arrive safely in the EU without risking their lives in unseaworthy boats and paying their life savings to smugglers.

Mark Micaellef's analysis of people smuggling in post-revolution Libya, in Chapter 7, investigates a militia member's statement that 'today in Libya you're either in the smuggling business or in the anti-smuggling business'. Micaellef's recommendation for policymakers is that the key to disrupting people-smuggling networks is in greater facilitation of grassroots activism and community groups that are working to tackle this issue.

In Chapter 8, Peter Tinti highlights the role that corruption plays in facilitating the irregular movement of people out of the Horn of Africa. Tinti's analysis explores what a sustainable approach to migrant-smuggling networks in the region might look like.

Tuesday Reitano's Chapter 9 presents an analysis of people smuggling in West Africa. Breaking with prevailing schools of thought on people smuggling, Reitano argues that it isn't a significant, or particularly lucrative, illicit industry in West Africa. She posits that inter-regional migration meets the needs of the majority of the region's migrant stock.

David Danelo's Chapter 10 uses an ethnographic approach to describe people smugglers in North America. Backed up by extensive field research, Danelo explains common practices in the assistance of clandestine migration—people smuggling—into and through the US and Canada.

In Chapter 11, Danelo uses the same ethnographic style to explore people smuggling in Latin America. His research indicates that migration throughout Latin America has historically not involved criminal associations but has been connected to a culture of migration in the Americas that has spanned centuries.

Chapters 2 to 11 reveal that people smugglers appear to be well versed in the various laws relevant to irregular migration. In Chapter 12, Isaac Kfir explores this legal framework through a concentrated analysis of the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the UN Convention against Transnational Organized Crime and the UN Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the UN Convention against Transnational Organized Crime. The chapter also draws on the UN Convention Relating to the Status of Refugees, which was adopted in 1951, and the Law of the Sea Convention.

Finally, Chapter 13 draws together lessons learned from the global experience that have relevance to Australia. The case studies reveal that, while the criminalisation of people smugglers in origin, transit and destination countries will enjoy some success, the underlying pull and push factors for irregular migration prevail. Further efforts are needed to shift irregular migrants' perceptions of people smugglers so that they see the smugglers as criminals rather than service providers. Those efforts will also need to communicate the risk posed to irregular migrants in order to shape their personal risk and reward calculations.

CHAPTER 2

People smuggling in Southeast Asia

Madeleine Nyst and John Coyne

We begin this chapter with a perhaps obvious and yet highly underused statement: people smuggling throughout Southeast Asia isn't a monopolised or hierarchically controlled illicit market. Like transnational organised crime more broadly, people-smuggling networks in this region are amorphous. The strength and resilience of these entrepreneurial illicit networks can be directly associated with their core characteristics: flexibility, adaptability and resourcefulness. Those characteristics catalyse in environments where there's little or no challenge from legitimate political authorities.

For policymakers, the diverse nature of the region's people-smuggling networks presents a rather inconvenient platform from which to develop and sell a coherent strategy to counter such activities. Countries such as Thailand and Malaysia are global people-smuggling hubs, regional transit points and source countries for human smuggling (UNODC 2015). And Asia experiences both inter- and intra-regional people smuggling.

It's often convenient for policymakers with responsibility for countering migrant smuggling to generalise, or homogenise, the character of Southeast Asia's challenge; for example, by portraying many countries as regional transit hubs or all those being smuggled as free agents. However, this research revealed that there are substantially more benefits for governments that approach the problem from a far more analytical perspective. Such a perspective can then be used to better understand the organisation of people-smuggling networks to identify their vulnerabilities and disrupt their business models.

Southeast Asian people-smuggling networks, as a collective, do not appear to use particularly consistent routes or methods. Rather, evidence indicates that they adapt to the conditions on the ground, responding to factors such as changes in legislation or increased law enforcement activity (Broadhurst 2016; UNDOC 2016).

People-smuggling routes in Southeast Asia

Despite their amorphous nature, many Southeast Asian people-smuggling networks share some features or characteristics. The most significant are Southeast Asia's key migratory routes. Unsurprisingly, people-smugglers are located along those routes in 'loose, connected networks' (UNODC 2013:46).

Given the secretive nature of people-smuggling operations, establishing an accurate quantitative picture of the number of ventures and migrant participants is difficult. Notwithstanding that difficulty, organisations such as the International Organization for Migration (IOM) and the UN Office on Drugs and Crime (UNODC) regularly report high levels of irregular migration within, out of and into Southeast Asia, and it's reasonable to assess that much of that irregular movement is facilitated by smuggling networks. Available information reveals that Thailand, Malaysia and Indonesia are hubs for global people-smuggling networks (Figure 1; UNODC 2011a:18). Except for

Myanmar's oppressed Rohingya minority, most intra-regional people-smuggling is focused on the movement of unskilled labour.

Southeast Asia features prominently in the following global migratory routes:

- Iran/Iraq/Jordan→Malaysia→Indonesia→Australia/Canada/US
- Sri Lanka→Indonesia→Australia/Canada
- Myanmar→Thailand→Malaysia/Indonesia→Australia
- Afghanistan→Pakistan→Malaysia→Indonesia→Australia/Canada/US.

Figure 1: Global migratory routes through Southeast Asia



Source: UNODC (2013:43).

Local legislative and enforcement conditions often dictate Southeast Asia's people-smuggling routes. Smugglers direct clients to use transit locations where there are low or no visa impediments to lawful entry into a nation-state and there is freedom of movement. It's for this reason that Malaysia is so often used as a regional people-smuggling transit country. While travellers from Afghanistan require a visa to enter Malaysia, those from many other Middle Eastern nations, including Iraq and Iran, don't need one for short visits. This makes Malaysia an attractive transit country for smugglers bringing clients from the Middle East to Australia (Barker 2013:7). In March 2017, testimony from various witnesses revealed that smuggled migrants from the Middle East often make their way to Malaysia, where they can more easily work and save money for the next leg of their journey (Farrow & Rahadi 2017).

Who are the people smugglers and how are they organised?

Australian law enforcement officers report that the region's people-smuggling networks operate a business model similar to those of legitimate businesses. In this report, the term 'business model' refers to the way in which people smugglers do their business. The model for these groups takes into account a number of considerations, including their organisational structure, command and control, logistics, administration, processes, and communication arrangements.

In this business model, each individual has their own specific role to play to ensure that the network runs effectively.

Testimony in a series of successful Australian prosecutions of people smugglers reveals that Southeast Asian networks generally operate a three-tier structure. They have:

1. *leaders*, who coordinate activities along a given route
2. *organisers*, who manage activities locally through personal contacts
3. opportunistic low-level *facilitators*, who mostly assist organisers but may also assist in recruitment (Barker 2013:29–31).

Southeast Asia's various migratory routes and its global connectivity means that the most senior smugglers are often highly mobile 'global citizens'. The networks that they control comprise members with a range of different nationalities and ethnicities from within and outside Southeast Asia. Smugglers who were born outside Southeast Asia often acquire citizenship or residency permits in the country where they do most of their work (UNODC 2013:46).

The most senior members of people-smuggling networks usually work largely outside any strictly hierarchical command and control structure. These key facilitators are well known for using their personal and familial contacts as part of their own personal networks. Lower down the organisational structure, gauged by the level of profits and responsibility, are local network members who perform a variety of roles, such as guides, drivers, crew members, enforcers or recruiters.

Some groups appear to use more ad hoc arrangements for securing specialised services, such as the provision of travel documents, birth certificates or marriage licences when required. Evidence from testimony in Australia also suggests that some networks use corrupt local immigration officials to bypass legislation or increased law enforcement presence.¹ For example, Indonesia is considered a useful transit country not only for its geographical location close to Australia, but also due to high levels of corruption among its police, military and other officials (Bruni 2010:42–46).

Due to the nature of smuggling networks in Southeast Asia, the complexity of the route determines the complexity of the network, and vice versa. In other words, if an individual is taking a more complicated route through Southeast Asia, involving stops in several countries to deter detection, the network will need to make use of a greater number of people from both the upper and lower levels of the organisation to facilitate that route.

How do they connect with clients and facilitators?

Like any commercial business, people smugglers advertise their services to bring in potential clients. Evidence suggests that social media are important tools for smugglers and migrants (Figure 2). In North Africa, social media are widely used by migrants and recruiters alike to share information about routes, services and prices (Kingsley 2015). However, many governments in transit countries in Asia still don't fully understand how these platforms are used by people smugglers in Southeast Asia.

Interviews with senior Australian Federal Police (AFP) officials revealed that Australian Government officials have used social media to communicate with potential irregular migrants. In those communications, Australian officials have disseminated information that has undermined the regional people-smuggling business model. For the most

part, this has involved undermining migrants' trust in people-smuggling networks' ability to deliver them safely to Australia. Aside from social media, recruitment by people smugglers is known to take place in locations frequented by migrants, such as government-operated and other compounds and community centres (Kingsley 2015).

Figure 2: A smuggler overlays the words 'very safe' on top of an image of the kind of boat he uses



Photograph: Facebook; Kingsley (2015).

Frontline people smugglers make use of a variety of methods to establish their credibility, including their trustworthiness and reliability, to potential clients. Research by Bilger et al. (2005:19) suggested that irregular migrants and asylum seekers are often not in direct contact with venture organisers, but rather with intermediaries who act as travel agents. Furthermore, information made available in the prosecution of several people smugglers in Australia suggests that networks in Southeast Asia use intermediaries to facilitate payment between the clients and the people smugglers (Barker 2013:41). Interviews with research participants, including investigators, revealed that this model still operates in Southeast Asia.

Differences between people-smuggling, human-trafficking and organised crime syndicates

People-smuggling networks in Southeast Asia have several distinctive characteristics that distinguish them from other types of transnational organised criminal organisations, such as illicit drug or human-trafficking syndicates. One key point of difference is the way that the different networks market themselves. Unlike in other types of organised crime, trust in the smuggler–client relationship and reputation are highly important for people smugglers. This is because, unlike in human trafficking or the smuggling of illicit goods, the irregular migrants themselves are the clients. Arguably, 'trust' between migrant and smuggler that the provider is able to smuggle the migrant to their destination is the central source of power and strength in the Southeast Asian people-smuggling model.

In the Australian context, there's no strong evidence to indicate that illicit drugs, arms or other contraband are being smuggled concurrently with people. However, some Australian law enforcement officers posit a strong connection between some specialist people-smuggler enablers and other forms of transnational organised crime.

This is especially evident in crime-enabling capabilities such as document forgery. Nevertheless, there is evidence to suggest that some individuals associated with attempted people-smuggling ventures have also attracted law enforcement attention in relation to drug trafficking.

It's worth noting that the later stages of most people-smuggling ventures to Australia are conducted overtly, and that such enterprises are unlikely to present tangible opportunities to smuggle illicit goods, as the vessels that do arrive successfully are seized, searched and more often than not destroyed. The same level of assessment confidence can't be provided for the more covert movements along the porous borders of Thailand, Laos and Myanmar. While this seems to make it less likely that cross-commodity smuggling occurs concurrently in some cases, it doesn't mean that the same criminal organisations are not involved in both people smuggling and the smuggling of illicit goods at the higher organisational level (Barker 2013:15).

Although there's no hard evidence linking the two, people-smuggling networks appear to operate complex nodal organisational models, as opposed to more traditional hierarchical or ethnically homogeneous organised crime group models. In the people-smuggling model, specialist or highly interdependent nodes are of high value to the overall operation of the business. At the organisational coalface, individuals or families performing roles as guides and transporters see little of the overall syndicate organisational framework.

In contrast with human trafficking in Southeast Asia, migrant exploitation (physical assault, sexual assault, or both) appears to be far less common in people smuggling. However, there's no doubt that profit drives both the traffickers and the smugglers.

How do people smugglers interact with legitimate migration frameworks?

There are several examples of people-smuggling networks operating out of Southeast Asia interacting with, and taking advantage of, legitimate migration frameworks. A recent ABC TV *Four Corners* program titled 'Smugglers' paradise—Australia' (Thomson 2013) alleged that people smugglers who previously operated overseas were now establishing themselves in Australia to take advantage of those who have been granted refugee status in the country and are now willing to pay to have family members smuggled to Australia (Barker 2013:35).

Moreover, according to a joint submission from the Australian Attorney-General's Department and the AFP to a Senate Standing Committee on Legal and Constitutional Affairs inquiry into the detention of Indonesian minors in Australia, Australia's policies on dealing with minors are well known among smuggling networks and deliberately exploited by the smugglers:²

A person's age affects where they are detained in immigration detention and criminal custody, whether they are removed to their country of origin, how they may be prosecuted, and what sentence they should receive. Some crew have indicated an awareness of these issues, for example advising [the Department of Immigration] or the AFP that they were told by the organisers of the venture to claim that they were minors and that they would then be returned to Indonesia, and there has been an increase in the number of people smuggling crew who claim to be minors.

The submission also argued that people smugglers have factored the presence of the UNHCR into their operations (Missbach & Sinanu 2011:74). More specifically, people smugglers have encouraged their clients to contact the UNHCR, even telling them what stories to present to the organisation to increase their eligibility for refugee status and access to UNHCR services (Missbach & Sinanu 2011:74). Being registered with the UNHCR not only provides their clients with minimum protections (such as non-refoulement) but, more importantly, they gain time to prepare the next steps in their onward migration (often to Australia). These examples are evidence of the ability of some people-smuggling networks to adapt to changes in legislation or increased law enforcement activities and to use legitimate migration frameworks to their advantage.

What elements of their organisation and operations are vulnerable to disruption?

As highlighted above, the ‘centre of gravity’ of Southeast Asian people-smuggling networks is trust that the smuggler will be able to get the client to the desired location. At the same time, the criminal nature of the region’s smuggling networks is likely to make that trust brittle (Barker 2013). The networks involved rely on maintaining a good reputation among migrants to attract more customers. To compete successfully with other smugglers operating in the same market, they must convince potential clients of the reliability of their service. So, from the Australian Government’s perspective, as well as that of regional transit countries, trust in people smugglers can be quickly undermined by successfully communicating the disruption of individual ventures to potential irregular migrants.

Australia’s Operation Sovereign Borders is a military-led border security operation aimed at combating maritime people-smuggling and protecting Australia’s borders.³ Central to the operation’s success to date has been the creation of a clear public message, which it has broadcast across various channels in the region, that no irregular migrant will ever be settled in Australia. This approach has undermined irregular migrants’ trust in people-smuggling networks offering ventures to Australia. It’s reasonable to expect that information campaigns aimed more broadly at the region’s source and transit countries will have similar impact, stemming the flow and pools of irregular migrants in the region.

Conclusion

For the most part, this chapter has concentrated on the people-smuggling networks that facilitate the flow of irregular migrants through Southeast Asia to Australia. It hasn’t touched on some other regionally significant issues, such as inter- and intra-regional human trafficking. Together, people smuggling and human trafficking networks have made Southeast Asia a major transit hub for and source of irregular migrants. Understandably, a lot of work is being done at unilateral, bilateral and multilateral levels across Southeast Asia to address the issue.

While measures such as Operation Sovereign Borders have stopped some flows, the organisational networks and causal factors remain. Even for Australia, current success against people smugglers is brittle. Put simply, the push and pull factors that draw irregular migrants to try to get to Australia remain. All of the economic factors that encourage people’s participation in people-smuggling syndicates continue. Although the criminalisation of people smuggling will have some lasting impacts, it must involve a corresponding likelihood of arrest and prosecution.

Much of the success of Operation Sovereign Borders can probably be attributed to the fact that it operates on a government policy that states clearly that no irregular arrival will be resettled in Australia. Should Australia’s policy change due to pressure from non-government organisations, popular movements or a change in government, it’s likely that people smuggling will resume at an industrial pace.

CHAPTER 3

People smuggling in India, Bangladesh and Sri Lanka

Ramesh Sunam

Greater mobility both within and outside national borders has historically become the norm rather than the exception, so the development of people-smuggling networks in places such as Bangladesh, India and Sri Lanka is hardly a new phenomenon (Hugo & Dissanayake 2014; Triandafyllidou & Maroukis 2012; UNODC 2015). News articles have covered Indian migrants entering the US through Mexico, Bangladeshi migrants roaming in Turkey, and Sri Lankan migrants stranded in Malaysia and Indonesia, waiting to make their journey to Australia (ABC 2015; Demir et al. 2016; İçduygu & Yüксеker 2012; Irfan 2012).⁴

People smugglers also facilitate the movement of migrants between these countries; for example, the movement of Sri Lankan migrants, mostly Tamils, and Bangladeshi migrants to India. Studies revealing Bangladeshi smugglers operating in Turkey and Indian smugglers working in Belgium (Demir et al. 2016; Derluyn & Broekaert 2005) indicate that they're active not only within the South Asian region, but also in transit and destination countries.

High poverty, rising inequality, violent political and religious conflicts and the changing aspirations of people in the region have created opportunities for people smugglers to generate income. In many cases, people smugglers are involved in exploiting, torturing and abusing smuggled migrants. Many migrants, including children and women, have lost their lives during harsh maritime and land journeys, generating a critical public debate in recent years (Carling et al. 2015).

Drawing on the literature on people smuggling in South Asia, this chapter analyses the profiles of people smugglers, their networks and the nexus between migrant smuggling and human trafficking to inform the public debate within the region and beyond.

Profile of people smugglers

As in other regions, people smugglers in South Asia are generally of the same nationality and ethnicity as the people being smuggled (EMN 2015). Speaking the same language, sharing the same ethnic and national identities and coming from similar cultures enable people smugglers to build trust with aspiring migrants.

People smuggling is a male-dominated arena, although some women have also helped to facilitate irregular journeys, particularly in India, where Saha (2012) found that husbands and wives worked as agents in some cases.

Most smugglers are middle-aged, between 31 and 50 years old (UNODC 2015), while younger agents, between 21 and 30, work as subagents in India, mobilising aspiring migrants of the same age group. Having worked in the business of irregular migration for a longer period meant that those aged between 31 and 50 played a more pivotal role in the smuggling networks. Most agents are educated only to the intermediate level.

Most people smugglers tend to work in ‘normal’, regular jobs while engaging in people smuggling. Agents in India are involved in running automobile workshops, restaurants, computer training institutes and travel agencies (Saha 2012). In Sri Lanka, agents hold similar jobs, and local fishermen and unemployed youth are also engaged in people smuggling (Jayatilaka 2003).

The agents who interact with aspiring migrants may be subagents working for people involved in the management of one or more people-smuggling ventures (Raghavan & Jayasuriya 2016; Saha 2012). Chief smugglers or main agents at the higher levels of networks include wealthy business owners, fishing fleet owners or sea captains who may also be running legitimate labour recruitment agencies.

Some smugglers have also been migrants. Sri Lankans who were smuggled and settled in transit countries or Australia often facilitate the migration of other Sri Lankans, using the experience of their own irregular journeys (Raghavan & Jayasuriya 2016; UNODC 2015). Bangladeshis already living in transit countries have also contributed to the smuggling of other Bangladeshi migrants. Some migrant smugglers in India who have had previous working experience in embassies of foreign countries as visa officers have drawn on their work experiences to help migrants prepare fake travel documents (Saha 2012).

The social status of people smugglers seems to be higher than that of those associated with organised crime and human trafficking. They’re not called ‘smugglers’ in these South Asian countries—that term generally applies to those involved in the smuggling of goods such as timber, gold, drugs and so on. People smugglers are called *dalal* (brokers) in Hindi and *dalal* or *adam bepari* (traders in human beings) in Bengali. Similarly, in Sri Lanka, they’re not considered to be smugglers but rather ‘heroes’, helping people escape their adverse circumstances, despite running exploitative and profiteering businesses (Jayasuriya & McAuliffe 2013).

People smugglers live in ‘good middle-class urban neighbourhoods’ in India, and some even in luxurious neighbourhoods (Saha 2012:12; UNODC 2015). In the three countries, people smugglers, mainly chief agents, possess rich social capital and strong social networks involving politicians, government officials and local community groups, which help to legitimise their smuggling business (Jayatilaka 2003; Saha 2007). In Bangladesh, for example, they’re ‘well connected and trusted members of the migrant’s own community’ (Deshingkar 2017:1).

The profile of people smugglers in South Asia indicates that most of them are not involved in other criminal conspiracies (UNODC 2015), although some may have contacts with criminals or have criminal backgrounds, as in Sri Lanka (Raghavan & Jayasuriya 2016). Their motivation for driving people-smuggling networks is largely profit and, as many studies suggest, this business can be highly profitable (Barker 2013; EMN 2015; Jayasuriya & Sunam 2016).

Connecting with aspiring migrants

While both demand and supply drive people smuggling, evidence from Bangladesh, India and Sri Lanka suggests that aspiring migrants often initiate contact with agents about possible irregular journeys (Raghavan & Jayasuriya 2016). Family networks, friends or previous clients provide potential migrants with agents’ contact details. While people smugglers use a variety of means to interact with their clients, the main way seems to be through word of mouth, either in person or by phone (Raghavan & Jayasuriya 2016; Saha 2012). This helps both parties to interact more intimately and develop confidence and trust while negotiating the prospective journey.

In Bangladesh, registered or unregistered brokers and legal recruitment agencies facilitating people smuggling are concentrated in major cities and in the places where Rohingya migrants from Myanmar reside (Chowdhury 2015; Weitzer et al. 2014). Sri Lankan people smugglers are also easily accessible and are often highly visible and easy to contact directly or through social networks (Jayasuriya & McAuliffe 2013; Jayatilaka 2003). Similarly, in India, most irregular migrants have specific addresses and mobile numbers for the agents (Saha 2012), suggesting that they’re also easily contactable. Note that those who interact directly with irregular migrants are usually subagents of the main agents. Main agents operate from big cities such as Delhi, Dhaka and Colombo and rarely meet migrants,

although in some instances they use phones to connect with clients (Raghavan & Jayasuriya 2016; Saha 2012). They shift from one place to another and rarely disclose their identities to the clients, largely to avoid any legal action in case anyone files a complaint or they're discovered by authorities.

Social media are increasingly reported as being a popular means of interaction between agents and aspiring migrants (EMN 2015). However, this link is yet to be researched in the context of South Asia.

People smugglers' networks

A network of multiple actors located at multiple levels—origin, transit and destination countries—facilitates migrant smuggling from and between Bangladesh, Sri Lanka and India. The networks are usually composed of chief agents, subagents (recruiters), and transporters and corrupt government officials who perform specific roles in the process of people smuggling (Jayasuriya & Sunam 2016).

In transit and destination countries, local smugglers coordinate with chief smugglers to arrange accommodation and transportation for smuggled migrants. Studies show that local fishermen help to facilitate the journeys of Sri Lankan and Bangladeshi migrants from Malaysia to Indonesia and from Indonesia to Australia (see, for example, Missbach 2016). However, people smugglers of Indian, Bangladeshi and Sri Lankan origin play important coordinating roles even in transit and destination countries (Saha 2012). Several studies have highlighted the involvement of Indian and Bangladeshi agents in migrant smuggling in transit or destination countries such as Turkey, Greece, Spain, Germany, Italy, Thailand, Malaysia and Indonesia (UNODC 2015). Some smugglers from India operate their business from other countries because those countries legally require a special approval from the Indian Government to prosecute Indian nationals found committing offences overseas (Saha 2012).

A close reading of the literature on South Asia indicates that migrant-smuggling networks seem to be well organised and have varied working modalities—mostly loose, but rigid in some migration routes (Jayasuriya & Sunam 2016; UNODC 2015). This is consistent with the view of Carling et al. (2015:5), who argue that 'smugglers typically operate within a loose network of small, decentralised groups'. Labour recruitment agencies tasked with arranging employment overseas are illegally involved in irregular migration, engaging local agents to recruit people in Bangladesh (Weitzer et al. 2014). Similarly, people smuggling in India often involves professional organisations with links in source, transit and destination countries (Saha 2007). Given the long history of boat migration of Rohingyas and Bangladeshis to Thailand, and to Malaysia via Thailand, journeys via those routes are more organised and use established networks (Chowdhury 2015). At least three groups of smuggling syndicates operate along those routes:

- local agents and chief smugglers, recruiting migrants and arranging boat travel
- transporters/fishermen, facilitating the boat journey to Thailand, who then hand migrants over to people smugglers based in Thailand
- people smugglers, who keep migrants in the jungles in the mountains of Thailand and extort money and abuse them before transporting them to Malaysia.

While Sri Lanka already has a network of agents for organising illegal movement (Hugo & Dissanayake 2014), Jayatilaka (2003) observed that the networks in the western part of Sri Lanka are more hierarchical and centralised compared to those in the southern part. They involve well-off businessmen mobilising their own boats and field agents with defined tasks for the entire operation. Western Sri Lanka has had a long history of making profits through migration, so much so that migration appears to be an integral part of the local economy. In the south, small groups of boat owners, contracted captains, crew and field agents join together to facilitate people smuggling. It's argued that flexible, small-scale structures are more effective and 'are often adaptable to any changes and opportunities that may arise' (Demir et al. 2016:1). However, there's been only limited research on the operation of people smugglers in South Asia and their linkages with other transnational networks facilitating different legs of longer journeys.

The role of government officials is critical and is thus an integral part of migrant smuggling in origin, transit and destination countries. Corruption and bribery bind people smugglers and some government officials together. Scholars researching on South Asia argue that migrant smuggling would hardly be possible without the involvement of corrupt state officials (Raghavan & Jayasuriya 2016; UNODC 2015). Corruption largely takes place either in the preparation of falsified documents or in immigration screening or sea-border crossings. The nexus between immigration officials and smugglers in Bangladesh, Sri Lanka and India leads to dysfunctional immigration screening, allowing migrants to travel without any trouble despite having incomplete or fraudulent documents. Genuine documents, such as passports or birth certificates, can be produced by bribing government officials in all three countries (Koser 2008; UNODC 2015). It's reported that some members of the Sri Lankan Navy accept bribes from agents in exchange for allowing their vessels to cross the sea border (Jayatilaka 2003; Raghavan & Jayasuriya 2016).

Fuzzy distinctions

Several situations that define the nature of irregular migration from the three countries blur the neat distinction between people smuggling and human trafficking. Smuggled migrants—those who pay people smugglers—often face dire situations involving trafficking (Chowdhury 2015; UNODC 2015). It occurs, first, when people smugglers ask for more money during the journey than the amount agreed at the outset. Most smuggled migrants from South Asia experience this situation (Chowdhury 2015; Raghavan & Jayasuriya 2016). Second, unscrupulous people smugglers exploit, abuse, rape and torture migrants during the journey. This is a regular occurrence during the boat journeys of Bangladeshi and Rohingya migrants from Bangladesh to Thailand and Malaysia (Lewa 2008; Triandafyllidou & Maroukis 2012). In various camps built in the jungles of Thailand, those who fail to pay smugglers' excessive fees are further beaten, and some are even killed. Such brutal exploitation by people smugglers became a huge international issue when mass graves were found in the Thai–Malaysian border region in 2015 (Li Yi 2015). These examples indicate that the acts of people smugglers are similar to, if not the same as, those of human traffickers.

Legal and illegal journeys are also interlinked, the former at times engendering the latter. People smugglers abuse visitor and tourist visa regulations to help migrants reach transit countries in the lead-up to further irregular journeys. For example, Sri Lankan, Bangladeshi and Indian migrants travelling first to Malaysia and Thailand use tourist visas (Raghavan & Jayasuriya 2016). Smugglers then advise them to travel on to Turkey or Italy using student or tourist visas before embarking on their journeys to destination countries such as Germany or other European states. These people then overstay their visas, thereby becoming illegal immigrants (EMN 2015; UNODC 2015).

For the most part, migrant smuggling in South Asia seems to have weak links with organised crime networks. While some literature indicates that migrant smugglers at the higher levels of the networks may be associated with organised crimes such as money laundering and drug trafficking (Triandafyllidou & Maroukis 2012), as revealed in the migration routes via Latin America to the US, most agents are involved in migrant smuggling to generate high income in a short time. More research needs to be done in South Asia to generate deeper insights into the links between high-level migrant smugglers and other forms of organised crime.

Disrupting the people-smuggling networks

Disrupting the smuggling business is complex, yet possible. While people smuggling is a lucrative business, the smugglers themselves are not the principal cause of it. According to the 1951 Convention Relating to the Status of Refugees, a person must be outside their country to seek asylum. Because aspiring migrants who can't make their journey through formal channels approach people smugglers, key questions (why formal systems and processes are failing to address this issue and why aspiring migrants rely on or, as in the case of Rohingyas, resort to people smugglers) need to be adequately investigated to explore durable solutions to migrant smuggling. To achieve this, the following policy options could be explored.

- First, as discussed above, people smugglers are not necessarily considered to be criminals in India, Bangladesh and Sri Lanka; nor is people smuggling seen as a crime. Public awareness of people smuggling and its consequences at smuggling hotspots may help to empower people and communities to press authorities and politicians to seriously consider this issue.
- Second, because current anti-smuggling legal frameworks in these countries are inadequate to address the problem, criminalising people smuggling (where that hasn't already been done) may be a first step, but must be done alongside controlling corruption. The governments of these three countries can disrupt the corrupt nexus between people smugglers and government officials—mainly immigration officials and border security forces—which might control the irregular flows of people. However, this should happen in parallel with viable (and less cumbersome) formal pathways of migration for those seeking to flee persecution and violence.

CHAPTER 4

People smuggling in North Asia

Jiyoung Song

This chapter overviews migrant smuggling in China, Japan, North Korea, South Korea, Mongolia and the eastern part of the Russian Federation.

The map below shows the main migrant-smuggling flows in the region.

Figure 3: Migrant smuggling from North Asia



Source: Drawn from author supplied information.

Who are the smugglers?

Most of those smuggled come from China and North Korea, followed by smaller numbers from Mongolia and the Russian Federation. Data on migrant smuggling is severely limited not only because of smuggling's clandestine nature but also because of the two main source countries' undemocratic and developing status. While most literature focuses on Chinese outbound migrant smuggling to the US and Europe, there's a paucity of academic research on human smuggling in and out of other parts of North Asia. Studies on North Korean migrants, for example, have increased only over the past few years. There are also a few empirical studies on migrant smuggling from Mongolia or the Russian Federation (Drbohlav et al. 2013; Lee 2005).

The Chinese migrant-smuggling business is dominated mainly by Chinese men between 20 and 50 years of age; networks usually involve three or four core individuals who head the operations (UNODC 2013). Chinese women are also involved in the smuggling trade. According to UNODC estimates in 2013, approximately one out of eight Chinese smugglers is a woman. The outbound smuggling of North Koreans is carried out by professional Han Chinese smugglers and Christian missionaries (Han 2013; Song 2013). The latter are South Koreans or Korean-Americans who also run underground churches in China, safe houses in Southeast Asia, or both.

New sources of migrant smuggling continue to emerge. Secondary migration of North Koreans to North America or Western Europe raises issues of dual nationality for North Koreans, because they hold both North Korean and South Korean citizenship after they settle in South Korea (Song 2015a; Wolman 2012). North Koreans exploit their dual nationality to acquire South Korean citizenship and passports and travel to the UK, where they apply for refugee status. In fact, some of the asylum applicants are not even North Koreans, but Chinese citizens who are ethnically Korean.

There are also studies on interregional brokered marriage migration between Southeast and Northeast Asia. Those studies describe different types of brokered marriages, some involving 'sham marriages' with the purpose of obtaining citizenships (Cheng & Choo 2015; Davin 2007; Jones 2012; Nathan 2013; Song 2015b; van Liempt 2014). Internal marriage migration in China also shows similar trends of marriage fraud (Liu et al. 2014).

The smugglers' *modus operandi*

Migrant smuggling out of China is highly organised, and networks facilitating migrant smuggling are well established. The smuggling of Chinese migrants to Europe involves a combination of national groups and non-national networks (UNODC 2012, 2015). The smuggling of Chinese migrants to Western Europe involves highly organised groups that exercise significant control and oversight over the operation (UNODC 2015). A study in 2010 suggested that Chinese smuggling organisations have structures with at least three tiers: 'big smugglers' or 'snakeheads' in the top tier; brokers or 'coordinators' in the middle; and local smugglers or 'recruiters' at the bottom.

The smuggling stream from China's Fujian Province to the US has also been well investigated by scholars (Chu 2011; Lu et al. 2013; Sheng & Bax 2012; Zhang & Chin 2002; Zhang et al. 2007). While there's also a body of literature on human smuggling from China to Europe (Chin 2003; Laczko 2003; Lu et al. 2013; Pieke et al. 2004; Silverstone 2011), there appears to be disagreement about the extent to which such migratory flows are occurring. Studies are concerned with how human smuggling continues despite strict controls (Li 2012; Lu et al. 2013).

The main motivations for illegal migration have been identified as economic and sociocultural (Liang & Miao 2008), although smuggled migrants are seldom poor and desperate. Rather, migration is seen as a way of earning social prestige (Chin 2003; Chu 2011; Silverstone 2011). Sheng and Bax (2012) examined the trajectory of irregular emigration and argued that a process of 'defolding' or deceleration of the 'cumulative causation model' of migration has taken place in recent years, in part because of more restrictive migratory controls.

The operations of Chinese snakeheads share many features with Christian missionaries' smuggling of North Koreans. Like the Chinese operations, North Korean refugee/migrant smuggling is well organised and uses networks involving several stations where locals provide temporary shelter. Some locals in Southeast Asian countries, such as Laos, Cambodia and Vietnam, are well connected with local authorities, who turn a blind eye to smuggling activities in return for cash. North Korean migrants with family members who have already settled in South Korea pay for smugglers through underground church networks. When North Koreans are settled in South Korea, they're given a lump-sum cash payment from the government. Smugglers target such government payments. North Korean defectors who are settled in the south also operate smuggling networks through their contacts in China and North Korea.

Studies of migrant smuggling in Japan have focused on the traditional roles of the *yakuza*, which are mainly involved in the smuggling and trafficking of Thai women into Japan's sex industry (Friman 2011; Jones 2012). Past cases of migrant smuggling into Japan also involved ethnic Koreans illegally entering postwar Japan from 1946 until the 1970s (Morris-Suzuki 2006). In recent years, studies have increasingly focused on Chinese and Vietnamese migrants, who have been smuggled into Japan under the pretext of education or training, or what was considered as 'backdoor' or 'side door' immigration (Friman 2011; Liu-Farrer 2011; Peck 1998; Sheng & Bax 2012; Yamamoto 2010). This was an unintended consequence of the Japanese Government's decision to expand visa categories to include student visas, among others, in a bid to address labour shortages in the late 1980s (Yamamoto 2010).

The resilience of the migrant smuggling models

Migrant smuggling models based on personal connections (or *guanxi* in Chinese) are highly fluid and resilient (Silverstone 2011; Zhang 2013). Zhang et al. (2007) claimed that 'human smuggling is essentially a business built on a myriad of *guanxi*'. In the same vein, Lu et al. (2013) found that when barriers to migration are high, especially as measures against illegal migration become more stringent over time, resources such as the migrant's social, political and human capital play a crucial role in the emigration process. In this regard, many sociologists have explored the relationship between smugglers (snakeheads or *she tou* in Chinese) and smuggled migrants ('snakes'), and how snakeheads are perceived in the unique context of China.

Snakeheads are mostly ordinary people who are easily accessible for prospective migrants through the conduit of family or friends (Silverstone 2011; Zhang & Chin 2002). Family and friends thus form a large client base, especially for female smugglers (Zhang et al. 2007). Female smugglers play different roles from their fellow male smugglers; while men operate mostly in the transfer of people, women offer care, food and shelter to migrants. Today's smuggled migrants may also become tomorrow's smugglers through accumulated networks.

Traditional images of smugglers as criminals have changed. Not all people smuggling involves financial transactions; altruistic or religion-motivated smuggling operates through relatively safe hands. In contrast to the common belief that brokers are unscrupulous criminals, snakeheads are highly regarded in their communities (Chin 2003; Li 2012; Silverstone 2011). Historically, the emergence of snakeheads was tied to a 'fever of going abroad' among many Chinese citizens who didn't have the means to do so legally (Liang 2001). Thus, ordinary people in the countryside often perceive snakeheads as good migration brokers who help fellow villagers realise their dreams of upward mobility through illegal migration (Chin 2003; Li 2012).

Likewise, smugglers don't see themselves as criminals. Rather, they express an altruistic motive for providing a valuable service to Chinese citizens who want to emigrate but are unable to do so legally (Li 2012; Silverstone 2011). Current literature explores the boundaries of and intersections between the 'licit' and 'illegal' nature of people smuggling in China. People smuggling is often considered licit (that is, permissible) by participants and average people, but illegal in the formal sense at the national level (Li 2012).

Connection with other transnational organised crime

Migrant smugglers are generally considered to be connected with, or part of, transnational criminal organisations. In this construction, migrant smugglers have access to elaborate international networks that operate in drug and human trafficking and illegal goods smuggling. In North Asia, however, a business or enterprise model seems to be more prevalent in the migrant-smuggling trade.

Zhang and Chin (2002) highlighted the difference between organised crime and the enterprise model: the latter is characterised by a 'flexible and adaptive network of enterprising individuals', in contrast to the hierarchical, centralised and bureaucratic nature of organised crime. Snakeheads tend towards the enterprise model and are unlikely to present as large organised crime networks (Silverstone 2011; Zhang & Chin 2015). Their networks generally consist of peer-group entrepreneurs that operate with limited hierarchy based on one-on-one (or dyadic) transactions. Further, most snakeheads have made efforts not to entangle themselves with gangs or other crime groups in the Chinese community.

The difference between people-smuggling and human-trafficking syndicates

Authorities in North Asia do not clearly distinguish between human trafficking and migrant smuggling syndicates (UNODC 2012). In its review of existing research on migrant smuggling in Asia, UNODC (2012:33) also noted that studies that described themselves as focused on 'human trafficking' were in fact mainly focused on migrant smuggling or undocumented migration. Thus, the use of different terminologies limits our ability to draw conclusive conclusions about migrant smuggling. There's also a persistent problem of lack of clarity in the terminology. For example, *toudu* (stowaway), *yimin zousi* (migrant smuggling) and *renkou fanmai* (human trafficking) are often used interchangeably.

Similarly, North Korean migrant smuggling is highly intertwined with cases of refugees and human trafficking (Chan & Schloenhardt 2007; Davis 2006; Kim 2010; Lagon 2008; Lee 2004; Lee 2001–2002; Lohman 1996; Margesson et al. 2007). Andrei Lankov (2004, 2008) identifies geopolitical and security constraints of the North Korean regime as the reason for the growing number of smuggling and other unauthorised crossings to China. NGOs focus exclusively on human trafficking (Butler 2009; CHRNK 2009; Havel et al. 2008; HRW 2002, 2008; ICG 2006; Muico 2005), when in fact migrant-smuggling and human-trafficking cases are hard to distinguish. The role of South Korean and American Christian missionaries in smuggling refugees into China and Southeast Asia (Han 2013; Song 2013) deserves further inquiry.

Migrant smuggling and legal frameworks

This problem is exacerbated by the lack of specific legislation on migrant smuggling in the region. Where anti-smuggling laws do exist, enforcement and implementation often remain weak. This leads to the absence of official criminal justice statistics on migrant smuggling, including on the number of smuggled migrants detected by law enforcement and border officials and the number of smugglers prosecuted (Kangaspunta 2007).

Migrant smuggling and corruption

The prevalence of migrant smuggling is directly related to a country's level of corruption. Although the Chinese Government has strengthened anti-corruption measures in recent years, it does not or cannot prevent a base level of corruption in the migration business. Neither China nor North Korea has a good record of anti-corruption mechanisms. In Transparency International's 2014 Corruption Perception Index, China and North Korea were ranked 100th and 174th, respectively, out of 175 countries assessed (TI 2014; Somalia was on par with North Korea in the 174th position). Immigration authorities in both China and North Korea are known to accept bribes from smugglers or migrants (Kim 2017).

Smugglers' links with inter- and intra-regional networks

Chinese and North Korean smugglers have highly organised and resilient inter- and intra-regional networks all over the world. The networks are based on personal connections and social networks across Europe, North America and Oceania that smuggle migrants from regional towns, fully exploiting an enterprise model. These networks are embedded in diaspora communities.

Organisational or operational vulnerability to disruption

Random raids cause temporary disruption to smugglers' organisations or operations across borders. In the long term, however, information, regulations and motivations are the key to countering migrant smuggling from the region:

- Public awareness about legal pathways to overseas employment is generally lacking in China context and isn't available in North Korea.
- Chinese smuggling is based on a business model that isn't regulated by the authorities. Legalising and regulating migration agencies will fundamentally reduce migrant smuggling, which is a transnational crime.
- North Korean smuggling is based on a humanitarian model, which has potential political consequences. Smuggling is often the only way North Korean asylum seekers can escape from the country, through China. The Chinese authorities have been arresting and sending them back to North Korea, and that's been the single biggest disruptive factor.

There are still significant limitations on data collection and regional cooperation against people smuggling in the region due to geopolitical power imbalances and ongoing security concerns.

In North Asia, there are two models of migrant smuggling: the business/entrepreneur model for Chinese migrant smuggling and the humanitarian model for North Korean refugee smuggling. For the past two decades, neither has relied on criminal gangs. Today's smugglers in North Asia have incorporated business service strategies and even humanitarian principles. Their caring roles are buttressed by female smugglers.

CHAPTER 5

People smuggling in Afghanistan and Pakistan

Seefar writers

This chapter focuses on migrant-smuggling networks facilitating movement from Afghanistan and Pakistan. Combining entrepreneurial flair with old-fashioned corruption, the ecosystem of migrant smuggling in the region is diverse, dynamic and deft in responding to changes in market opportunities. Moreover, fluxes in destination countries' approaches to irregular Afghan and Pakistani arrivals have clearly influenced migrant-smuggling markets. The chapter outlines a combination of interventions that is most likely to undermine migrant smuggling. If taken by a subset of countries, those actions will push migrant smugglers to focus on other countries. If taken in concert, they will have more of a sustained, structural impact on the migrant-smuggling ecosystem.

Trajectories

The networks considered here provide services to support three main trajectories of migration, all originating in either Afghanistan or Pakistan:

1. overland to Europe
2. by air to Europe and North America
3. to the Middle East.

Smugglers also serve smaller routes, such as to East Asia. Until recently, there was significant smuggler activity moving Hazaras from Afghanistan and Quetta, Pakistan, to Southeast Asia in order to reach Australia. However, this activity has decreased in the past two years, as Australia's approach to asylum seekers has made smugglers less likely to succeed.

Smuggler identities and syndicate structures

The industry consists of three main types of actor. Each actor is more or less prominent in the three main migration routes. First, numerous low-level, visible *facilitators* ply the overland route to Europe. Their services include providing accommodation, consulting with migrants on options, guiding walks, driving speedboats, and driving busloads of migrants across Iran. This type of low-level facilitator is less prevalent within smuggling networks that operate by air.

Second, there are what are referred to in the smuggling industry as '*travel agents*'. Such individuals may literally be travel agents by profession, or they may have no legal profession and focus on arranging services such as providing genuine visas through fraud. They often have direct contact with facilitators and, where corruption is required, they have arrangements with the protectors described below. Those arrangements affect the services they can offer to migrants—for example, a good connection to someone in an Italian Embassy will mean they can offer a flight to Italy.

Third, there are *protectors*. In Pakistan and Afghanistan, there's a widespread perception that a few powerful politicians and officials benefit a lot from migrant smuggling. However, it's rare that such people are involved in directing a smuggling network or venture. Instead, the more common protector is a local police chief, a border post commander or someone in the passport office. They are corrupt officials, either directly contributing to a service such as identity fraud or indirectly ensuring that smuggling networks are not disturbed by other officials.

All three types of actor are predominantly men. The most common roles for women are as facilitators, often playing the role of guide for migrants travelling by air, as women attract less attention in such circumstances. Women are also much more likely than men to provide sham marriages to facilitate settlement by Afghan and Pakistani men in Europe (UNODC 2015).

When a migrant begins enquiring about options, their first contact will almost always be someone from the same ethnicity, usually a family member or friend. They will then work through unpaid referrals that mostly follow ethnic lines until they make contact with a fee-charging smuggler. In rural areas, that person may be working on commission for a travel agent in a city. In urban areas, the migrant can have a direct discussion with a travel agent. Again, that person is likely to be from the same ethnicity. However, in the case of Afghan migrants seeking services in Pakistan, they're now likely to be dealing with a Pakistani citizen: Pashtun ethnicity in Karachi and Peshawar, Hazara ethnicity in Quetta.

Beyond this point, the combinations of ethnicity multiply. The needs of the journey encourage people from different ethnicities to collaborate in the same smuggling network. For example, Baluchis in Afghanistan, Pakistan and Iran are well placed to facilitate everyone else in border crossings. Similarly, Punjabi and Sindhi travel agents have an advantage in dealing with protectors relevant to departures from Karachi and Lahore airports. Interviews with Afghans in Turkey included references to Syrian and Turkish facilitators (Schloenhardt & Craig 2016).⁵ Nevertheless, there remains a general preference and natural tendency for a migrant to move through networks of facilitators of the same ethnicity. An indication of this is the continuing ethnic grouping of smugglers and customers even as they travel in Europe (Europol 2017). Obvious reasons for this are language, the strength of connections and trust. Less obvious, however, and underpinning trust, is the idea that reputation and repercussions for bad service are more important within the same ethnic group.

Afghans and Pakistanis discuss issues related to migrant smuggling, destinations, routes and costs on social media, similarly to the way they discuss other common and important personal decisions. Numerous facilitators and travel agents solicit customers via social media, but few Afghans and Pakistanis will enter into negotiations remotely; they prefer to meet in person and highly value recommendations from their personal networks. Again, the role of social media in facilitating smuggling is similar to the role of social media in other major decisions about purchasing personal services.

If we consider the migrant smuggling industry as a single market, then the biggest market share is held by loose constellations of travel agents and facilitators who move people overland to Europe. This is the relatively low-margin, low-skill, high-volume part of the industry—the 'McSmuggling' product to which most migrants have access. For example, from the southwestern Afghan city of Zaranj, the cost to be smuggled to nearby Iran can be as low as US\$140 to the city of Zahedan and around US\$520 to Tehran, as of early 2017 (DRC 2017a). The high-margin, high-skilled, low-volume niche is in smuggling by air—the 'Michelin star' product that requires tens of thousands of dollars (IOM 2016:169). Trips to the Middle East are somewhere in between: while there's a lot of visa issuing based on fraudulent intent and subsequent overstaying, the costs of doing this are much lower than, for example, the cost of obtaining a Schengen visa to fly to Europe.

The concept of networks, as it relates to social networks or to the internet, is only partly relevant to migrant smuggling from Afghanistan and Pakistan. For the least organised type of smuggling, in which a migrant hops from place to place without arranging a subsequent contact or onward step, this network looks like the internet, with seemingly redundant nodes and multiple paths through those nodes to the same destination. However, it's more common for migrants to move through predictable connections of the same chain of facilitators. This is obviously

the case in better organised smuggling routes by air, but is also the case for most people who arrange down payments in escrow in Afghanistan before departure. A better analogy may be a map of private minibus routes in a big city: together, from a distance, they look like a bewildering spider's web, but zoom in and they are repeated journeys through predictable nodes.

Furthermore, both the overland route and smuggling by air include genuine transnational networks operating from Afghanistan and Pakistan to Europe, North America and now, to a much lesser extent, Australia. They rarely show strong elements of hierarchy, but they do engage in repeated transactions based on a clear division of labour. It's common to see extended families, or networks of people in suburbs, hollow out as they establish connections in a destination country based on the success of one member in navigating the route and transmitting confidence in a series of facilitators.

There are also clear links between migrant-smuggling networks and the exploitation of Afghans and Pakistanis by human traffickers. This is a narrow, shadowy corner of the market. At the most basic level, Afghans smuggled to Europe can end up in exploitative employment (UNODC 2015:98). Similarly, Afghans and Pakistanis who engage illicit service providers to work in the Middle East are more vulnerable to exploitation and becoming subject to slavery-like conditions, such as in the construction industry. Those involved don't seem to think of themselves as traffickers, and in the Middle East the employers might not be infringing criminal laws in their particular country unless they have failed to arrange genuine employment papers.

Making payments

The most common payment arrangement is to put money into escrow with an informal foreign exchange dealer (a *hawala* or *hundi* dealer), for release to the smuggler after the migrant takes successful steps along the journey (UNODC 2015:35). For a minority, this may include paying a large amount up front to secure a trip all the way through to Europe, but for most migrants there's a break in these arrangements in Turkey or Greece. At those points, all money has been released to the smuggler back home and the migrant is negotiating with a new set of facilitators to get into Western Europe. These common payment arrangements are another indicator of sustained, personal relationships—at a minimum, there are ongoing connections between facilitators and the smuggler's preferred *hawala* inlets and outlets in Afghanistan, Iran and Turkey.

For Afghan migrants to be smuggled through Iran and Turkey, a common cost, as of 2016, was around US\$3,000. To continue further on to Greece, the cost was around US\$5,500. Trips to most other destinations in Europe are estimated to cost between US\$4,000 and US\$6,000 (Stamouli 2016, cited in IOM 2016:169). In the other direction, towards Australia, *al-Jazeera* reported in 2014 that the cost of travel from Afghanistan to Indonesia was between US\$8,000 and US\$12,500. Research by the IOM in 2016 showed that prices to Australia have dropped and now range between US\$4,200 and US\$7,000 (IOM 2016:169). Interviews with migrants in Indonesia suggest that the price has dropped because increased border security means the onward trip to Australia is now so uncertain, resulting in a lower demand for smuggling services and driving prices down.

Adapting to change

In the past few years, Europe's refugee and border management policies have driven the biggest changes to migrant smuggling in Afghanistan and Pakistan. In 2015, many Afghans saw the positive reception received by Syrians in Europe as indicating an opportunity to settle there. Pakistanis also saw an opportunity for migration by pretending to be Afghans. The first to move were Afghans already in Iran and Turkey. Afghans who previously would not have considered the journey became interested in it and, consequently, the rate of passport issuance in Afghanistan shot up. Until 2014, Afghans thought they would need a minimum of around US\$5,000 to make the trip to Europe; in 2015, some people were setting out with perhaps US\$1,000, aiming to make a hard journey to Turkey and then take what they presumed was an easy step from there.⁶ For smugglers, these conditions put a premium on moving as many people as possible, as fast as possible.

The market shifted again in 2016 and 2017. Europe's less welcoming policies—particularly the EU–Turkey agreement and increased returns of Afghans to Afghanistan—have produced a clear set of winners in the competition for migrant smuggling revenues: smugglers in Turkey. The pile-up of Afghans and Pakistanis in Turkey has increased the willingness to pay of people who had already demonstrated their commitment to leaving their homeland. The price of a fraudulently obtained or fake Turkish visa in Afghanistan has risen significantly as a result of a combination of continuing demand for irregular migration, stronger Iranian enforcement and mildly stronger Turkish enforcement. The cost in late 2016 was approximately US\$2,500, rising to US\$3,500 in early 2017 (DRC 2017b). There's also a bigger benefit in having strong protectors in Turkey—organised smuggling entrepreneurs. Partly as a result of these trends, visas for direct travel to European countries have also become significantly more expensive, rising from approximately US\$18,000 in late 2016 to US\$25,000–30,000 in early 2017 (DRC 2007a). At the same time, smugglers in Afghanistan and Pakistan have experimented more with trips via North Africa.

Closer to home, Iran and Pakistan have become less generous hosts to refugees, including those born on Iranian and Pakistani soil to Afghan refugee parents. More than 700,000 people returned to Afghanistan from neighbouring countries in 2016 (Duenwald & Talishli 2017). The immediate impact on smuggling markets has been to expand a niche for services to arrange residency or citizenship documents in Iran and Pakistan. Those who can afford a final arrangement like this for their entire family are likely to avoid returning to Afghanistan. Many of the less wealthy will move back to Afghanistan and then look for opportunities to return to day-labouring in Iran and Pakistan. For smugglers, this market is likely to start out small, since in many cases it may simply require a trip across still-porous borders. However, if Iran and Pakistan continue to ratchet up restrictions, monitoring and punishment, the value of smuggler services and reliance on fake documentation will grow.

The demand for migrant-smuggling services in Afghanistan will remain high for the foreseeable future. However, it also remains concentrated in particular locations and among particular demographic groups, but with some segregation by preferred destination. In Pakistan, there's likely to be increased interest from long-settled Afghans in using smugglers to travel elsewhere, but no changes in the interests and trajectories of Pakistanis are foreseen. This includes Hazaras in Quetta, who will continue to look longingly at Australia, despite the fact that reaching Australia has become less straightforward and now depends on smuggling by air. This puts Australia on par with other air-route destinations with Hazara diasporas, such as the UK, Norway and Canada.

Responding to migrant smuggling

Over the past few years, the approaches to migrant smuggling taken by Afghanistan, Pakistan, Iran, Turkey, Europe and Australia have been changing fast. Although those approaches have sometimes been reactive and haven't always been consistent, in the aggregate they've made profound changes to migrant-smuggling opportunities. The suggestion that migrant smuggling will continue whenever there's demand is true at the broadest level, but irrelevant when we ask questions such as: how much migrant smuggling? to where? for whom? For example, while migrant smuggling from Afghanistan and Pakistan to Australia, Europe, the Middle East and North America has continued from 2014 to the present day, the number of people smuggled to each destination has varied a lot in that time.

Law enforcement approaches in Afghanistan and Pakistan are unlikely to cause major disruptions to migrant smuggling in the foreseeable future, considering that these countries struggle to enforce laws against murderers, rapists, terrorists and drug traffickers. Migrant smugglers are more visible than those criminals but attract less stigma. Foreign law enforcement and intelligence cooperation can guide Afghan and Pakistani authorities towards 'leaning on' some migrant smugglers and associated corrupt officials informally, but this will always trail far behind the mass of other people continuing the trade. Some cases may be trumpeted locally, but that won't shift the incentives significantly.

The more promising result of foreign law enforcement and intelligence engagement is in generating opportunities for better disruption in transit and destination countries. In other words, collect intelligence from the source country and trace the network through the journey. Afghanistan and Pakistan have become more willing to provide input,

which partly results from other countries emphasising the migrant-smuggling issue through diplomacy, aid and law enforcement cooperation.⁷ Prosecutions in destination countries are more likely and more meaningful, and often benefit from a lot of background information or evidence generated from transit and source countries. Destination countries could consider formally or informally using proceeds-of-crime seizures by channelling them back into the development of the law enforcement agencies in Afghanistan and Pakistan that helped in the investigations.

Whatever happens to this kind of enforcement cooperation, the biggest impacts on migrant smuggling come from reducing the value of what the smuggler has to offer. Most Afghan and Pakistani smugglers offer better economic prospects, a sense of safety, or both. Among people interested in Western destinations, most want long-term residency. This is where confusion arises from using the term ‘smuggling’. In drug smuggling, the smuggler brings commodities to consumers; in migrant smuggling, the ‘commodities’—economic opportunities, the rule of law and long-term safety—are produced by the destination country. A perspective that sees the destination country, rather than the smuggling network, as the producer of desired commodities highlights the importance of reducing the value of what the smuggler is offering (Seefar, n.d.). This is the logic that drives restrictions on refugee recognition; restrictions on work rights and family reunion; and deportations. Australia provides an extreme example of these impacts: the near-total elimination of lower cost arrivals; increased prices and exclusivity for smuggling by air; lower demand for travel to transit countries such as Indonesia; and a search for new markets by smugglers.

In Afghanistan and Pakistan, there’s a surprising level of support for this analysis among migrants themselves. Even among Afghans affected by personal security concerns, spending thousands of dollars on a trip to Europe, it’s common to hear sympathy for European countries restricting acceptance of Afghans applying for asylum. For example, an Afghan who had travelled irregularly to Europe opined:

Media is trying to show something to Europeans: all of these people are in need of refuge. But these people don’t deserve the opportunity. They should not be treated like a refugee. They are not. Most of them are economic migrants. Merkel makes an announcement and there they go.⁸

Of course, there are major legal, ethical and practical problems to consider. Essentially, destination countries are restricting access to long-term settlement for today’s asylum seekers as a way to reduce the value of what smugglers can sell to future customers. In the short to medium term, a sustainable, humane response by all destination countries, whether Western, Middle Eastern or near-neighbours, will consist of:

- reducing the value of what smugglers are offering to less vulnerable Afghans and Pakistanis by restricting acceptance for long-term settlement and by accelerating returns
- investing in reforms to the international protection system so as to develop new mechanisms for proactively identifying and resettling more vulnerable people
- increasing law enforcement and intelligence cooperation with Afghanistan and Pakistan to support prosecutions in destination and transit countries
- building up a stronger constituency of Afghans and Pakistanis with a stake in regular migration by increasing narrow but valuable entrepreneurial, education and labour migration streams.

CHAPTER 6

People smuggling in Turkey

Ayşem Biriz Karaçay

Turkey is an essential global hub of migration and migrant smuggling. From Turkey, migrants travel along the Eastern Mediterranean route to enter the EU via Greece or Bulgaria by sea, land, or both. Due largely to the deteriorating situation in Syria, the number of migrants travelling this route has increased tremendously. In 2015, 885,386 entries were recorded along this route, although the numbers were far smaller in 2016, when 173,450 refugees and migrants entered Greece via Turkey by sea and a further 3,282 entered by land (UNHCR 2017). Used by Iraqis, Iranians and Afghans, as well as sub-Saharan Africans in recent years, this route has turned into a main corridor for the movement of mixed migrant flows, Syrians being the most recent addition.

The legal framework in Turkey

Turkey ratified the 2000 United Nations Convention against Transnational Organized Crime and its protocols (the Palermo Protocol) in 2003. At the national level, after additions to new Penal Code (no. 5237) in 2005, migrant smuggling and human trafficking are defined differently: while migrant smuggling is defined as a crime against the nation, human trafficking is prescribed as a crime against an individual.

Article 79 of the Penal Code defines migrant smugglers as persons who directly or indirectly engage in:

- the unlawful entry of a foreigner into the country or facilitating his stay in the country
- the unlawful transfer of Turkish citizens or foreigners abroad.

According to an amendment made to the code in 2010, even if the smuggling is not successful but is only attempted, it is still considered to have been a crime that has been committed. Therefore, at the operational level the current system allows for border guards to consider an attempt as a case of migrant smuggling in Turkey. The same article stipulates penalties of 3–8 years of imprisonment and significant judicial fines for migrant smugglers, while providing for coercive measures against legal entities involved in the smuggling of migrants.⁹

Article 80 of the Penal Code prohibits human trafficking both for sexual exploitation and for forced labour.¹⁰ It defines human trafficking as the act of recruitment, abduction, transportation, transfer or harbouring of persons for the purpose of forced labour, prostitution, enslavement or removal of body organs. Those who commit one of those acts shall be sentenced to imprisonment for a term of 8–12 years and to a judicial fine of up to 10,000 days (units of daily personal income, as decided by the court). A new draft anti-trafficking law has been prepared and is expected to be submitted to the Turkish Grand National Assembly soon.¹¹ Turkey also signed the Council of Europe Convention on Action against Trafficking in Human Beings in March 2009 and became a party to the convention on 2 May 2016.

On the regional level, after the EU finally granted Turkey the status of candidacy in 2000, Turkey prepared the National Action Plan on Migration and Asylum (2005) and the National Action Plan for Implementing Integrated Border Management Strategy (2006).¹² Accordingly, the tasks and the timetable for the alignment of Turkey's asylum, migration and border strategies with EU legislation were laid out, while a series of twinning projects was implemented on irregular migration issues, including integrated border management and combating migrant smuggling and human trafficking. In connection with these action plans and the accession process, a new Law on Foreigners and International Protection (Law no. 6458) came into force in Turkey in April 2013. In addition to regulating entry and stay conditions for foreigners in Turkey as well as all matters related to international protection, the new law also established the Directorate General for Migration Management within the Ministry of Interior as Turkey's new specialised migration management authority. The unit became operational in April 2014.

To control unwanted irregular entries, the EU progressed readmission agreements, deportation and detention facilities in safe third countries such as Turkey and improved international security cooperation and surveillance through agencies such as Frontex. Parallel to these externalised European migration policies, Turkey has signed readmission agreements first with Greece¹³ and finally with the EU,¹⁴ while multilateral collaboration between Frontex and various Turkish authorities has been enhanced in an effort to stem mixed migration flows across European borders. On 18 March 2016, the EU and Turkey reached an agreement 'to secure EU external borders by curbing illegal arrivals from Turkey and combatting migrant smuggling in the region'. According to the EU–Turkey Joint Action Plan, Turkey would return all new irregular migrants crossing from Turkey to the Greek islands as of 20 March 2016, resettle one Syrian to EU member states for every Syrian returned to Turkey from the Greek islands (a '1:1 scheme'), and take measures to prevent new sea or land routes for irregular migration opening from Turkey to the EU (Karacay 2017). By February 2017, 894 people had been returned to Turkey as part of the EU–Turkey Joint Action Plan; by January 2017, 386 had been returned under the already existing Greece–Turkey readmission agreement (DRC 2017b).

Human trafficking in Turkey

Turkey is both a transit country and destination country for women, men and children subjected to sex trafficking and forced labour, partly due to its geographical position and the socioeconomic opportunities in the region. Most trafficking cases identified by the Turkish authorities continue to be cross-border movements for sexual exploitation. The main countries of origin are Commonwealth of Independent States countries (Turkmenistan, Uzbekistan, Kyrgyzstan, Azerbaijan and Russia), as well as Georgia (ICMPD 2016). According to the *2016 Trafficking in persons report* published by the US Department of State (US DoS 2016a), most identified human trafficking victims in Turkey originally came from Uzbekistan or Kyrgyzstan. In addition, international and civil society organisations have called attention to the increasing vulnerability of displaced Syrians, Afghans, Iraqis and Iranians to trafficking in Turkey (DRC 2017b). While some Syrian girls have reportedly been sold into marriages with Turkish men, making them highly vulnerable to domestic slavery or sex trafficking, an increasing number of Syrian refugee children engage in street begging and also work in restaurants, textile factories, markets, mechanic or blacksmith shops, and agriculture, at times acting as the breadwinners for their families; some are vulnerable to forced labour (US DoS 2016a).

The number of human-trafficking victims has been growing substantially (from 21 in 2013 to 50 in 2014, 108 in 2015 and 151 in 2016), indicating an almost 45% increase from 2015 to 2016, although trafficking cases often go unreported (DRC 2017b). The *modus operandi* of human traffickers in Turkey is usually based on deception, in which women are promised jobs in the entertainment or care sectors (ICMPD 2016). The *2016 trafficking in persons report* (US DoS 2017a) indicates that foreign victims are offered cleaning and childcare jobs in Turkey but, upon arrival, traffickers force them into prostitution in hotels, discos and homes (DRC 2017b). Some migrant women in Turkey have also been sexually exploited through violence, the withholding of passports and IDs, and being forced to sign documents (ICMPD 2016). Recruiters and intermediaries were usually women of the same nationality as the victims (in many cases family members, acquaintances and neighbours), but not criminals involved in mafia-type organisations (DRC 2017b; ICMPD 2016). There were also some cases in which Turkish men who brought foreign women to Turkey by means of deception told the women that they would get married (ICMPD 2016).

When compared with human-trafficking networks, migrant-smuggling businesses in Turkey tend to be more randomly organised, mobile and spontaneous arrangements in which different people do diverse jobs (İçduygu & Akcapar 2016). In migrant smuggling, the migrant usually contacts the recruiter on their own and wants to cross the border; in human trafficking, the migrant is forced or deceived to act against their will. According to recent evidence, the most common type of exploitation in human trafficking is at a lower level, involving fathers, mothers, husbands, extended family, acquaintances and neighbours (ICMPD 2016). This is particularly in evidence in cases of forced marriage, sexual exploitation by means of forced marriage, child labour exploitation in agriculture, and exploitation of children through begging (ICMPD 2016). Moreover, in migrant smuggling, migrants are crossing borders, but in most of the cases revealed through an International Centre for Migration Policy Development research report human trafficking isn't a cross-border phenomenon in the region (ICMPD 2016). In general, the forms of trafficking in evidence begin when displaced people and refugees are already among host communities, as in Turkey. This means that most human trafficking occurs inside the borders of the host country, within the area in which displaced people are based, or between regions within the same country.

Migrant-smuggling networks in Turkey

Evidence from recent research suggests that migrant-smuggling operations in Turkey are arranged according to a network model (Europol 2016; Crawley et al. 2016; Demir et al. 2016; İçduygu & Akcapar 2016). That is, smuggling usually involves small-scale networks of individuals or groups who are efficient at organising piecemeal and ad hoc activities. Rather than well-organised criminal, mafia-type formations, a number of smaller, fluid, flexible and opportunist groups seem to be active in this business (Demir et al. 2016). Independent individuals or groups, specialising in particular aspects of the operation, combine and coordinate their efforts at various stages throughout the smuggling process (İçduygu & Toktas 2002). Migrants usually prefer a step-by-step organisation in which they themselves arrange the whole journey from their country of origin to the destination country, using their own networks and localities.

According to Europol (2016), the main actors taking part in these loosely connected migrant-smuggling networks are:

- *leaders*, who coordinate activities along a given route and retain much of the profit
- *recruiters* (organisers), who manage activities locally through personal contacts
- low-level *facilitators*, who provide various services, such as transportation or accommodation.

In this structure, the recruiters find the migrants and make local arrangements for a safe passage. The nationality of the recruiter and of the migrant usually match (for instance, Syrians recruit Syrians). Recruiters may work for different leaders but can also act as leaders and operate their own networks, in which case they are responsible for organisation in each leg of the entire trip. The recruiter usually organises low-level facilitators, such as drivers and skippers. Drivers transport migrants from hubs such as Istanbul and Izmir to either coastal provinces on the Aegean Sea or border cities in Thrace. For the sea crossings, skippers drive the boats to the final destination, which is usually a Greek island (Europol 2016). The money collector (a *hawala* shop) usually covers a large number of smugglers and non-smugglers. Shops that offer *hawala* services are usually legitimate small businesses, from mini-markets to legitimate local money transaction shops (such as Western Union).

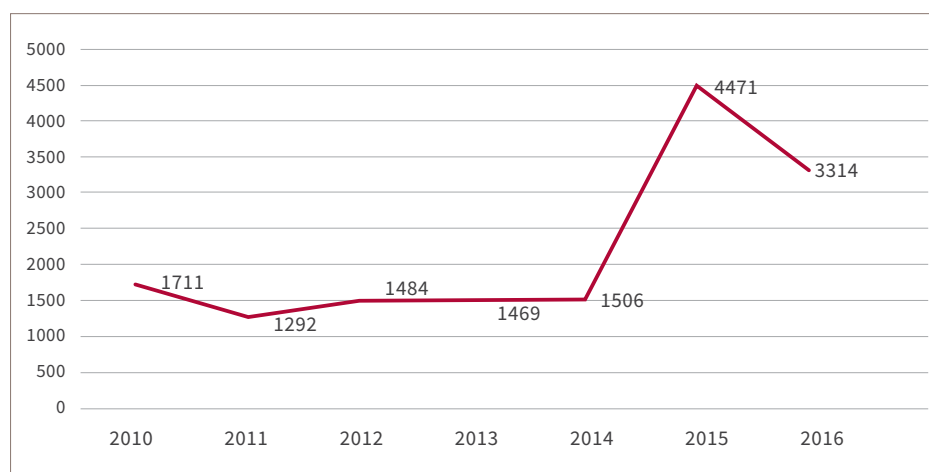
For passage via the Aegean coastline, migrants are taken to the coastal towns of İzmir, Balıkesir, Çanakkale, Aydın and Muğla, usually from Istanbul by minibus and often escorted by cars to safely escape from police checkpoints. In most cases, inflatable boats are used for sea transportation. For land border crossings, migrants are usually taken to Edirne Province on the Turkish–Greek border in Thrace. They cross the border hidden in vehicles, cross the Evros River in boats, or cross on foot through forests and fields.

Recently, migrants' and refugees' access to information through informal social networks and family and friends who have made the journey to Europe has been greatly enhanced (Huddelston et al. 2015). Social media (Facebook, Skype, WhatsApp and Viber) have become their main means of communication and sharing information about

their own experiences and networks (Karaçay 2017). Smugglers have also made an interesting shift in their communication strategy and are now advertising their services via social media (Demir et al. 2016; Çarmıklı & Kader 2016). New smugglers and ad hoc smuggling networks without any experience have emerged in recent years to gain from the highly profitable smuggling business. As a result, this once clandestine business has become an easily accessible sector, especially since 2015 (Demir et al.; Çarmıklı & Kader 2016).

Even though combating smuggling has been a high priority for Turkish authorities and has become even more urgent after the EU–Turkey statement in March 2016, neither enhanced border controls nor the wall constructed along the Turkish–Syrian border have been enough to curb the smuggling networks in the region (Figure 4). In 2016 alone, 3,314 smugglers were apprehended in Turkey (DRC 2017b). Although this was a reduction from 4,471 in 2015, it's still a large number compared to the period from 2010 to 2014, when average apprehension rate was around 1,500 each year.

Figure 4: Smugglers apprehended in Turkey, 2010 to 2016



Source: DRC (2017b).

The continued flow of people into EU member states such as Austria and Germany indicates that the increased surveillance and strict border controls have led to a reorganisation of the smuggling process, which now uses different routes and relies strongly on smuggling networks (Karaçay 2017). For example, during the 20 April to 18 June 2016 reporting period for European Commission's second report on the implementation of the EU–Turkey statement (EC 2016), a number of refugees had already arrived in Crete from Antalya in southern Turkey after smugglers had promised to take them to Italy. In June 2016, a boat carrying 65 migrants from Syria, Afghanistan and Pakistan was intercepted off the coast of Crete (BBC 2016). The fourth European Commission progress report stated that 18 boats carrying 1,500 migrants arrived in Italy from Turkey during the period from 28 September to 8 December 2016 (Karaçay 2017). These incidents are likely to deepen concerns about a new smuggling route that could bring more tragedies at sea.

Because of externalised EU policies that shift the burden to peripheral member states and third countries, the lack of diplomatic effort to address the root causes of regional conflicts, the lack of regular and safe access to Europe, and the Turkish authorities' failure to implement better social and cultural integration policies, more than 3 million Syrians are still under temporary protection. This leaves asylum seekers, refugees and irregular migrants with two choices:

- Continue to live under severe informal labour market conditions in Turkey.
- Try to reach Europe via shifting smuggling routes along the Turkish borders with Greece and Bulgaria.

These conditions have fostered the development of small-scale smuggling networks and created new hubs that are able to more easily evade detection. Meanwhile, social media have enabled greater communication between the networks, transforming the hubs into alternative routes from Turkey to Europe and increasing the networks' level of activity.

The European legal and institutional systems in place for asylum seekers and migrants have not ensured a fair sharing of responsibilities and burdens among countries and have not prevented people from using smuggling routes.

Recommendations

The right to seek asylum is a fundamental and inalienable right that must be respected by all. Asylum and migration policies should be based on human rights and include systematic human-rights impact assessments.

It's necessary to find alternative ways for refugees to arrive safely in the EU without risking their lives in unseaworthy boats and paying their life savings to smugglers. This will require a rethinking of visa requirements.

Turkey needs to redefine the status of Syrian refugees, address its integration policies, increase its efforts to draw Syrian refugee labour into the formal economy, and encourage vocational training for refugees. It should also enhance its cooperation and coordination with national and international agencies, intergovernmental organisations, academics and researchers in order to build upon and improve trust among those actors.

CHAPTER 7

People smuggling in post-revolution Libya

Mark Micallef

One of the most succinct and insightful descriptions of where Libya stands today vis-a-vis people smuggling comes from an insider: ‘Today in Libya you are either in the smuggling business or in the anti-smuggling business.’¹⁵

Farouk, 26, is a lieutenant in one of the most powerful coastal people-smuggling militias sending boats to Europe. When he talks of the anti-smuggling business, he’s referring to a group of militias that have taken it upon themselves to fight human smuggling in the hope of attracting funding from European states interested in shutting down the flow of migrants leaving Libya. Farouk’s point is that these armed groups are no different from his own militia. Both are after money with which to fund their agenda; they’re two sides of the same coin.

This scramble for resources by the armed groups that have come to govern much of Libya is at the heart of the profound transformation that took place in the human smuggling and trafficking industry after the revolution that overthrew Muammar Gaddafi. More than six years after the revolt, this dynamic remains a driving force shaping the industry today.

The following section discusses this development and sets it against the context of a historical view of human smuggling in Libya. The analysis is based on data obtained from a ground network of more than 60 informants, including politicians, law enforcement officials, activists, brokers and smugglers throughout Libya, Egypt, Tunisia, Sudan, Malta, Italy and Brussels since March 2015. The text also benefits from five field trips conducted during the same period in major smuggling hotspots across the country and four in-depth face-to-face interviews with people smugglers operating in western Libya in August 2016. The field trips were part of a project carried out with the Global Initiative Against Transnational Organized Crime (Micallef 2017).

The transformation of human smuggling after 2011

Irregular migrants have been crossing by boat from Libya to Europe at least since the turn of the century, but in 2013 arrivals to Italy from Libya soared to almost 45,000 people, or more than double the pre-revolution average of around 19,500 arrivals per year. The Libyan smuggling business only really started attracting the consistent attention of the international community towards the end of 2013, in the aftermath of two back-to-back disasters in which more than 360 people died off the Italian island of Lampedusa.¹⁶

People flows in the years that followed exceeded every expectation. In 2014, arrivals leapt to more than 170,000, and two years later Italy received an all-time record of 180,000 migrants, rescued or intercepted in the central Mediterranean.¹⁷

Publicly available assessments largely explained this surge through an analysis of what has taken place along the coast, especially the decision—originally taken by Italy but eventually endorsed by the EU—to move search-and-rescue assets closer to Libya in a bid to avert more accidents.¹⁸

Operation Mare Nostrum was launched in November 2013 as a direct response to the Lampedusa tragedies. For the first time, European maritime assets were rescuing migrants from an area just outside Libyan territorial waters, between 12 and 20 nautical miles off the North African coast.¹⁹ The established theory among various European security agencies was that this move made the journey easier and cheaper and consequently acted as a pull factor.

Undoubtedly, the move facilitated logistics and reduced costs for coastal smugglers. It also eased the entry into the market of a wave of inexperienced smugglers. However, the spike in numbers after 2013 was a symptom of a much wider and more profound change that was taking place across Libya's smuggling chain, right up to the southern borders and beyond.

The most obvious and immediate shift after 2011 was that the market was liberalised. The Gadaffi regime controlled the general smuggling economy—of which human smuggling at the time represented only a modest proportion—and used it as a means of control. Border communities that weren't reached directly by the regime's patronage were manipulated into compliance through the access they were allowed to have over the smuggling activity taking place in their territory. Compliant tribes and families were given access, and problematic ones were denied it (Shaw & Mangan 2014; Cole 2013).

Human smugglers always operated with some level of sanction from the regime, but their room to manoeuvre was limited. The regime and its mukhabarat (secret service) focused on containing the size and capability of smuggling gangs and the tribes that benefited from the activity and especially on breaking up inter-regional and transnational connections when they were identified.²⁰ This varied from the disruption of collaboration between networks operating in different parts of a smuggling route to tight policing of informal financial transactions, as is discussed below.

The swell of newcomers that flooded the industry after the end of the conflict in 2011 was a prime example of the collapse of state control. However, more far-reaching transformation was being carried out by more experienced criminals who had established themselves under Gadaffi's rule.

The new latitude to operate gave these smugglers the opportunity to broaden their reach beyond their immediate territory and connect better with counterparts servicing nodes further upstream. The result was a rapid shift from a reactive industry involving weakly connected localised gangs operating a relay system across Libya to a proactive model in which routes were consolidated and journeys increasingly started being centrally coordinated. Criminal syndicates started developing the ability to create their own markets, drawing in more clients from sub-Saharan hubs such as Khartoum in Sudan and Agadez in Niger.

Three interrelated elements were seminal to this transformation:

- *Transnational expansion:* Much like it did in the Aegean, the market of Syrian refugees in the early post-revolution years both fuelled the expansion of the business (largely due to their greater purchasing power in comparison to sub-Saharan Africans) and helped shape it (Reitano & Tinti 2015; Reitano & Micallef 2016). Demand for pre-paid, pre-planned packages, in which refugees paid for their whole journey from Istanbul to the shores of Zuwara, on Libya's west coast, laid the foundation for a development that can be now detected on virtually all irregular migratory routes into Libya and that reinforced the drive towards a centralisation of activity.
- *Hawala expansion:* Similar developments took place on the East African routes with highly connected Sudanese, Somali, Eritrean and Ethiopian *manadeeb* and *hawaladars*. The Libyan industry was better plugged into informal financial nodes such as Khartoum, Istanbul and Dubai. This development vastly expanded the industry's logistical capacity. The *mukhabarat* was especially active in disrupting this type of activity out of fear that it might be used to finance terrorism or subversive movements inside the country.
- *Capacity expansion:* Smugglers across Libya are now operating larger *makhzen* (warehouses), where they keep migrants while they coordinate logistics for the onward journey. The facilities are now closer to urban areas, meaning smugglers are now able to transfer migrants in greater numbers. All of these changes have drastically improved efficiency and reduced costs, including to the clients.

Militia control and the industrialisation of smuggling

By the end of 2012, a fourth defining development started taking shape: the gradual domination of the human-smuggling market by the militias that have come to control much of Libya. By that time, the post-revolution political process had already started faltering. Instead of working together to disarm militias, important political brokers were struggling to ‘defend and legitimise militias loyal to them and integrate them into the state security and military structures’ (Eljarh 2017:2; Mangan & Murtaugh 2014:15).

This provoked a feeding frenzy. The large militias that had direct access to politicians with their hand on the state purse were able to gain access to government funding streams.²¹ Those on the periphery had fewer opportunities and turned more heavily to the taxing of smuggling as a means to pay for the salaries and hardware needed to maintain or expand their spheres of influence.

The result was that by 2013 the early market liberalisation started to be undermined and access became governed by a classic protection racket. In the context of Libya’s present divisions, the interests of militias at times interface with familial, tribal and community interests, which gives the activity a measure of social legitimacy. At the very least, it’s seen as a necessary evil for the provision of a community’s security in the face of outside threats from competing or antagonist groups.

The effect of militia involvement can also be seen in the evolving structure of smuggling syndicates. As with most other major African nodes, the human-smuggling industry in Libya is stratified. Nonetheless, smuggling networks in Libya tend to operate more like consortiums than in pyramidal structures following a strict chain of command.

The first points of contact for migrants are often *samsara* (brokers) or, as they’re more commonly referred to in Libya, *manadeeb* or *wakil* (representatives). Typically, these brokers are of the same nationality as the migrants seeking the services of smugglers.

In theory, the broker should act as an independent guarantor of the agreement. However, most *manadeeb* nowadays work for particular smuggling networks and serve the networks’ interests before those of the client. With the route consolidation and business integration that took place in the industry over the past six years, especially with the advent of militias, *manadeeb* increasingly lost their status as independent agents and found themselves co-opted into smuggling syndicates.

The more powerful among them, such as Mered Medhane (an Eritrean) and Ermias Ghermay (an Ethiopian) (Squires 2015), managed to achieve *ras* (head) status, but it would be mistaken to characterise them as the masterminds of the activity taking place on Libyan territory. Ultimately, all foreign smugglers operating in Libya answer to Libyan powerbrokers who protect and underwrite their activity.²²

Some militias, especially on the coast, have started to run smuggling operations directly, using their own militiamen as labourers to secure warehouses, put together vessels before departures and transport migrants to embarkation points. However, there are still many instances where armed groups run a protection market, granting territorial access to several small competing smuggling gangs.

Despite the post-revolution upheaval in the industry, irregular migrants enter the country through the same key nodes in the southwest and southeast of the country linking Libya to sub-Saharan Africa, mainly via Sudan, Niger and Algeria. Similarly, the vast majority of departures still take place on the west coast, mostly from a stretch close to the Tunisian border.

Nonetheless, this bird’s-eye view of people-smuggling networks overlooks the dynamic way in which routes have been changing in reaction to shifting sociopolitical and military developments challenging the business. A prime example from 2016 was the collapse of activity in the coastal town of Zuwara, the main embarkation point in the west of Libya for the past 20 years.

A comprehensive discussion of the reasons why Zuwara has bucked the trend would require a dedicated paper. The halting of human smuggling in the town followed an unprecedented spontaneous crackdown by local authorities that was fuelled by grassroots mobilisation after the town's Berber population grew increasingly concerned with the threat that the stigma of human smuggling could pose to the community.²³

Not only was human smuggling no longer justifiable, but it had become a threat, and smugglers found themselves ostracised by Zuwarans. The advantage that Zuwara has over many other neighbouring towns lies in the cohesion of the community and the relative control that local authorities exercise over the armed groups operating in the town. Yet this social experiment remains a missed opportunity that international actors attempting to curb human smuggling in Libya have failed to acknowledge properly, let alone investigate in a bid to understand how it might be replicated elsewhere in the country.

In the absence of a functioning state, local engagement remains one of the few viable options for meaningful intervention in Libya. In the current climate, putting in place a cash-for-migration-control agreement similar to the one signed in 2009 between Italy and Libya—as the EU is currently attempting to do²⁴—is not only likely to fail but runs the risk of causing more harm.

The Government of National Accord, with which the international community is dealing, hardly controls the capital city, let alone the rest of the country. As it pursues border control and law enforcement cooperation, the EU is likely to find itself partnered with the same militias responsible for perpetuating the conditions that enabled the entrenchment of this criminal activity in the wider smuggling economy.

The alternative isn't to do nothing but to maintain a long-term focus on the national reconciliation process and in the meantime engage with Libya's local sociopolitical ecosystems, supporting legitimate economic enterprise and leveraging communities away from militias profiting from the activity.

CHAPTER 8

People smuggling in the Horn of Africa

Peter Tinti

This chapter focuses on migrant-smuggling networks facilitating the transnational movement of migrants and asylum seekers from the Horn of Africa to Europe (via north Africa), the Middle East (via Yemen) and southern Africa (via Kenya). It outlines the three major flows of irregular migration out of the Horn of Africa and offers insight into the size of the migrant-smuggling industry along each route. In addition to highlighting the role that corruption plays in facilitating irregular movements of people, it also considers the ways in which migrant smuggling and human trafficking intersect, and the extent to which smuggling networks constitute highly organised criminal operations or loose networks of freelancing entrepreneurs. The chapter concludes with regionally focused recommendations on what a sustainable approach to migrant-smuggling networks in the Horn of Africa might look like, in contrast to the one currently being pursued.

Key smuggling corridors out of East Africa and the Horn

At present, three main irregular migration routes out of the Horn Africa are facilitated by smugglers: to Europe via North Africa, to Yemen via Djibouti and Somalia, and to southern Africa via Kenya.²⁵ This chapter focuses on the itineraries that constitute the vast majority of cases of irregular migration along these routes. While some migrants and asylum seekers pay a premium for smuggling services that enable them to fly directly from the Horn of Africa to their country of choice, the vast majority of those on the move travel overland and by sea in order to reach their desired destination.

Among the major overland and maritime flows, migrants and asylum seekers from the Horn of Africa arriving in Europe have garnered considerable attention from policymakers, but they make up less than a quarter of overall arrivals in Italy from North Africa. In 2016, of the 181,436 migrants who entered Italy by sea from North Africa, only 22% were from the Horn of Africa. Of those, 22,718 were from Eritrea, 9,327 from Sudan, 7,281 from Somalia and 3,447 from Ethiopia (RMMS 2016).

The prices migrants pay for smuggling services vary significantly based on the nationality of the migrant, the modes of transportation involved, and the countries through which they travel. For migrants escaping the most repressive states, such as Eritrea, prices are considerably higher than for those leaving Ethiopia. In 2016, for example, migrants reported paying as much as US\$3,000–5,000 in order to be smuggled from the Eritrean capital of Asmara to Khartoum via Ethiopia. Ethiopian migrants, meanwhile, typically paid only a few hundred dollars to use some of the same crossings from Ethiopia into Sudan, for onward travel to Khartoum. From Khartoum and its environs, migrants of all nationalities typically pay US\$1,500–3,000 to reach northern Libya or Egypt, although those prices don't include extortion or ransom payments that are likely to be paid during the journey (Global Initiative 2017).

Although they receive far less media and policy attention, irregular migration flows from the Horn of Africa to Yemen dwarf the arrivals from the Horn of Africa in Europe, and consist exclusively of citizens from the region. In 2016, for example, a record 117,107 irregular arrivals were recorded in Yemen, 83% of whom were Ethiopians and 17% of whom were Somalis (RMMS 2016). These numbers have continued to increase despite the ongoing conflict in Yemen. Many of the migrants seeking passage to Yemen do so in hopes of reaching labour markets in the Gulf, most notably Saudi Arabia.

Migrants from Ethiopia pay smugglers to guide them through Djibouti or Somalia to coastal departure points, mostly north of Obock in Djibouti or in Bosaso and its environs in Somalia. Somalis join the flows of Ethiopians at the Somalia coast. Fieldwork carried out by the Global Initiative against Transnational Organized Crime (the Global Initiative) in Ethiopia, Djibouti, Somalia and Yemen indicated that migrants paid on average between US\$200 and US\$500 to journey from Ethiopia to Yemen via Djibouti in 2016. Based on those numbers, the migrant smuggling industry along the Ethiopia–Djibouti–Yemen corridor could be conservatively valued at US\$4.5 million per year. Similarly, migrants from Ethiopia reported paying between US\$100 and US\$200 to be smuggled from Ethiopia to Bosaso, and migrants of both Ethiopian and Somali origin most frequently cited prices between US\$100 and US\$250 for boat crossings to Yemen. Conservative estimates, therefore, would place revenues generated by migrant smuggling from Somalia to Yemen in the order of US\$10 million.

Migrant smuggling from the Horn of Africa to southern Africa, most notably to South Africa, remains underanalysed, and there have been relatively few attempts to understand the extent of the flows or to map the networks involved. However, a recent report by the Regional Mixed Migration Secretariat estimates the number of people leaving the Horn of Africa along the ‘southern route’ to be 13,000–17,000 per year. Although this number is down from the estimated 17,000–20,000 per year that a similar report suggested in 2009, the most recent report from the secretariat asserts that the size of the migrant-smuggling industry increased from US\$40 million per year in 2009 to US\$47 million in 2016 (Frouws & Christopher 2017).

As with the other two routes outlined above, smugglers facilitating flows from Ethiopia and Somalia into Kenya at the start of the ‘southern route’ rely heavily on the corruption of law enforcement, border authorities and state security officials to carry out their operations. In cases where state authorities aren’t directly involved in migrant smuggling, or profiting from payoffs from smugglers, they’re wilfully turning a blind eye to migrant smuggling activity, often devoting their limited resources towards other priorities, such as counterterrorism, internal security and regime stability (Global Initiative 2017).

Along all three routes, but particularly along routes to Europe via North Africa and the route to Yemen, the line between people smuggling and human trafficking can often blur. While there are documented cases of groups in eastern Sudan and Yemen engaging almost exclusively in human trafficking, as well as kidnapping and torture for ransom, a more common phenomenon is one in which smugglers abuse and extort migrants while facilitating their journey, thus taking on the roles of both facilitator and exploiter. This means their activities and their business models are somewhere between traditional conceptions of migrant smuggling and human trafficking.²⁶

Structure and design: transnational organised crime?

During fieldwork carried out by the Global Initiative in source, transit and destination countries, interviews with migrants, local and international law enforcement officials, aid and development practitioners, government officials and migrant smugglers indicated that migrant-smuggling networks facilitating irregular flows out of the Horn of Africa carry out their activities along a broad spectrum of organised criminality. At one end of the spectrum are highly organised crime syndicates operating across several countries from source to destination. At the other end are loosely linked criminal entrepreneurs who capitalise on smuggling opportunities as they present themselves (Global Initiative 2017).

For the routes linking the Horn of Africa to Europe via North Africa, Western diplomats and law enforcement officials posted to several different source, transit and destination countries told the Global Initiative that there are probably five to ten highly organised networks that have command and control centres in Europe, Libya, Egypt, Sudan, Ethiopia, Eritrea and Somalia. Other sources, however, suggested that such networks constitute a very small

segment of the migrant-smuggling industry, and that most networks facilitating flows from the Horn of Africa to Europe comprise loosely affiliated actors who specialise in moving migrants from one transit hub to the next.

To a certain extent, these competing narratives, which exist along other routes as well, may stem from the vantage point of those analysing the networks. Among those investigating migrant smuggling networks from the end of the smuggling chain and working backwards to source countries, there may be a tendency to perceive or assume structure and levels of organisation that might not be there. That is, smuggling networks can look more organised when the mode of analysis is a ‘reverse engineering’ of the networks in question.

Yet analyses that start with the beginning of the smuggling chain and try to analyse the networks at each step may be inherently biased towards viewing them as loose networks of freelancers with minimal organisation. Such analyses, often derived from interviews with migrants, often underestimate the extent to which order, structure and systemisation can be born out of volume and repetition. With so many people moving along each of the three main routes out of the Horn of Africa, and so much money changing hands, certain ‘rules’ and norms that govern the way smugglers interact with other smugglers emerge, and the assortment of actors involved form what can only be described as networks, even if those actors don’t perceive themselves as part of one.

What is clear is that these networks, regardless of their structure, are almost always multinational. Migrants often seek the services of smugglers through interlocutors, brokers and recruiters from their own community, but the actors that enable transnational movements consist of a mosaic of nationalities, ethnic groups, tribes and communities that operate along specific legs along key corridors and are uniquely capable of bypassing specific legal, physical, cultural, logistical and natural barriers (Global Initiative 2017).

A sustainable response to migrant smuggling

To date, regional responses to migrant-smuggling networks in the Horn of Africa have been driven by a Eurocentric framing of the ‘problem’. Through the Khartoum Process, aid and development budgets, military cooperation, security arrangements and even high-level diplomatic relations are all being recalibrated around the goal of stemming irregular migration flows. Yet, given the nature of the regimes in question, which are among the least democratic, weakest and most oppressive in the world, one has to ask whether finite political and economic capital should be devoted to highly securitised approaches that privilege law enforcement and border control, especially at the expense of promoting good governance, economic development (within which migration has a key role to play) and human rights (Reitano 2016).

This approach ignores the fact that migrants don’t need to be protected from smugglers. Rather, they seek the services of smugglers in order to escape predatory states and find viable livelihoods when their own governments have failed them. Migration, irregular or otherwise, is a lifeline and for many families represents a multigenerational investment. Smugglers in the Horn of Africa exist because they’re one of the only means by which asylum seekers and irregular migrants can reach safety and opportunity. Securitised approaches do little to address the underlying demand for smuggling services, and smuggler networks continue to flourish. Even worse, increased border controls almost always increase the vulnerability of migrants and asylum seekers by encouraging oppressive regimes to target them and driving the industry into the hands of the most criminal actors within the migrant-smuggling ecosystem (Tinti & Reitano 2017).

A more sustainable approach would eschew stricter border controls and invest in mechanisms that encourage economic migration within the region, offering economic migrants opportunities to lead productive lives through labour migration, and allowing asylum seekers access to formal educational and economic opportunities, rather than living in the shadows or being confined to refugee camps. In the short term, states in the region and their partners would do well to focus law enforcement efforts on the most abusive and exploitative actors within the migrant-smuggling industry, while acknowledging that irregular migration is likely to continue for the foreseeable future. The only way to sustainably combat migrant-smuggling networks is to render them unnecessary, which in the medium to long term means reinvesting in good governance, human rights and sustainable development (Reitano 2016).

CHAPTER 9

People smuggling in West Africa

Tuesday Reitano

People smuggling isn't a significant, or particularly lucrative, illicit industry in West Africa. For citizens from the 15 member states of the Economic Community of West African States (ECOWAS), freedom of movement is an entitlement enshrined in the treaty that created the regional economic commission in 1975. To relocate within the ECOWAS region requires no documentation beyond a nationally issued ID card. ECOWAS citizens hold the legal right to 'residence and establishment' in any one of the 15 ECOWAS states (ECOWAS 1993). An estimated 7.5 million West Africans (about 3% of the region's population) circulate within the subregion (World Bank 2015), accounting for an estimated 71–89.5% of the region's migration flow (Shimeles 2010; Ratha et al. 2011). Inter-regional migration meets the needs of the majority of the region's migrant stock. Even for those who move beyond ECOWAS, the greatest portion remain within immediately contiguous areas of North Africa. It's only a tiny percentage who will move off the continent towards destinations in Europe, the Gulf or further afield. Thus, while smugglers exist as an industry, the services they provide tend to be relatively low-level, ad-hoc advisory services that are provided for a low cost.

Across West Africa, smuggling is rarely a full-time occupation; rather, it's something that's done to boost income on an ad hoc basis. Drivers might add a migrant or two on the back of a lorry returning from a delivery to add profit to the journey. Local brokers in the community might offer the service of providing prospective migrants with advice on how and where to make a journey northward: which bus routes to take, how much to expect to pay in bribes, the telephone number of an honest associate who can transport the migrant as they move out of the ECOWAS zone, or a contact who might help with jobs or accommodation in a remote or alien city. In West Africa, people smuggling is hardly lucrative; nor is it considered to be a crime. Accordingly, the smuggling of West Africans has broadly not been profitable enough to warrant proper transnational criminal networks (Lacher 2012). Instead, the average smuggler is an embedded part of their community and provides a service that's seen as an important part of the resilience and advancement strategy for people living in a context of constant fragility.

Three notable exceptions exist. The first is the 'migration broker' (Alpes 2017), who provides a service that sits on the cusp of legality and illegality: a businessman helps aspiring migrants to meet the visa requirements for international travel. This assistance will blur from the legal (such as advising on opportunities, completing forms and ensuring compliance with regulations) to the illegal (such as procuring false identity papers and supporting sponsorship documents).

The second exception is a practice that fits more into the description of human trafficking than people smuggling: the recruitment of women for prostitution or sexual exploitation and the recruitment of both men and women for domestic or labour exploitation. There is a longstanding practice within the region and outside of it (extending to Europe and the Gulf States) of facilitators recruiting migrants into consensual arrangements to work for extended (and sometimes indefinite) periods of bonded labour to repay the costs of their initial employment.

Finally, there's now an increasingly organised set of smugglers working overland across the Sahara to help migrants exit the ECOWAS zone into the Maghreb. In this last case, the smugglers are needed because of difficulty of travelling across the desert on a journey too dangerous to be made without assistance.

This chapter examines each of the three phenomena and then concludes by noting that current policy responses, put in place to restrict migration, are increasing the demand for, and the size and profitability of, the migrant-smuggling industry, with a commensurate risk to migrants.

The migration broker

For the past decade, most irregular West African migrants would enter Europe legally and subsequently overstay their visas (de Haas 2009). The ability to successfully access legitimate opportunities is of paramount importance to a prospective migrant, and the role of the migrant broker is to assist in that endeavour. The broker facilitates what's sometimes known as the 'full-package solution'—a higher end service that secures the migrant the ability to fly from West Africa to their final international destination. Potential migrants pay a large sum in their country of origin to a smuggler who arranges the necessary intermediary services. This includes air tickets, the necessary documents for travel, such as passports and visas (forged or stolen), and sometimes the promise of employment. For a migrant, this is an expensive option; such services often cost several thousand euros per person, and the total fee is typically required in advance (UNODC 2011b; Reitano 2017). Some smugglers specialise in delivering forged passports in less than three weeks, whereas others focus on visa processing, often using contacts at some European embassies to accelerate the process (Benattia et al. 2015).

Due to the nature of full-package services, only relatively sophisticated and well-established smugglers can offer such migration solutions. The complex coordination of a range of specialised services can't be easily or reliably procured on an ad hoc basis. It also requires a capital base to purchase the necessary services or transport and to pay bribes. Bribes are needed for building trusted and secure networks that guarantee smooth transit, not only within the source country but also at the destination. The number of groups able to offer such services is limited. In smaller cities, it may be a single individual; in the larger cities of West Africa, where the economy and potential migrant pool are larger, a few sources might be available (UNODC 2011b).

Across West Africa, the offer of full-package smuggling services can be quite brazen. Small offices operating like travel agents will advertise the price of Schengen visas or migration to specific destinations in Europe, the Gulf or North America on posters and signs (UNODC 2011b). Smugglers have also been known to advertise on the internet and through social media (Huddleston et al. 2015). In some cases, genuine travel agents are used as fronts for full-package smuggling services (Reitano 2017). Building a reputation as a reliable and successful smuggler is important, given the sums of money involved, so full-package smugglers often use testimonials or referrals from successful migrants to secure new clients (UNODC 2011b; Reitano & Tinti 2015; Alpes 2017).

Bonded labour migration

The practices of bonded labour, child labour and forced labour are widespread in West Africa. They feature domestically in labour-intensive industries such as cocoa-growing, as well as in widespread practices such as forced begging, or even modern slavery, which is considered a cultural norm in Mauritania.²⁷ It's therefore unsurprising that this is often translated into migration practices outside of the region by means of bonded labour 'contracts' that place migrants in debt bondage for several years, and that this form of exploitation is met with a degree of acceptance in the general population. These complex examples blur the lines between people smuggling and human trafficking, complicating the policy response framework.

A well-established and well-documented example is of the facilitation of women from West Africa, most commonly Nigeria, to Europe for the purposes of prostitution. Smugglers offer young women (and sometimes minors) the opportunity to travel to Europe for work. This is typically not stated as being in the sex trade, although the prevalence of the crime means that women are increasingly aware of that likelihood. Before the journey, the woman

and the smugglers agree that she will incur a debt for the organisation of her travel and employment—empirical research has given a range of US\$40,000–100,000—which the woman will take from 1 to 3 years to pay back (Carling 2005; MIGRI 2015). In some cases, this period is extended as women incur additional ‘debt’ for their accommodation and healthcare while working. The general trend, however, is that the women do buy back their freedom eventually, choosing to stay in Europe and continue to work or to return home with some wealth. The practice has become heavily ingrained in the culture of certain Nigerian regions, and is sometimes even sponsored by the family. Moreover, the practice is facilitated for future generations by former migrant sex workers (Ellis 2016).

Similar schemes have been employed to move low-skilled workers into domestic work or into labour in the construction or tourism sectors in the Gulf countries (ADHRB 2014). Since 2015, however, the Gulf has shown less willingness to tolerate irregular migration, which has increased pressure on European routes.

The type, size and organisation of the groups, networks or organisations that facilitate smuggling with bonded labour differ greatly. The size and degree of organisation within a group may depend on the size of the operation, the number of people being trafficked, the financial strength of the group and how well connected it is with state officials in both source and destination countries. Some groups operate a loose network using mostly family members to recruit. Others are well structured, with access to professional service providers to forge documents, or corrupt officials who ensure protracted systems of exploitation over the migrant and the migrant’s family (Benattia et al. 2015).

Trans-Saharan smuggling

Niger is the main country in West Africa where there’s a large and well-established overland smuggling industry, which facilitates the movement of West African migrants towards Libya and Algeria. Since the 2011 revolution that ended the Gaddafi regime, departures from the Libyan coast towards Europe have been rising sharply alongside a highly active and coercive smuggling economy (Micallef 2017). The northern town of Agadez has served as the hub where West African migrants converge to make the journey across the Sahara. During the period from 2014 to 2016, an estimated 3,000 migrants arrived in Agadez on average per week in the hope of finding a convoy across the desert to Libya and then a boat onward to Europe (IOM 2017a).

Crossing the Sahara is extremely challenging and dangerous. Even with GPS technology and improvements in roads and other infrastructure, navigating the desert requires specialised knowledge. Across the West African Sahel, two competing groups, the Berber Tuareg and the African Tebu, largely control the human-smuggling trade. These are nomadic tribes whose involvement in the movement of people across the desert dates back centuries to the slave trade (Reitano & Shaw 2015). The Sahel region is becoming increasingly hazardous due to a proliferation of armed militia groups in violent competition motivated by both ideology and economics. In such an environment, reputation and access to weapons are extremely important in ensuring safe transit—this isn’t an open market that anyone with a car can enter (Tinti & Westcott 2016; Reitano 2017).

Migrants pay smugglers approximately US\$300 (€275) each for the trip from Agadez to Sebha, a journey of 1,600 kilometres that takes 4 or 5 days (Malakooti 2013; Lewis 2014; Reitano et al. Shaw 2014; Hinshaw & Parkinson 2015). The smuggler takes approximately 40% of the money; the rest is given to those arranging transport. Each vehicle in a convoy takes 25–30 migrants and thus earns the transporter US\$4,500–5,500 (€4,155–5,075). Each convoy grosses the transporters €185,000–370,000. From this money, they have to pay the drivers, who reportedly each earn US\$700 per trip (Hinshaw & Parkinson 2015), as well as fuel, security and bribery costs. According to a confidential 2013 report by the Niger anti-corruption body HALCIA, the local police demand 5,000–10,000 West African CFA francs per vehicle in a convoy (€7.50–15.00), and the military a further 5,000 francs (HALCIA 2013). It has been noted that these ‘taxes’ are a very important contribution to the operational budgets of the security services in the region (Tinti & Westcott 2016). The net profit to transporters for the route from Agadez to Sebha is estimated to be approximately €50,000 per convoy per week (Reitano et al. 2014; Reitano & Tinti 2015).

Convoys usually leave Agadez on Monday evenings, with anywhere between 50 and 100 vehicles. Until October 2016, they were escorted by the Niger military, for which service the smugglers had to pay the Niger Government (UNODC 2011; Reitano et al. 2014). However, following pressure from the international community to reduce the levels of irregular migration through Agadez, this military escort service was stopped (Tinti & Westcott 2016). Therefore, transporters now arrange their own security, using heavily armed patrol cars and lookouts to flank the convoy from when it leaves Agadez. As of late 2015, this profitable trade has been attracting bandits, and violence between the competing Tuareg and Tebu smuggling groups has been rising. Thus, heavier levels of weaponry and protection are now needed than in the past (Reitano 2017; Micallef 2017).

Libya's southern frontiers, specifically the Sahelian border zones, have long been largely uncontrolled and out of the reach of both the Libyan and Nigerien states, which has allowed the Tebu and Tuareg to travel freely throughout that area (Reitano & Shaw 2015). The smuggling of commodities, illicit goods and humans between the Sahel and the Maghreb is a deep-rooted feature of the Sahel–Sahara region and is deeply ingrained into the local economies of communities and border towns in northern Niger and southern Libya. While Agadez could be closed down as a hub with the right pressures and incentives from the Niger Government, that would reduce an important source of income for the northern populations and arguably risk greater unrest than that caused by the smuggling groups (Tinti & Westcott 2016; Tinti & Reitano 2016). Furthermore, given the levels of demand for migration and the currently open gateway through Libya, it's likely that the convoys would adapt to new routes rather than stop altogether.

Conclusion

In this case study, we've drawn a distinction between the three main smuggling modalities. In fact, human smuggling in West Africa is better understood as a spectrum along which individual smugglers offer a range of services spanning the three types. We have noted that the services of the human smuggler in West Africa—even within the ECOWAS zone and despite the freedom of movement policies within it—are increasingly required by West African migrants, due in a large part to the policies of states outside to the region.

Outside the ECOWAS region, border crossings remain difficult. Those seeking to pass through borders are subjected to informal taxes, discrimination, exploitation and even arbitrary detention. In the so-called 'transit' countries, increasing intolerance towards foreigners commonly takes the form of equating 'migrants' with 'criminals'—a phenomenon that's also fuelled by foreign states seeking to reduce irregular migration flows. Human trafficking, and especially child trafficking, continues to be a major concern because networks of smugglers are multiplying as legal paths of immigration (to Europe, Israel and the Gulf) are closing. Consequently, unsuccessful asylum seekers in the region find themselves without protection and become part of the huge category of 'irregular migrants'. They generally don't want to return home but don't have the means to have their residence status regularised. Finally, the growing number of migrants who have been expelled from Europe or intercepted at sea and returned to their country of origin face social exclusion because migration failure results in humiliation and shame.

Thus, while the people-smuggling industry in West Africa is relatively benign compared to the industry in some other regions, there are many reasons to be vigilant about its growing professionalisation. Arguably, however, responses to migration and smuggling in West Africa that continue to rely heavily on traditional tools of border enforcement and security exacerbate rather than reverse the trend. This will result in detrimental impacts on the safety of migrants, the rule of law and stability, both in the region and in countries along the major migration trails.

CHAPTER 10

People smuggling in North America

David Danelo

Migration is changing in North America. Through a series of executive orders, US President Donald Trump directed the US Department of Homeland Security to rigidly enforce immigration policies, requested funding to build a wall along the US–Mexico border, and decreed a ban on travel into the US from six predominantly Muslim countries. These policies have caused the migration landscape into Canada to appear more accessible to many irregular migrants; during the first quarter of 2017, asylum requests into Canada from the US increased threefold from the previous year (Malo 2017).

This chapter explains the common practices involved in the assistance of clandestine migration—people smuggling—into and through the US and Canada. Although the chapter discusses recent trends from available literature, media reporting and empirical data, the empirical data is limited. Narratives of treks through desolate deserts or night-time swims across the Rio Grande may provide colourful news clips, but those events don't accurately represent such a complex trade.

Who are the people smugglers?

Migration facilitators—people smugglers—are people who bring migrants into the US and Canada while evading state controls. They come from myriad age groups, genders, nationalities, ethnicities and identities. 'Migration is not a homogenous criminal activity,' writes Dr Sheldon Zhang (2016). 'The means of transportation, use of way stations and safe houses, the price of the trip, conditions of travel, and immigration status upon arrival can vary significantly from one smuggler to another.' Men, women and minors have all facilitated irregular migration from Mexico into the US and Canada.

Clandestine migration can involve travelling undetected under extreme conditions across vast distances. Some smugglers engage in atrocious practices that take advantage of the vulnerability of those in transit. Some migrants become the target of criminals of various kinds or sustain serious physical injuries, and unknown numbers of people die or go missing. Amid the tragedy, however, smugglers have hardly been the subject of sound empirical inquiry. Their experiences and identities, unless framed from a state-centred or criminological perspective, are mostly absent from migration policy discussions, leading to characterisations about people smugglers that are often flawed.

Organisation and client connection

Twenty years ago, brokers and guides—often called “coyotes” in US media—frequently packaged transit services that provided migrants with a single point of contact to whom money would be paid in exchange for a journey from a city in Mexico to one of a series of transit points on the US–Mexico border and on to a final US destination. Once a

portion of the fee was paid, this point of contact—typically a person with an established reputation in a Mexican as well as an American community—would then subcontract specific components of the journey (crossing the border, driving, housing) to various trusted intermediaries.

From then to now, the sustained increase in US border controls has contributed to changes in smuggling practices. Mobile phones and the internet have also decentralised the market. Rather than purchasing a full-service package from a people smuggler, migrants can use mobile phones and social media to shop throughout their journeys for documents, lodging, border crossings, transportation, supplies and employment opportunities from one point to another. While large smuggling packages can still be purchased, the fragmentation of people smuggling into smaller elements has become the norm throughout North America.

Since people smugglers in North America don't conform to a monolithic identity, they also rarely identify themselves with transnational criminal organisations. In 2015, an analysis of 3,254 smuggling cases in the US found that most convicted smugglers were US citizens who were either drivers transporting migrants across the border or north from the region, chequeadores (lookouts) responsible for early warning of Border Patrol agents, or caretakers of safe houses (Prine 2015). However, this statistic is misleading because it reports on convictions in the American judicial system, which fails to account for people smugglers who are either immediately deported or never apprehended.

Because the land border between Canada and the US is only sparsely patrolled, it's relatively easy to cross undetected. The St Lawrence River, which demarcates much of the eastern US–Canada border, freezes in the winter, making most of the northeastern US a viable crossing option, given the proximity of roads to the river for available pick-up points. Both US and Canadian citizens are involved in people smuggling from Canada into the US.

For migrants bound for Canada's large eastern cities, a popular transit point is the St Regis Mohawk Reservation, better known as the Akwesasne. The reservation, most of which is in upstate New York, straddles both sides of the border. Neither US nor Canadian border authorities are allowed to cross into the area for policing without permission from the Akwesasne Mohawk tribe—which is occasionally, but not routinely, granted.

Unlike in eastern Canada, smuggling from western Canada into the US isn't conducted through a reservation or across a river. Smugglers have succeeded in stowing people away on ships originating in Mexico and bound for British Columbia. Although the western US–Canada land border has significant patrolling gaps, the absence of roads close to the border makes crossing a greater challenge, especially in winter.

Smuggling, trafficking and transnational organised crime

People smuggling in North America is generally not tied to transnational criminal organisations or drug syndicates. Although people smuggling and drug smuggling activities have sometimes overlapped—particularly when young men serve as 'mules' to haul bales of marijuana across the border and through remote terrain—repeated studies have demonstrated that they are generally separate activities and opposites in structural design. People smugglers and drug smugglers may personally know each other, but drug smuggling is typically centralised through organisations that control transport routes both across the border and through the US. In contrast, people smuggling is a decentralised, community-based practice.

The increasing use of 'smuggling' and 'trafficking' as interchangeable terms in migration policy discussions wrongly suggests that people smugglers are the same as human traffickers. This is rarely the case. The practice of people smuggling, while occasionally oppressive, is often seen as a legitimate, necessary profession and even a heroic form of public service to communities. Unlike in human trafficking, which occurs without the victim's consent and is inherently exploitive, migrants want to be smuggled and seek out smuggling services. Although people smuggling is criminalised, there's little data indicating that people smugglers are controlled by or overlap with criminal syndicates. All the signs point to the opposite.

Interactions between drug and people smugglers on the US–Mexico border reportedly occur occasionally at illegal crossing points at the border. According to both migrants and migration facilitators, drug smugglers have been known to halt people smuggling, either by verbal order or physical demand, when transporting their own cargo into the US. ‘They told us we could not cross until they said so,’ one people smuggler told an interviewer, saying he had to wait at a safe house in Mexico until the drug smuggler informed him that they were finished. In another instance, migrants reported encountering drug smugglers along a route into the US and being told to ‘wait until tomorrow’ before continuing on the route.

Interactions with legitimate migration

Regardless of the method, conveyance or process, the one consistent theme that has emerged in the empirical data and academic literature available on people smuggling is community (Spener 2009; Khosravi 2010; Sanchez 2015; Zhang 2016). Because most facilitators in the people-smuggling chain perform specific tasks that involve significant risk and investment, recommendations and word-of-mouth reviews matter. Migrants ask relatives, friends and others on the journey about their experiences and opinions of specific smugglers. As in any relationship or contract with a service provider, trust and reputation matter.

Smugglers interact with licit migration activities and legitimate businesses in North America on many levels. A common interaction has been the use of travel agencies to obtain valid visas or identity documents that are used for crossing. Delivery service drivers for shipping companies, such as FedEx, UPS or DHL, have been known to collaborate with smugglers, as have bus and train operators, as well as drivers from ride-sharing companies such as Uber and Lyft.

People-smuggling practices inevitably emerge and grow together with the escalation of immigration enforcement, reflecting insufficient channels of mobility for specific groups of people worldwide. It’s almost impossible to examine ‘legitimate’ irregular migration without also discussing smugglers. For this reason, it almost seems obvious, yet necessary, to note the insufficiency of legal migration frameworks in response to demand across the globe. Worldwide, a pattern has repeated itself: increases in border controls bring higher demand for the services of people smugglers.

Corruption in people smuggling

Corruption of immigration authorities and border inspectors plays a significant role in people smuggling in North America. In 2012, an internal US Customs and Border Protection report indicated that between 10% and 12% of uniformed agents and officers had been reported to internal affairs on suspicion of corruption at some point in their careers.²⁸ Within the US State Department, the illegal distribution of valid visas remains a concern and, since 2003, has resulted in investigations and convictions of US consulate employees in the Mexican cities of Nuevo Laredo, Monterrey and Ciudad Juárez.

Although limited data exists on the direct influence of corruption on smuggling operations, the reports of drug smugglers halting people smuggling operations could suggest their direct knowledge of an agent who could be depended on to ignore illegal traffic. On the other hand, drug smugglers may simply want to avoid placing migrants (or people smugglers) at risk of suspected interference with their activities.

Disrupting people smugglers

From a law enforcement perspective, the decentralised nature of people-smuggling operations is both a strength and a vulnerability. Because smuggling comprises so many different methods and tactics, simplistic approaches to counter-smuggling (for example, building a wall) lack the agility, adaptability and creativity to compete effectively with smugglers. However, while decentralisation is a strength of people smugglers, it also brings vulnerabilities that state authorities can easily disrupt.

Even the most skilled people smugglers can have operations thwarted by misfortunes that could be mitigated through more robust resources or backup options. When vehicles break down, thunderstorms hit or snap checkpoints are established, smugglers rarely have a quick reaction force available to call for emergency relief. Enforcement officials, on the other hand, have significant logistics capabilities and reserves available. In the US, Border Patrol agents take pride in their tracking skills, aerial surveillance and rapid responses to illegal entry detections. People smugglers can compete against state controls using small teams of crossers, guides, drivers and lookouts, but interdiction authorities are often able to defeat their adversaries through persistent surveillance, effective equipment and overwhelming numbers.

Finally, smugglers are vulnerable to external pressure from public visibility. In April 2014, the regional US Border Patrol station in Messina, New York, claimed to have apprehended people from 112 countries who had entered the US illegally from Canada through the Akwesasne Mohawk Reservation. Although the Canadian border receives little media attention in the US compared to the southern border, American authorities have identified the Akwesasne as a prime risk for terrorist entry since the 9/11 terrorist attacks in 2001. The attention placed on the Akwesasne by law enforcement can momentarily disrupt smuggling in the region through patrolling around the reservation's perimeter. Unfortunately, that visibility has also created tension between Akwesasne tribal leaders and both American and Canadian authorities, which has reduced cooperation and sustained smuggling.

Conclusion

People smuggling isn't a simple phenomenon. Although Washington DC's policymakers often characterise clandestine migration facilitators as predatory men of colour, the reality is far more complicated. More often than not, people smugglers are just otherwise ordinary people who, for reasons of community loyalty, personal challenge and entrepreneurial ambition, help migrants to evade border authorities (Sanchez 2017).

During the Cold War, Americans celebrated people smugglers who helped defectors across the Berlin Wall as heroes. It's unsurprising, therefore, that many Latin American communities ascribe virtuous qualities to those who risk their own welfare to evade state controls.

The evolving and enduring nature of people smuggling speaks to the enduring demand for new legal pathways for migrants, refugees and asylum-seekers to find more stable routes to new homes. In North America, while the Trump administration's stringent immigration policies are curbing migration, they offer little in the way of long-term solutions. The border has always been, and always will be, a place where these contradictions are both united and exposed—for policymakers and people smugglers alike.

CHAPTER 11

People smuggling in Latin America

David Danelo

Latin America is an important and growing corridor for irregular migration. Policymakers and the public appear to believe that transnational criminal networks control people smuggling throughout Latin America, particularly through Mexico and Central America. Historically, however, migration throughout Latin America hasn't involved criminal associations but has been connected to a culture of migration in the Americas that has spanned centuries.

In 2017, as asylum possibilities have reduced and border controls have intensified in the US (and, to a far lesser degree, in Canada), Latin America—especially Mexico—has become both a corridor and a destination for irregular migrants. The Mexican Commission for Refugee Assistance expects at least 20,000 asylum petitions this year, and asylum applications have more than doubled since 2015, from around 3,000 to more than 8,000 last year (Alvarado 2017). Because Mexico's refugee law permits any person who isn't a Mexican citizen to request asylum, and because by the same law the commission must rule on all asylum requests within 45 days, Mexico is emerging not only as a country of passage for people smuggling, but also as a country that migrants seek to be smuggled into.

This chapter examines the dynamics of people smuggling in Latin America and provides a brief literature review of irregular migration in the region. Special attention is paid to Mexico and Central America, since they are the most commonly discussed areas where people smuggling takes place. The chapter also looks at migration and people smuggling from and through South America, where less stringent visa policies have played a role in migration both with and without people smugglers. Throughout Latin America, migration and people smuggling are connected to complex political and socioeconomic processes that are both constant and ever-changing, thus meriting further analysis.

Smugglers throughout Latin America

Accurate sources of data on people smuggling in Latin America are scarce. This is because of the covert nature of the practice, because descriptions of smugglers are often provided by state authorities, and because many migrants travel throughout Latin America using multiple smugglers for specific services or without using any smugglers at all. Since many smuggling narratives are constructed from migrant testimonies, Washington's policymakers often presume that people smugglers are necessary for irregular migrants to complete their transits (Sanchez 2017). Often, that isn't the case.

Brokering the services of a people smuggler is one tactic among many used by irregular migrants in Latin America. Many Central Americans travel across the Guatemala–Mexico border on their own or in small groups, not using people smugglers at all for the crossing in order to save money for a long trip through Mexico (Guevara 2015). Other migrants draw on social capital to find people smugglers, relying on services purchased in their countries of origin, from relatives or friends in the destination country, or in a direct response to emerging circumstances in the course

of their transits (Spener 2009; Sánchez 2015). ‘The prices paid to smugglers or brokers for individual services or all-inclusive journeys vary greatly along corridors,’ writes Dr Gabriella Sánchez. ‘Yet perhaps as a general rule, the costs involved in human smuggling are often dependent upon the distance, destination, route, and travel method hired, and are often negotiable.’

In South America, lax entry requirements in Brazil and, to some extent, Ecuador have made those countries transit points through the Americas for migrants from Africa, South Asia, the Middle East and the Caribbean (Álvarez Velasco 2015; Bengali 2016). Once in South America, smugglers assist transcontinental migrants with journeys north. From Brazil, a common route goes through Peru, Ecuador and Colombia (Poole 2017a). Travel into Panama, also an important transit country, can be accomplished either by boat from Colombia or by an arduous six-day hike through the Darién Gap.

Depending on the circumstances, irregular migrants may purchase travel from point to point rather than contracting for an entire package. Until recently, most irregular migrants transiting through South America were seeking to continue on through Central America and Mexico, with the goal of entering the US. Now, with the US aggressively enforcing immigration restrictions, many migrants are considering other options.

Mexico’s smuggling routes: both north and south

One illustrative example of how Central American migrants connect with people smugglers in Mexico comes from María, 34, a Honduran mother. In the summer of 2013, María, her husband and two of her three children left Honduras. They paid a series of fees to be smuggled north from one refugee camp to the next along Mexico’s migrant trail. Eventually, they purchased spaces as stowaways on a *La Bestia*, the colloquial name for cargo trains travelling north through Mexico. Entry onto a *La Bestia*, which often entails riding on top of train cars, was also controlled by people smugglers.

On 15 November 2013, while on a train bound for Veracruz, María’s husband fell from atop the train. His leg was severed and died from his injuries the same day. María and her three children stayed in Veracruz for several months and eventually purchased passage back south with people smugglers, using the same network of refugee shelters as she did during her trip north. But instead of leaving Mexico, she stayed for some months at a shelter in Tenosique, about 60 kilometres north of the Mexico–Guatemala border. From there, at the recommendation of aid workers—and, she says, many of the smugglers she had met on her journey—she applied for and received asylum in Mexico.

María’s dream destination was once the US but, in part because of her smugglers, is now Mexico. Now remarried with a fourth child, she is proud of her youngest’s Mexican citizenship. ‘I only got as far as the sixth grade,’ María said. ‘My daughter will be able to go to university here.’ Once she’s granted Mexican citizenship, María’s two pre-teen sons will also qualify for higher education benefits.

Smuggling and organised crime

In February 2017, at the Tenosique refugee shelter where María was twice in transit, around 500 people had arrived from Central America seeking aid. This was well below half of the monthly average during the three previous years. According to the shelter director, people smugglers charged migrants between \$500 and \$1000 Mexican pesos (A\$35–\$70) to travel on to ‘the next stop.’ These trips were facilitated through any number of mobility services, reportedly including officials within the Mexican military and police.

There’s little empirical evidence supporting the assertion that people smuggling in Latin America is directed by, or even connected to, networks of organised crime, in particular drug smuggling networks. Drug and people smugglers in Latin America may personally know each other, but drug smuggling is centralised through organisations that control transport routes different from the ones that people smugglers use. Although people-smuggling mechanisms, strategies and costs vary widely, they’re typically designed to either reduce or eliminate encounters with both law enforcement and criminal organisations, not to encourage or facilitate them (Martínez 2015; Sánchez 2016).

The South American smuggling route from Brazil is evidence of this. Although the shortest route to Panama is through Venezuela and southern Colombia, migrants who arrive in Brazil are guided from one smuggler to another along stops to the south, through Peru, and then back north, through Ecuador and northern Colombia. The most direct route to Panama from Brazil goes through regions where drugs are cultivated and produced, and access into and through those areas of Venezuela and Colombia is controlled by drug traffickers. If those groups also controlled people smuggling in Latin America, migrants would presumably funnel through those areas, saving considerable time and money for both migrants and smugglers. That the opposite occurs suggests what most migration and smuggling researchers have long concluded: people smuggling and drug smuggling are separate industries.

Corruption and legitimate migration

Throughout Latin America's migrant trail, a fine line exists between official corruption and routine business. Anecdotes and reports of bribes paid to officials for passage through a checkpoint or across a border, including incidents of physical or sexual exploitation of migrants by state officials, have been documented for many years (Casillas 2007; Nolen 2017). At the same time, instances of law enforcement agencies facilitating the safe passage of irregular migrants—with the support of communities through which migrants pass—have also been reported. The practical and legal uncertainties about the relationships between irregular migrants, migration facilitators and law enforcement leave a grey area when identifying distinctions between official corruption, people smuggling and legitimate migration.

Migration authorities throughout Latin America, and particularly in Mexico, have adopted a series of changing regulations, policies and orders that govern enforcement. In Mexico's case, large security programs define specific outcomes that must be achieved for renewals of annual funding, creating bureaucratic incentives to maintain an aggressive police presence at migration checkpoints. One example is the US State Department's 2014 *Plan Frontera Sur*, which designates US\$86 million in US funding to Mexico towards disrupting smuggling routes on Mexico's southern border (Boggs 2014). Although this money includes costs for increasing the military and police presence at that border, and although the specific spending plan is unclear, it appears that more resources are provided for bureaucratic and logistics support and less goes directly to the soldiers and police. In this environment, soldiers and police have been tasked with a mission of national importance, leaving many to adapt to the circumstances and improvise their own policies on the border. This includes interactions with people smugglers.

Consider the observations of Alfonso, 33, who is one of two frontmen for a hotel in Tenosique, Mexico. Working the counter in 24-hour shifts, he checks guests in and out, gives advice on restaurants and makes small talk with travellers. He works every other day, splitting time with a finance job for the local government. At the hotel, Alfonso makes 200 pesos (A\$15) a day. He makes slightly less in the government job because he shares duties with 10 people, all of whom, Alfonso said, rotate the work to preserve the status of holding an official job while also working elsewhere.

Since the autumn of 2014, migration police have patrolled Tenosique nightly. According to Alfonso, the presence of both military and civilian law enforcement had not increased violence; he said that the migration police very rarely give migrants or citizens in the city trouble. Alfonso said the police make him feel safe, and he didn't express any objections to their presence in the city.

But Alfonso also claimed that migration police are running their own smuggling services through Mexico—or at least through certain portions of Mexico's migrant routes. Alfonso's statements, body language and tone suggested that he supported the police doing this. From his perspective, the police were providing a benefit to both migrants and Tenosique residents. If the police escorted migrants to other shelters, then migrants had a higher level of security. Many migrants had stayed in Tenosique because they were afraid to leave for other parts of Mexico to seek asylum or look for work. According to Alfredo, the shelter director, the city's population has almost doubled since 2012. Consequently, police movements of migrants, regardless of whether or not migrants were paying the police for the effort, had popular approval in Tenosique.

The shelter director was less supportive about the bribes the police took to escort migrants north while on duty. ‘It’s a business,’ he shrugged. At the same time, he appreciated the police stationing a vehicle outside the shelter, which he said was there permanently for migrant safety. ‘They provide us with security, and we feel safer,’ he said, echoing Alfonso’s comments. During a one-hour period on a 2017 afternoon, three migrants spoke with police officers. This may have included negotiating services for movement north. Neither migrants, police nor the community seemed troubled by this arrangement; nor did any party seem to view the police receiving compensation for secure movement as corruption. Other than accepting lodging from refugee shelters, migrants distrusted services they didn’t pay for, and would probably not have accepted free transportation, fearing kidnap or assault.

Conclusion

Disrupting people smuggling in Latin America presents complex challenges. While it would be easy to say that anti-corruption incentives, increased border surveillance and stringent immigration policies would reduce people smuggling, all of those tools have been used throughout the region with little effect on migration. For many generations, migration has been fundamental to Latin American identity, and that’s unlikely to change any time soon.

Many Latin American countries, including Brazil and Mexico, have increased opportunities for legitimate migration—either through official policy or through unofficial practice. While that hasn’t eliminated people smuggling by any stretch, such practices do increase the possibility of safety for irregular migrants in transit. Ultimately, migrants in Latin America rely on people smugglers in response to wider structural inequalities that enable security and mobility for the privileged few. Until those inequalities are addressed, efforts to eradicate people smuggling by deterrence, criminalisation and legislation alone will continue to fail.

Author’s note: In February and March 2017, I completed field research in south and central Mexico, and the anecdotes in the chapter are from that field work. I gratefully acknowledge the scholarship, field work and research of Dr Gabriella Sánchez in the analysis and preparation of this report. For privacy protection, the names of interviewees have been changed.

CHAPTER 12

International law and human smuggling: trying to make sense of a convoluted framework

Isaac Kfir

The 21st century is likely to be remembered as the century of movement, as an unprecedented number of people move from one destination to the next.²⁹ A key challenge for states is how to deal with such a large movement at a time when there's growing popular opposition towards migrants. This reality is closely connected with concerns about the 'other', specifically when the 'other' is so manifestly different. When looking at Europe, for instance, one could argue that the reason for opposition to Europe absorbing irregular migrants is that many come from Africa and the Middle East and therefore are deemed 'not to fit' with Europe's social, political and cultural identity.³⁰

One option that governments have is to turn to the law, where they're able to distinguish between legal movement (based on the individual having been given permission to leave and enter sovereign states) and illegal (the individual leaves and enters states without having permission). When it comes to the latter, states claim that they're within their sovereign authority to evict those who enter or seek to enter their territory through illegal means, as long as that action does not undermine the principle of non-refoulement (from the French *refouler*, meaning to push back).³¹ To that end, states engage in what has been termed *non-entrée*, which is the imposition of restrictions and barriers on transportation carriers, such as airlines, that make it much harder for individuals to claim asylum—something that international refugee law seems powerless to challenge (Hathaway 1990, 1992; Gammeltoft-Hansen & Hathaway 2015).

Those who leave their country of origin and seek to enter another state without permission tend to rely on human smugglers—illicit, mostly well-established criminal networks that facilitate the movement of people for a profit—to enable them to reach their destinations.³² The smuggled migrant often mortgages their life, their livelihood and possibly those of their family in the hope of reaching a 'promised land' where they can work, send money home and have security.

The international legal regime that surrounds legal and illegal human movement is structured around such issues as freedom of movement,³³ freedom of navigation,³⁴ the enforcement mechanism that may be used against smugglers, and certain basic obligations to those who are being smuggled. People smuggling is a crime against the state, as it involves the illegal crossing of an international border, whereas in human trafficking the crime is against the person, in that the person who is trafficked is the one who is abused (Campana & Varese 2016).

The issue of people smuggling, which is often conflated with human trafficking even though there are important legal and ontological distinctions,³⁵ is intrinsically linked to myriad international and domestic hard and soft laws. Moreover, there's a discussion about whether the legal regime dealing with people smuggling should refer to human rights law, refugee law and migration law, or to criminal law (Gallagher 2009; Hathaway 2008).

Smuggling and trafficking are greatly affected by politics and society. In practice, victims of trafficking tend to receive tremendous sympathy,³⁶ which is rarely given to the smuggled migrant, who's often seen or described as an irregular economic migrant and not as a victim of human insecurity. Accordingly, there's a tendency to see smuggled migrants as 'queue-jumpers' or 'economic migrants' (terms that have no legal standing), not to mention as security or terrorist threats, which is why smuggled migrants generally don't come within the protection framework given to asylum seekers, refugees and trafficked people (Schloenhardt & Craig 2015; Trevisanut 2008).

The distinction between smuggling and trafficking is that the latter requires actions, means and purpose, which are understood as being linked to consent, exploitation and transnationality. Thus, the issue of force is generally not present in smuggling, as the smuggled migrant contacted the smuggler and sought their help to cross an international border. In trafficking, the action occurs:

by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.³⁷

To deal with smuggling, the international community adopted the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the UN Convention against Transnational Organized Crime (the Smuggling Protocol), which 'forms the basis for a collaborative approach to the prosecution and prevention of a dangerous, exploitative crime' (Schloenhardt & Stacey 2013). The origins of the 2000 Smuggling Protocol lie with the Italian Government and its goal of addressing the phenomenon of people smuggling, which became a problem for Italy in the 1990s. The protocol ultimately failed because the International Maritime Organization felt that it lacked the competence to address the problem, so the Italians joined the Australians to push for a new international instrument on organised crime. This led to the adoption in November 2000 of the UN Convention against Transnational Organized Crime, which was supplemented by three protocols, including one on smuggling (Attard 2016:223–224).

The Smuggling Protocol proved to be a watershed, as its purpose was threefold: first, to prevent and address the phenomenon of human smuggling; second, to encourage national and international cooperation in addressing human smuggling; third, to ensure that the rights of those smuggled are protected. Therefore, the protocol offered a definition of what amounts to human smuggling.³⁸ It also criminalised the activity and various other elements of the crime, such as what amount to illegal entry and fraudulent travel documents. It stated that migrants should not face criminal prosecution for having been the object of smuggling conduct (Bühler et al. 2016).³⁹ This element has been rather controversial because, after all, the smuggled migrant engages in a criminal act.⁴⁰

At its core, the relationship between the smuggled person and the smuggler is tenuous but favours the latter, who wields enormous power by being in control of the operation once the migrant begins the journey. For example, irregular migrants using the West Africa route, which culminates in Libya, from where they board boats to Europe, often tell stories of abuse on the route from their country of origin and claim that the smugglers kept them in warehouses, demanding that their families pay a ransom so that they could continue on their journey (Bühler et al. 2017; Abé 2013). This is why sometimes the line between smuggling and trafficking has become blurred. There's evidence that a person may begin their journey as a smuggled migrant but their treatment by the smuggler is tantamount to that meted out to someone who is being trafficked (HRW 2009:55–57; 2014: i–iii, 31–41).

The refugee dimension

Many migrants and refugees engage with people smugglers, so there's a tendency to present them as irregular economic migrants, as distinct from refugees, who many would agree deserve protection. Professor Guy Goodwin-Gill, one of the leading authorities on refugee law, asserts that the word 'refugee' has become a term of art, which is why there's a need to distinguish between the ways the legal and non-legal worlds treat the term (Goodwin-Gill 1996).

The legal world has a very specific definition for the term ‘refugee’: the person must meet the standards laid out either by domestic or by international legislation. According to the 1951 UN Convention Relating to the Status of Refugees, to meet the standard one must have a ‘[w]ell-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion.’⁴¹ The ‘well-founded fear’ element has two elements: a subjective and an objective test, which stem in part from the linguistic ambiguity that comes from the term ‘well-founded’ (Hathaway 2008). Individuals face different risks and threats and have differing perceptions of fear, so what amounts to a well-founded fear?

In deciding whether an applicant has a well-founded fear of being persecuted, the caseworker must consider the applicant’s state of mind (this is the subjective test), and the conditions in their country of origin (for example: what is its human rights record? how does it deal with dissent? how does it treat minorities?) (UNHCR 2011). One implication that emerges from the 1951 convention definition and these two tests is that a layperson might find it incredible that certain people receive refugee status, whereas others do not.⁴²

Interdiction

States have sought to address the increase in people movements by engaging in interdiction at sea, in which navies seek to prevent irregular migrants entering territorial waters, with the assumption that doing so doesn’t violate the UN Convention on the Law of the Sea (UNCLOS)⁴³ or the principle of non-refoulement.⁴⁴

UNCLOS suggests that states have the legal right to interdict and prevent the entry of vessels that are deemed not to be engaged in innocent passage⁴⁵ or that threaten the security of the coastal state.⁴⁶ Such vessels, sometimes described as suspected illegal or irregular entry vessels, pose various challenges to states. Interdicting those that carry irregular migrants, some of whom could be bona fide refugees escaping persecution, presents complex legal dilemmas (Schloenhardt & Craig 2015).

Questions naturally arise about the processing of the passengers, especially if it takes place on the high seas, leading to concerns about violations of the principle of non-refoulement. The non-refoulement rule, which is well-established in law, treaty, doctrine and norms and draws on international human rights law and refugee law, prohibits a state or an international actor exposing an individual ‘to a serious risk of irreversible harm’ (Goodwin-Gill 2011:444).

Conclusion and recommendations

This chapter has concentrated on three major legal regimes that affect human smuggling: the UN People Trafficking and Smuggling protocols, the UN Refugee Protocol, and UNCLOS.

The legal regimes have limitations, as there are inherent conflicts between them, even if states interpret their obligations in good faith. Evidently, the issue of illegal human migration is a key challenge to governments, which must operate within the international and domestic law while also being mindful about how their actions are viewed, understood and regarded by their citizens and others.

For example, successive Australian Governments have sought to deal with people smuggling but have been held in opprobrium as violating either the law or the spirit of the law. Clearly, there are no quick and easy solutions. People smuggling is a complex phenomenon. Understanding it requires an appreciation of why people choose to leave their homes and embark on an exceedingly difficult and dangerous journey, often with the knowledge that they’re unlikely to return to their homes anytime soon, perhaps not ever. As Madeleine Nyst and John Coyne point out in this report, Australia has become a desirous destination for many irregular migrants from South, Southeast and East Asia. This withstanding, for two years there has been no successful irregular maritime venture, most air arrivals are turned around at the airport, and the immigration detention centres have been progressively emptied.

First, one way for Australia to engage with the problem of people smuggling is to recognise that the way to dissuade and stop the flow of the irregular migrants is by first addressing the problem at its source. This may require Australia

to divert more overseas aid to many of its underdeveloped and politically unstable neighbours. Having a robust overseas development program aimed at promoting human security could go a long way to reducing decisions by many to abandon their countries of origin in search of economic and social security.

Second, appreciating the nature of the links between organised crime and human smuggling is crucial. The networks that facilitate people movements thrive on poor law-and-order regimes in the countries of origin and transit. Therefore, ensuring that well-functioning, honest law-and-order regimes operate across the region is vital. The continued implementation of the UN Convention against Corruption will be critical. At the same time, punishment for those caught engaging in human trafficking should increase.⁴⁷ To be deterred, people smugglers must know that facilitating the smuggling and trafficking of people in any way will lead to substantial punishment.

Third, Australia could lead the region, if not the international community, in exploring new ways to address the phenomenon of the irregular migration. By revisiting the issue of guest worker visas and communicating with the industry and agriculture sectors to determine what they need in their labour forces, Australia may be able to temper the illegal migration market. Intuitively, one suspects that people would rather come to Australia legally, do a job and return home, as opposed to entering Australia illegally and having to subsist in a grey world in which they have no rights or protection.

CHAPTER 13

Global people-smuggling networks, 2017: lessons and problems

John Coyne

As touched upon in Chapter 1, it's difficult, if not impossible, to fully understand global people-smuggling trends without at least acknowledging the context in which they operate. While, fundamentally, that context isn't overly complex, it does present a challenge for policymakers in irregular migrants' destination countries. Put very simply, the demand for irregular migration services is rising dramatically in origin and transit countries across the globe. Limited economic opportunities caused by such factors as ballooning youth populations, endemic corruption and unskilled labour surpluses are creating waves of irregular economic migrants who, under normal circumstances, have no likelihood of being accepted in formal migration programs. Declining human security conditions in Syria, Afghanistan, Central America, North Korea, Iraq and Iran are also creating mass migration crises of a magnitude that we've not seen since the end of World War II. Unfortunately, destination countries' refugee and migration programs can't meet the demand from those who want to migrate. Out of these fundamentals rises a growing demand for alternative migration pathways.

Increased global uncertainty is giving rise to nationalistic sentiment in many Western liberal democracies (Pazzanese 2017). This sentiment has been a catalyst for the entry of far-right movements into mainstream politics (Sheehy 2017). It's perhaps unsurprising that it's also driving fear-based isolationist rhetoric, which is contributing to public sentiment that's marginalising and criminalising irregular migration (Engbersen & Broeders 2009). In this often toxic policy environment, it's become commonplace for some members of governments to introduce value-laden terminology, including overmoralistic descriptive terms such as 'evil' (Balogh 2015), into public discussions about irregular migration and people smuggling. This has especially been the case in response to the human tragedies so often associated with people smuggling and irregular migration (AAP 2015). It has also become increasingly common for those opposed to hardline border security policy to criticise governments, and their public servants, for being 'evil' (Conifer & Anderson 2016; Manne 2016).

That kind of reductionist thinking has oversimplified the global problem of people smuggling (Bloch & Chimienti 2011). The public policy dialogue has involved the conflation of global people movements, people smuggling, human trafficking and organised crime. While the complexity of people smuggling sometimes means that such a conflation is justified, for the most part people smugglers are trading in dreams of a new life in a destination country.

This publication adds significantly more granularity to global discussions about people-smuggling networks by providing analyses of the organisation of those networks. While it isn't completely detached from the perspective of the victimisation of irregular migrants, it focuses, for the most part, on people smugglers. In this chapter, I use the observations and experiences of the authors to draw clear lessons and observations on border issues related to people smuggling that are relevant to Australian border security and the Department of Immigration and Border Protection (DIBP).

People-smuggling syndicates

In 1969, Donald Cressey formulated a hierarchical model of organised crime that has, until recently, dominated academic literature and law enforcement policy, including border security policy. Based on his analysis of Italian organised crime syndicates, Cressey viewed organised crime as hierarchical structures with highly centralised decision-making. Almost from its publication, Cressey's model was criticised in academic circles for defining organised crime in a far too simplistic manner that ignored the evidence that it's a much more networked activity (Edwards & Levi 2008). Despite a lack of supporting evidence, Cressey's model has remained central to organised crime policy and enforcement work the world over. Moreover, this prevailing construction of organised crime is used throughout the literature on people smuggling and policy to describe people-smuggling syndicates (Vermeulen et al. 2010:247).

Australian criminal intelligence perspectives on this prevailing model appear to have softened over recent years. In 2013, the then Australian Crime Commission (ACC) argued in its *Organised crime in Australia* report that 'People-smugglers use highly-organised international networks' (AAP 2013). By 2015, the ACC reported that people smuggling 'is generally carried out by flexible criminal groups or individuals, operating in repeated contractual arrangements, rather than in structured hierarchies' (ACC 2015). While it's common for intelligence assessments to change over time, the implications of this change in perspective are startling for DIBP, the Australian Border Force (ABF), the Australian Federal Police (AFP) and Operation Sovereign Borders (OSB) operational decision-making.

Collectively, the preceding chapters bring into doubt the presence of global, homogeneous, hierarchically controlled people-smuggling syndicates. The common experience across all of the case studies supports the hypothesis that there's an absence of structured hierarchies. Furthermore, the construction of people smugglers as organised criminals, or as members of organised criminal groups, appears to often be related to the predicate offence of people smuggling rather than more diverse criminality. Given that much of the Australian public policy dialogue on people smuggling seems to rest on value-laden constructions and assumptions of hierarchal syndicates, it might be appropriate for the Australian Criminal Intelligence Commission (ACIC, the successor to the Australian Crime Commission) to provide an open-source assessment on people-smuggling networks.

This report's analysis, and the changes in ACIC assessments of people-smuggling organisation, have significant impacts on Australia's current enforcement models or, rather, their underlying assumptions. While each chapter has highlighted the modular and opportunistic nature of people-smuggling ventures, these structures should not be viewed as any less complex a policy challenge than more traditional forms of organised crime. The recurring theme in all of the case studies is of complexity and contradictions. Arguably, the global, modularised people-smuggling ventures that form irregular migration routes to Australia may be more difficult to disrupt than hierarchical organised crime groups.

The absence of a specific hierarchical structure makes the permanent or semi-permanent disruption of people-smuggling corridors using targeted arrests difficult at best. The low requirements for skills and resources for entry into the people-smuggling industry globally and regionally ensure that voids created by low-level enforcement arrests are quickly filled by new participants.

Law enforcement disruptions do have an impact, but the full impact of such approaches will only come from targeting those network members whose skills aren't easily replaceable, especially those involved in transnational money flows or document forgery. Moreover, the strategic value of arrests by law enforcement in dissuading people from becoming smugglers, and thus in disrupting the networks, should be amplified by focusing on measures that degrade the attractiveness of participating in people-smuggling conspiracies: that is, the concept of 'high payoff, low risk' that's prevalent in the smuggling industry.

With that in mind, the following recommendations should be considered by Australian law enforcement and border protection agencies:

Recommendation 1: ACIC should consider preparing a public assessment, similar to the *Organised crime in Australia* reports, on people-smuggling syndicates and routes in the Asia–Pacific to further inform the public policy debate.

Recommendation 2: The ABF and AFP should enhance their management of serious crime methodologies for operational and investigations decision-making with a framework that ensures that lessons learned, intelligence, and emergent research on disruption impacts on people-smuggling networks are considered more frequently.

Criminality

In Australian political and policy circles, there's no ambiguity in statements such as 'People smuggling is a crime' (AGD 2017). For most Australians, it would appear that the prevailing perspective is that regardless of the people smugglers' motivation or role within a syndicate, people smuggling is a criminal activity. Furthermore, many Australians would probably argue that profiting from this industry isn't only illegal, but immoral. This clarity becomes a little more questionable when, given the human security dimensions, the issue of irregular migrants' engagement with people smugglers is considered (Phillips 2015). In contrast with these assumptions about the prevailing Australian public perspective, this body of research consistently revealed that these strongly held beliefs aren't shared by irregular migrants and people smugglers in many source and transit countries.

In many cases globally, people smuggling isn't viewed as a criminal activity by irregular migrants or their communities. Instead, people smugglers are seen in a much more positive light. They're perceived as offering a service that allows their customers to access a product that would otherwise not be available to them. In Africa and the Americas, people-smuggling operators bring much-needed, and otherwise unavailable, income into the community. In such places, even when people smuggling is criminalised, there's no guarantee that community or irregular migrant perspectives will change.

For Australia's border security officials, this has very significant implications for the development of public information campaigns, especially those developed to undermine irregular migrants' trust in people smugglers. Irregular migrants waiting to undertake the final stage of their journey to Australia are likely to have already used a range of people-smuggling services to arrive in Indonesia. This kind of familiarity ensures that they have well-established perspectives on people smugglers that are often difficult to shift because those perspectives are based on their personal experiences. Moreover, because of declining fish stocks and limited economic opportunity, many coastal communities across Indonesia not only accept, but desperately need, the income generated by the people-smuggling trade (FAO, n.d.).

Under these conditions, irregular migrants in Indonesian communities don't necessarily identify as victims of a crime. Consequently, undermining the trust between irregular migrants and people smugglers is difficult. Similarly, activating grassroots community action (like that seen in Libya) against people smugglers is especially challenging due to these established trust networks. Such an understanding of the networks and the people who operate them supports the argument for greater focus on designing information campaigns aimed at disrupting the trust between irregular migrants and people smugglers.

This research revealed that, while not all people smugglers are considered criminals, many are likely to have at least some links or associations with organised crime, whether it's as members of syndicates or as users of specialised criminal services. With stronger border controls, it's likely that the links between people smugglers and organised crime will increase. Complex border controls create high-profit opportunities for organised crime groups while simultaneously forcing irregular migrants to secure the assistance of costlier criminal capabilities to exploit policy or legal loopholes.

It's because of the 'wicked' nature of the irregular migration problem that public information campaigns aimed at discouraging dangerous maritime travel are important to Australia. Changing the attitudes of a distant, geographically and culturally diverse audience is no easy task, and is unlikely to be achieved through a single measure. People smugglers engage with their desperate clients using a narrative that focuses on a positive vision of

the future. In doing so, they underplay the risks involved in travelling to Australia by boat. The focus of programs to change this behaviour might be better directed towards the risk/reward decisions of migrants, rather than dealing with moral judgments about smugglers or their criminality. The government needs to communicate its messages to asylum-seeker and economic communities using a range of appropriate communication channels:

Recommendation 3: The Australian Government must continue to create a credible counter-narrative to try to prevent people from endangering their lives through participation in dangerous maritime travel through the ASEAN region. That counter-narrative needs to be focused on delivering an unbiased message to those at risk: that travelling to Australia by boat is dangerous and will not get them what they want.

Recommendation 4: Efforts to create a counter-people-smuggler narrative need to continue to be targeted at potential irregular migrant populations in source countries. That narrative should focus on an explicit message that irregular migration will not guarantee a life in Australia.

Flexibility

It could be argued that, globally, people smugglers operate in a ‘disorganised organised crime’ context. For many of them, the coordination of activities is indeed ad hoc and opportunistic. While there’s little doubt that there are some highly organised syndicates operating in various regions as ongoing transnational criminal enterprises, for the most part chapters 2 to 11 indicate that they operate in a hub-and-spokes model in terms of global travel corridors (for example, from Iran to Australia) and facilitation services (for example, documents financing). From a law enforcement perspective, the strategic targeting of key network nodes or facilitators may provide a high return on investigative investments (Morselli 2010).

Australia’s responses to emergent people smuggling and irregular migration developments are affected by a number of factors, including resources, public opinion, legislative powers, legal challenges and international obligations. In stark contrast, people smugglers are able to employ, individually and collectively across organisations and routes, a high degree of flexibility. In Australia’s case, this produced the rapid increase in the number of maritime ventures from 7 in 2008 to 60 in 2009 (ACC 2015). That change in people-smuggling behaviour was directly related to a change in Australia’s detention and resettlement policy. People smugglers and their clientele have shown the capacity to rapidly collect and disseminate information and react to changes in border security and policy legislation. However, that flexibility fades almost into insignificance in comparison with transnational serious and organised crime (TSOC) groups more broadly. As border security is increased and people smuggling is further criminalised, there are real risks that people-smuggling organisations will become more like TSOC or more engaged with it.

Entrepreneurial TSOC decision-making is supported by all manner of open-source information, including information on government strategies and operations. TSOC networks are then able to rapidly change operations or activities and take immediate action when an opportunity or unacceptable risk arises. Alarming, TSOC operating models allow for the rapid purchase and employment of new technology at a rate that far exceeds that available to government, and this brings with it significant challenges.

Recommendation 5: DIBP and ACIC should encourage the Five Eyes law enforcement group to establish:

- a virtual taskforce to target people smuggling’s professional facilitators
- a working group to provide a global analysis of TSOC involvement in people smuggling.

Recommendation 6: ACIC should develop an indicators and warnings system to monitor for the greater involvement of TSOC in people smuggling regionally. Such a system could consider indicators such as the complexity of payment methods, the level of coordination and the involvement of corruption.

Macro or micro—operational or strategic

During the early stages of this research project, some Australian migration policy professionals suggested that a qualitative ethnographic approach be used to describe the ‘typical stories of illegal immigrant cohorts along known smuggler routes to Australia’. Their argument was that the analysis of this kind of qualitative data would provide further insight into such factors as permissive environments, the roles of various smuggler elements, and the methods used by smugglers for travel and to conduct financial transactions. With such insights, Australian operational decision-makers would then be able to develop a better understanding of the people-smuggling experience so that direct recommendations for disrupting people-smuggling operations could be made.

The suggestion was initially rejected on the basis that there have already been a large number of very high-quality studies using that methodology. On review of this decision, and at the completion of all of the research chapters, the suggestion helped to inform the development of a separate hypothesis. Arguably, the research data contained in chapters 2 to 11 revealed a potential conflict between the macro dimensions of both the Australian and the global irregular migration problem and the micro-focused enforcement decision-making commonly used to inform people-smuggling interventions.

As argued in the previous section, the most effective enforcement interventions against people smuggling are likely to be those that are strategically focused on the problem, not its symptoms. While the qualitative research approach that was originally suggested would have resulted in recommendations for tactical or operational-level intervention, such an approach would probably not have had a sufficiently macro perspective to support the long-term disruption of smuggling routes. Rather, its success would have been related to specific syndicates. The disruption impact of interventions that are focused in this manner are for the most part fleeting because the people-smuggling market appears to have low barriers to entry.

In Australia’s case, DIBP and ABF’s focus is on border security. In a strategic sense, this is concerned with providing ‘strong national security’ (DIBP 2015). In a more practical sense, the strategic intent, at least in the maritime border environment, is to prevent irregular maritime arrivals. However, irregular maritime arrivals are a symptom of a wider policy problem involving global people movements. The clear suggestion, here, is that border security policy needs to be strategically focused on disrupting traveller routes, not just syndicates. The lesson may be that, while intelligence on individual networks is important, it’s critical that policy professionals in the public and not-for-profit sectors understand how syndicates and irregular migrants interact to create routes and channels.

It’s clear that there is a requirement for a review of how ABF and AFP operational activity is disrupting irregular migrant channels, as opposed to syndicates. Given the politicised nature of the irregular migration issue, such a review needs to be undertaken in a bipartisan manner rather than by the government or the bureaucracy.

Recommendation 7: The Joint Standing Committee on Migration should undertake an inquiry into how ABF and AFP operational activity is disrupting irregular migrant channels.

Targeting

Chapters 2 to 11 have provided a detailed examination of people smugglers’ activities, and to some extent their interactions with their irregular migrant clients. Analysis of those findings indicates that people smugglers, as a collective phenomenon, draw their strength from two different sources.

First, their primary strength (and, ironically, their primary vulnerability) is trust. The case studies reveal how the connections between people smugglers and their clients are almost always started by establishing trust through known brokers and cultural connections. It’s this trust between migrant and smuggler that must be undermined if irregular migration routes are to be disrupted.

The second source of strength relates to an observation in Chapter 5 (on Afghanistan and Pakistan) about whether people smugglers are selling a product or service. The issue is that irregular migrants are driven by the end product

and not by the people smugglers. While this sounds hardly novel, it's an important observation when we're considering how to discourage people smuggling. Irregular migrants engage people smugglers in high-risk activities because of the perceived benefits of doing so, measured as the final product. While many enforcement agencies talk about undermining the people-smuggler business model, the truth may be that they are in fact undermining the product, or the risk versus reward decision of potential migrants. As highlighted in Chapter 5, not all irregular migrants are equally vulnerable. The hypothesis here is that efforts to undermine the risk:reward ratio may be better targeted at less vulnerable irregular migrants.

The Community Conversation Project, launched in Ethiopia in 2014 by the International Organization for Migration, has sought to affect both factors indirectly (Seifeselassie 2017). The community-based pilot project aims to reach a wide range of areas prone to irregular migration. The program meets twice a month to raise awareness of the issues involved in irregular migration, engaging men and women of different age groups, returnee migrant workers, families of migrant workers and prospective migrants, and religious leaders and community influencers. The initiative undermines trust in people smugglers by challenging misinformation on the topic and helping communities reflect deeply on the social norms that perpetuate irregular migration. A similar project in certain migration hubs in Southeast Asia, funded by the Australian Government, could help in changing the attitudes and practices of particularly vulnerable communities about irregular migration.

Recommendation 8: The Australian Government should investigate the utility of the IOM's Community Conversation Project to target irregular migrants on their way to Australia.

Unintended consequences

In the Americas, Asia and the Middle East, informal migratory links have operated for centuries. In those corridors, economic migrants give little thought to issues such as citizenship and sovereignty. As movement along the corridors has become more difficult due to border securitisation and the criminalisation of irregular migration, the need for smugglers has increased. In chapters 7 and 8, Micallef and Tinti both observe that the disruption of these well-established people smuggling corridors could have significant economic, development and security implications. These informal migratory patterns, and their underlying economic pull factors, reveal that policy responses need to be cautious about the unintended consequences of enforcement-focused measures.

Recommendation 9: DIBP should continue to engage independent external policy advice on new border security policy proposals and initiatives in order to explore any potential unintended consequences. More specifically, think tanks could be engaged in the early stages of policy development in a 'red teaming' role.

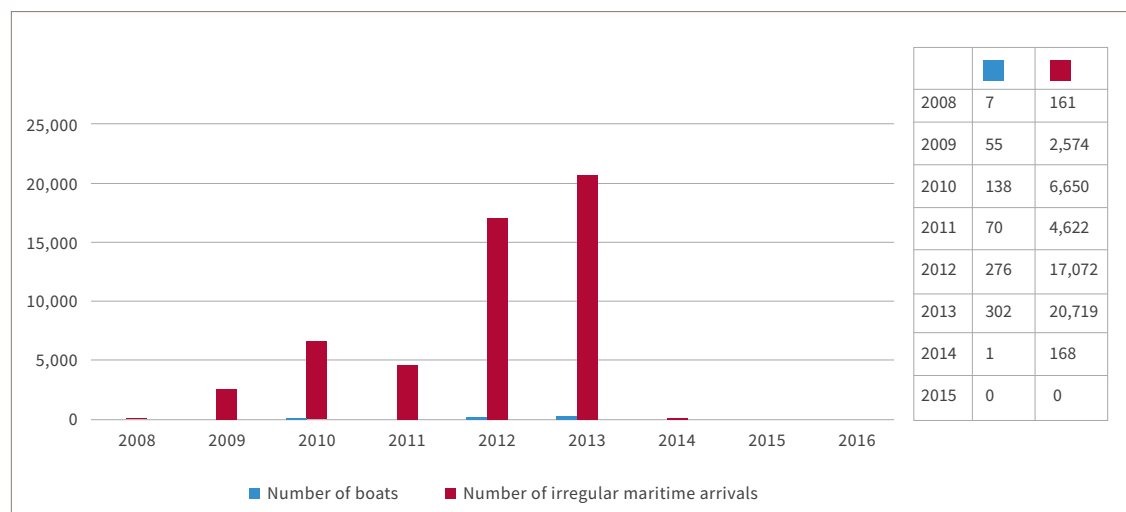
Fragile success

The other complicating factor in this policy challenge is that the successful disruption of people smuggling syndicates appears to have only fleeting impacts on smuggling trends more broadly. The evidence in many chapters of this report is that people smuggling is often viewed as a means of supplementing income, as opposed to being a professionalised activity. Unsurprisingly, then, there are limited barriers to entry into the people-smuggling market, and any void left by the disruption of one syndicate is rapidly filled by another.

The fragility of enforcement success against people-smuggling networks supports the argument for policies that are more strategically focused on disrupting business models. This kind of strategy must have a clear focus on achieving strategic affects, such as those highlighted in the previous sections of this chapter: seizing proceeds of crimes, undermining customer confidence in people smugglers (for example, through disruption of online recruitment and advertising), disrupting professional facilitators, having clear policies on the return of irregular migrants, or combinations of those affects. Australia's experience in this area has illustrated the need for a strong evidence base for such policies. Furthermore, experience has shown that they must involve a whole-of-government approach that brings the full complement of policy levers to bear on the challenge.

While OSB has been a resounding success in dramatically reducing the flow of irregular migrants to Australia by sea, that achievement is brittle. There are still large numbers of would-be irregular maritime arrivals living in Indonesia, waiting for current policies to change. There are also still many people smugglers, or would-be people smugglers, in Indonesia. OSB's continued success is predicated on ensuring that no irregular maritime arrival is settled in Australia. This is, of course, a policy position that neither DIBP nor OSB has control over. This point is made all too clear in Figure 5, which illustrates the increases and decreases in irregular maritime arrivals before and after previous government policy changes.

Figure 5: Irregular maritime arrivals in Australia, 2008 to 2016



Source: ACC, 2015.

If no irregular maritime arrival is settled in Australia, people smugglers have no product to sell. Moreover, continued success by OSB in preventing arrivals undermines irregular migrants' trust in people smugglers. Nevertheless, the Australian position on arrivals is under substantial international, political, legal and public pressure. Should any of those factors change the Australian policy on settlement, then arrivals are likely to increase.

Even when people-smuggling ventures are halted, as in the case of Australia, there remain a large number of irregular migrants who, for their own safety and for economic reasons, are willing to engage in high-risk activity to get to their desired locations. Without supporting policies, the underlying pull and push factors for irregular migration continue and success against the smugglers remains fragile and fleeting.

Recommendation 10: DIBP should develop policy measures that continue to undermine trust in people smugglers along the length of Australia's irregular migration routes, with a particular focus on less vulnerable cohorts of irregular migrants.

The decentralised yet globally networked nature of people-smuggling activities, fuelled by unprecedented global people movements, ensures that this challenge will continue to be highly resilient in the face of policy interventions. However, through analysis of the organisation of those networks, as provided by this report, policymakers can develop a better understanding of the various contextual elements of people-smuggling operations that are vulnerable to disruption.

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NOTES

- 1 R v. Chaudhry (unreported, District Court of Western Australia, Deane DCJ, 7 April 2006, as cited in Barker (2013).
- 2 Attorney-General's Department and Australian Federal Police, 'Submission to Senate Standing Committee on Legal and Constitutional Affairs', Inquiry into detention of Indonesian minors in Australia, June 2012, p. 5, as cited in Barker (2013:36).
- 3 For more information on this operation, see DIBP (n.d.).
- 4 The terms 'people smugglers', 'agents', and 'migrant smugglers' are used interchangeably throughout this chapter.
- 5 Similarly, when boat travel from Indonesia to Australia was common, it was Indonesian men who worked as the crew members on the boats, even while Afghans played prominent roles in coordinating ventures.
- 6 Interviews with Afghans who travelled to Europe, May 2017.
- 7 We're leaving aside here the foreign policy question of how much migrant smuggling should be emphasised if that requires trade-offs against other interests.
- 8 Interview, May 2017.
- 9 Article 79 indicates that people who are directly or indirectly involved in the unlawful entry of a foreigner into the country or who facilitate the foreigner's stay in the country, or who unlawfully transfer Turkish citizens or foreigners to abroad, are sentenced to 3–8 years imprisonment and punished with a punitive fine of up to 10,000 days (units of daily personal income, as decided by the court). In cases of the commission of this offence by organised groups, the punishment is increased by one half. In cases of the commission of this offence within the frame of activities of a legal entity, the court may decide on the imposition of security measures specific to the legal entity.
- 10 Article 80 was amended in 2016, and 'forced for prostitution' is now included in the description of human trafficking. Article 80 indicates that people who provide, kidnap, shelter or transfer a person from one place to another unlawfully and by force, threat or violence or misconduct of power or by executing acts of enticement or taking advantage of control over helpless people in order to force them to work or serve for others or to send them away where they are treated almost like a slave, are to be sentenced to 8–12 years of imprisonment punished with a punitive fine of up to 10,000 days. In such cases, the consent of the victim is considered void. In cases of kidnapping, providing, sheltering or transferring a person under the age of 18, the offender is subject to the above punishments even if the offender did not execute the acts causing the offence. Security precautions are applied to legal entities committing such offences.
- 11 Until the adaptation of a single frame law (the Law on Combating Human Trafficking and Protection of Victims), the Turkish authorities used regulations to provide the necessary legal base for combating human trafficking. The Regulation on Combating Human Trafficking and Protection of Victims, which entered into force in March 2016, was a step forward in ensuring assistance to and protection of victims of human trafficking.
- 12 Subsequent to these action plans, two new bureaus of the Ministry of Interior (the Asylum and Migration Bureau and the Integrated Border Management Bureau) were created to follow up the roadmap within the framework of the action plans.

- 13 Turkey has now signed bilateral readmission agreements with Greece, Syria, Romania, Kyrgyzstan, Ukraine, Pakistan, Russia, Yemen, Nigeria, Bosnia-Herzegovina and Moldova.
- 14 According to the agreement, the readmission of third-country nationals will enter into force three years after signature. If the requirements are met, this will be followed by visa liberalisation for Turkish citizens in Europe.
- 15 Interview with Farouk (not his real name), a high-ranking member of a west coast militia (identifying the location might identify the interviewee) involved in human smuggling. The interview took place face to face in August 2016.
- 16 Historically, many northern EU member states saw irregular boat migration as a geo-specific problem related to the Mediterranean. That changed in 2015, when central and northern European states were faced with a direct influx of asylum seekers into the EU through the so-called Balkan route after entering Greece from the Aegean. Before the revolution, Italy had attempted to take charge of the situation through a bilateral agreement signed with Libya in 2009. The €5 billion 'friendship and cooperation' agreement signed by then Italian Prime Minister Silvio Berlusconi and Muammar Gaddafi included an understanding that Libya would help curtail the flow of migrants to Italy. In the two years that followed, the number of migrants crossing fell dramatically, from 37,000 in 2008 to just 4,500 two years later.
- 17 During 2011, some 64,000 people crossed, but many analysts believed this to be an anomaly caused by the mass exodus after the revolution.
- 18 In October 2014, the UK crystallised the argument against Italy's decision to deploy Operation Mare Nostrum, a search-and-rescue operation outside Libyan territorial waters, in the wake of the Lampedusa tragedies. Mare Nostrum was the first naval operation with a priority of search and rescue and not border patrol. Theresa May, who was then the Home Affairs Minister, justified Britain's decision to withdraw support for EU-financed search-and-rescue operations on the basis that they encouraged more people to attempt the crossing (Travis 2014). Britain thus put on record the prevailing thinking of many other member states and their intelligence and military advisers. See also House of Lords (2016). A classified six-monthly report for the EU NAVFOR MED Operation Sophia was leaked by Wikileaks.
- 19 Before Operation Mare Nostrum, migrants were equipped by smugglers with a satellite phone per vessel and instructed to make a distress call after entering international waters. However, journeys could take between 48 hours and several days. The relocation of the rescue zone reduced that journey time to a more or less consistent 6 hours from the Libyan coast.
- 20 Interview with security source formerly based in Tripoli, November 2016, Malta.
- 21 This should not be understood to mean that armed groups that are on the state payroll aren't involved in smuggling activity; many are. However, the involvement of militias is more pronounced and consistent outside of the capital.
- 22 During 2016, information obtained from Eritrean and Ethiopian diaspora networks as well as sources on the ground in Kufra, Sabha, Bani Walid and Garabulli indicated consistently that competing diaspora networks, including those headed by Mered Medhane, are being made to share facilities such as vehicles and warehouses in different parts of Libya. In other words, the migrants of two (sometimes more) competing smugglers end up meeting at various nodes in the desert, in the transit hubs, at the coast, and travelling in the same convoys or boats. Cooperation is clearly forced on these manadeeb by more powerful Libyan smugglers.
- 23 For further discussion of the events that took place in Zuwara between 2015 and 2016, see Porsia (2015).
- 24 EU leaders have endorsed a cooperation agreement signed by Italy and Libya's internationally recognised Government of National Accord. The EU is effectively underwriting the deal with €200 million that will be paid out to Libya as an initial grant in exchange for cooperation to curb the flow of migrants crossing to Europe. See also European Council (2017).
- 25 For the purposes of this paper, the term 'Horn of Africa' is used to refer to Somalia, Ethiopia, Eritrea and Djibouti, as well as Sudan, which is often referred to as part of the 'greater Horn of Africa'. When I refer to migrants and asylum seekers from the Horn of Africa, that should be understood to mean citizens from Sudan as well.

- 26 For more on these blurred distinctions, see RMMS (2015).
- 27 Global Slavery Index, 2016.
- 28 I reviewed the statistics in this 2012 official report, which remains unavailable to the public, at the time I was Customs and Border Protection's Director of Policy and Planning.
- 29 In 2015, the number of international migrants reached 244 million, which amounted to a 41% increase since 2000. The figures indicate that two out of three international migrants lived in Asia or Europe, and that about half of all international migrants worldwide were born in Asia (Harrigan & Sok-Min Seo 2016).
- 30 Two good historical examples are the way European states absorbed Hungarian refugees in the aftermath of the Soviet invasion in 1956 and the way Britain responded to the Chinese refugee crisis in Hong Kong following the defeat of the Chinese nationalist government in 1949.
- 31 See, for example, UNHCR (1977); *Othman (Abu Qatada) v. United Kingdom*, app. no. 8139/09, judgment of 17 January 2012 ('Qatada'). See also *Chahal v. The United Kingdom*, 70/1995/576/662, European Court of Human Rights, Council of Europe, 15 November 1996; *Suresh v. Canada (Minister of Citizenship and Immigration)*, [2002] 1 S.C.R. 3, 2002 SCC 1, Supreme Court, Canada, 11 January 2002; Michaelson (2012).
- 32 Notably, the Australian Anti-People Smuggling and Other Measures Act 2010 removed the profit element from the definition of smuggling. It also created the offence of 'supporting people smuggling'.
- 33 Universal Declaration of Human Rights, 10 December 1948, 217 A (III), Art. 13; International Covenant on Civil and Political Rights, 16 December 1966, United Nations, Treaty Series, vol. 999, p. 171, Art. 12.
- 34 'The high seas are open to all States, whether coastal or land-locked. Freedom of the high seas is exercised under the conditions laid down by this Convention and by other rules of international law.' UN Convention on the Law of the Sea (UNCLOS), 10 December 1982, UNTS 3, entered into force 1994, Part VII, Art. 87.
- 35 There are two distinct mechanisms: the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the UN Convention against Transnational Organized Crime and the UN Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the UN Convention against Transnational Organized Crime.
- 36 President George W Bush, for instance, declared that 'trafficking is nothing less than a modern form of slavery; an unspeakable and unforgivable crime against the most vulnerable members of the global society' (Bush 2002).
- 37 Protocol against the Smuggling of Migrants by Land, Sea and Air, Art. 3(a)
- 38 "Smuggling of migrants" shall mean the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident'; Protocol against the Smuggling of Migrants by Land, Sea and Air, Art. 3(a)
- 39 Protocol against the Smuggling of Migrants by Land, Sea and Air, Art. 5.
- 40 Protocol against the Smuggling of Migrants by Land, Sea and Air, Art. 6.
- 41 The full article is, '[O]wing to well-founded [sic] fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.' UN General Assembly, Convention Relating to the Status of Refugees, 28 July 1951, UN, Treaty Series, vol. 189, p. 137, Art. 1A(2).
- 42 Contrast, for instance, *CQG15 v. Minister for Immigration and Border Protection* [2016] FCAFC 146, where credibility was key to rejecting the application, and *ARG15 v. Minister for Immigration and Border Protection* [2016] FCCA 1086, where the court indicated that credibility had little or limited probative value.
- 43 UNCLOS allows a state to exercise jurisdiction over a ship in the high seas only in exceptional cases, such as when stopping human smuggling (Seunghwan Kim 2017:61). See also 2000 Protocol against the Smuggling of Migrants by Land, Sea and Air, Art. 8

- 44 Article 33(1) of the Convention Relating to the Status of Refugees prohibits member states from expelling or returning a refugee 'to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion'. See also UNHCR (1997).
- 45 UNCLOS, UNTS 3, entered into force 1994, Part III, Art. 21.
- 46 UNCLOS, UNTS 3, entered into force 1994, Part III, Art. 25(3). Seline Trevisanut, for instance, writes 'the coastal state has no jurisdiction on the passing of the vessel unless it considers the presence of unlawful passengers, the undocumented refugees, as a breach of the conditions for enjoying the right of innocent passage' (Trevisanut 2008:220).
- 47 In July 2017, Indonesia extradited Ahmad Zia Alizadah, an Afghan national, to Australia. Alizadah is accused of coordinating illegal boat arrivals in 2010, for which he earned around \$US2 million. It took two years to arrange his extradition (Belot & Iggulden 2017).

GLOSSARY

Asylum seeker: A person who seeks safety from persecution or serious harm in a country other than their own and awaits a decision on their application for refugee status under relevant international and national instruments.

Border management: The facilitation of authorised flows of people, including businesspeople, tourists, migrants and refugees, across a border, and the detection and prevention of irregular entry of non-nationals into a given country.

Covert entry: Covert people-smuggling operations aim to take people to a destination country clandestinely so that on arrival they may enter and establish themselves there undetected.

Country of origin: The country that's the source of migratory flows (regular or irregular).

Facilitated migration: The fostering or encouragement of regular migration by making travel easier and more convenient. This may take the form of a streamlined visa application process or efficient and well-staffed passenger inspection procedures.

Forced migration: A migratory movement in which an element of coercion exists, including threats to life and livelihood, whether arising from natural or human-made causes (for example, movements of refugees and internally displaced persons as well as people displaced by natural or environmental disasters, chemical or nuclear disasters, famine, or development projects).

Hawala: A popular and informal value transfer system based on the performance and honour of a huge network of money brokers, primarily located in the Middle East, North Africa, the Horn of Africa and the Indian subcontinent, operating outside of, or parallel to, traditional banking, financial channels and remittance systems.

Irregular migration: Movement that takes place outside the regulatory norms of the sending, transit and receiving countries. There's no clear or universally accepted definition of irregular migration.

Migrant: The IOM defines a migrant as any person who is moving or has moved across an international border or within a state away from their habitual place of residence, regardless of the person's legal status, whether the movement is voluntary or involuntary, what the causes the movement, or what the length of the stay is.

Mukhabarat: Arabic term for intelligence. For the purposes of this report, it refers to the Libyan secret service.

Push and pull factors: Push factors (such as economic, social, or political problems) drive people to leave their country. Pull factors attract them to a destination country.

Overt entry: Overt people-smuggling operations involve people who are seeking to make themselves known to authorities on arrival in the destination country in order to seek asylum.

Smuggling: 'The procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident' (Art. 3(a), UN Protocol AGAINST the Smuggling of Migrants by Land, Sea and Air, supplementing the UN Convention against Transnational Organized Crime, 2000). Smuggling, as opposed to trafficking, does not require an element of exploitation, coercion, or violation of human rights.

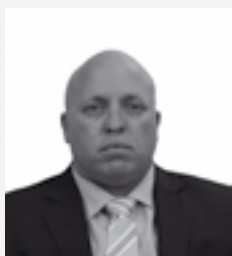
Trafficking in persons: ‘The recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation’ (Art. 3(a), UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the UN Convention against Transnational Organized Crime, 2000). Trafficking in persons can take place within the borders of one state or may have a transnational character.

Source: Adapted from IOM (2017b).

ACRONYMS AND ABBREVIATIONS

ABF	Australian Border Force
ACIC	Australian Criminal Intelligence Commission
AFP	Australian Federal Police
ASEAN	Association of Southeast Asian Nations
DIBP	Department of Immigration and Border Protection (Australia)
ECOWAS	Economic Community of West African States
EU	European Union
Frontex	European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (now the European Border and Coast Guard Agency)
Global Initiative	Global Initiative against Transnational Organized Crime
IOM	International Organization for Migration
NGO	non-government organisation
OSB	Operation Sovereign Borders (Australia)
TSOC	transnational serious and organised crime
UN	United Nations
UNCLOS	United Nations Convention on the Law of the Sea
UNHCR	United Nations High Commissioner for Refugees
UNODC	United Nations Office on Drugs and Crime

THE AUTHORS



John Coyne: John joined ASPI as the Senior Analyst for the Border Security Program in February 2015. John comes to ASPI from the Australian Federal Police, where he worked on transnational serious organised crime, national security and counterterrorism. Over the past 20 years, he has been an intelligence professional at tactical, operational and strategic levels in a range of military, regulatory, national security and law enforcement organisations. During that period, he has worked extensively in the ASEAN region, delivering a range of bilateral research projects. His more recent work in this area has focused on enhancing multilateral ASEAN information exchange regarding non-traditional illicit commodity flows. John's border security research interests include intelligence, private-public sector cooperation in the border environment and the integration of border security operations.



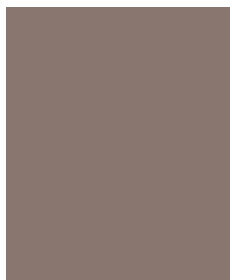
Madeleine Nyst: Madeline joined ASPI as a research intern in January 2017. Before joining ASPI, she worked on the government advisory team at Portland Communications in London. She was also a research intern for the Institute for Islamic Strategic Affairs, working in the Neo-jihadism and Transitional Challenges program and focusing on Libya, Syria and Yemen. Madeleine holds a BA in History and Asian Studies from the University of Queensland, where she focused on Islamic political culture in the Middle East and Southeast Asia. She has also recently graduated with an MSc in Middle Eastern Politics from the School of Oriental and African Studies (London University), where she focused on women's involvement in violent religious politics. She writes on military developments, counterterrorism, Middle Eastern politics and women, peace and security for the ASPI blog.



Ramesh Sunam: Ramesh is a research associate in the Resources Environment and Development Program at the Australian National University. He has extensive research and professional experience in development and social change, with a focus on poverty, social protection, food security, migration and climate change. He has worked as a Forest and Livelihoods Officer at the Swiss Agency for Development and Cooperation and as a forest policy analyst at the Forest Action Nepal. In addition to writing policy papers, Ramesh has published articles in top-ranked journals, such as *Society and Natural Resources*, the *Journal of Ethnic and Migration Studies* and the *Journal of Peasant Studies*.



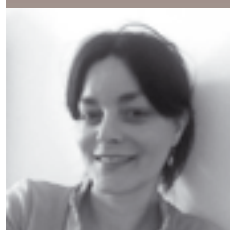
Jiyoung Song: Jay (Jiyoung) Song is a Senior Lecturer at the Asia Institute of the University of Melbourne and a Global Ethics Fellow of the Carnegie Council for Ethics in International Affairs, New York. Prior to her current positions, she was the Director of Migration and Border Policy at the Lowy Institute (Sydney), Assistant Professor of Political Science at Singapore Management University, Associate Fellow of Chatham House (Royal Institute of International Affairs, London), Consultant for the UN Office of the High Commissioner for Human Rights (Geneva), and Human Rights Officer at the National Human Rights Commission of South Korea (Seoul). She also held several academic positions at the National University of Singapore, the University of Oxford



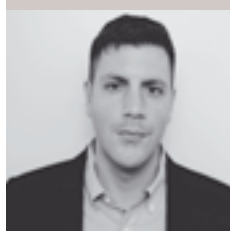
and the University of Cambridge. She completed a PhD in Politics and International Studies (Cambridge, UK), LLM in Human Rights (Hong Kong), and BS in Mathematics (Seoul, Korea). She is the author of *A history of human rights society in Singapore, 1965–2015* (London: Routledge, 2017), *Irregular migration and human security in East Asia* (London: Routledge, 2014), *Human rights discourse in North Korea: post-colonial, Marxist and Confucian Perspectives* (London: Routledge, 2010), and a number of peer-reviewed academic articles. Her current research focuses on migration and human security in Asia, using complexity theory.



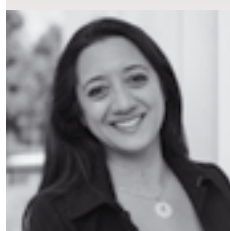
Jacob Townsend: Jacob is the CEO of Seefar, a social enterprise specialising in migration, justice and social inclusion. He has been working on irregular migration since 2005, with a focus on primary research that engages migrant smugglers and their customers; human traffickers and their victims; and money launderers and their dealers. Jacob has coordinated thousands of interviews across Oceania, East Asia, South Asia, the Middle East and East Africa, involving large-scale statistical analysis and in-depth qualitative investigations. Funders of these projects have included the UN Office on Drugs and Crime, the Australian Government, the UK Government and private philanthropists. In 2007, Jacob was a Research Analyst for ASPI. In 2008, he worked for the Australian Department of Immigration on international engagement in the Asia-Pacific.



Ayşem Biriz Karaçay: Biriz is an Assistant Professor at the Department of Political Science and International Relations, Istanbul Commerce University, (Istanbul), since 2015. As a Senior Research Associate and Administrator at the Migration Research Center at Koç University (MiReKoc), Istanbul, from 2003 to 2015, she took part in diverse EU-funded research projects on the topics of irregular migration, human smuggling and urbanisation, while organising several international conferences, workshops and training courses. She received her PhD degree in political science and international relations from the Social Science Institute of Marmara University (Istanbul). Her PhD research focused on labour mobility from Turkey to post-Soviet countries, entailing the structural evolution of the migration system between Turkey and Russia. After her PhD, she conducted research at the University of Oxford with a postdoctoral grant from TÜBİTAK, focusing on emerging Eurasian migration subsystems, and the case of Turkey in Russia. She has also co-authored (together with A Icduygu, with A Ustübcici, and with D Sert and G Göker) three volumes on migration and asylum in Turkey. Her interest areas include project-tied migration, irregular migration, human smuggling/trafficking, migration policy and border management.



Peter Tinti: Peter is a Senior Research Fellow with Global Initiative against Transnational Organized Crime and is an independent journalist focusing on conflict, security, human rights and organised crime. He is the co-author, with Tuesday Reitano, of *Migrant, refugee, smuggler, savior* (Oxford University Press, 2017). Among other outlets, his writing and photography have appeared in the *New York Times*, *Wall Street Journal*, *Foreign Policy*, *Vice*, *Politico*, *World Politics Review*, *Christian Science Monitor*, *al-Jazeera*, *The Independent* and *The Telegraph*. Peter has also worked as a consulting producer for *Vice* on HBO. In 2013, Action On Armed Violence included him in its 'Top 100: the most influential journalists covering armed violence'.



Tuesday Reitano: Tuesday is Deputy Director at the Global Initiative against Transnational Organized Crime and a senior research adviser at the Institute for Security Studies in Pretoria, where she leads five organised crime observatories in Africa. She was formerly the director of CT MORSE, an independent policy and monitoring unit for the EU's programs in counterterrorism, and for 12 years was a policy specialist in the UN system, including with the UN Development Programme, the UN Development Group and the UN Office on Drugs and Crime. In that time, she amassed a wealth of experience in fragile states and development, working both with states and civil society and at the



community level to strengthen resilience to transnational threats and promote sustainable development and the rule of law. Tuesday has authored a number of policy-oriented and academic reports with leading institutions, such as the UN, World Bank and OECD, on topics ranging from organised crime's evolution and impact in Africa to human smuggling, illicit financial flows and the nexus between crime, terrorism, security and development



David Danelo: David teaches, conducts field research and consults on international border management, investigates geopolitical risk, and writes about intersections between policy, security and culture. He graduated from the US Naval Academy in 1998 and was a Marine Corps infantry officer for seven years. In 2004, then-Captain Danelo served near Fallujah as a convoy commander, intelligence officer and provisional executive officer. Since 2008, he has conducted field research and global risk analysis for the US State Department, the US Defense Department, the US Department of Homeland Security, the University of Maryland, Johns Hopkins University and numerous private clients. In 2011 and 2012, he was the Executive Director, Policy and Planning, US Customs and Border Protection. He has also directed field research at the Foreign Policy Research Institute and is affiliated faculty at the University of Texas at El Paso. David's first two books, *Blood stripes* and *The border*, are assigned reading in the US Marine Corps and US Border Patrol. His third book, *The return*, is required reading for the Green Beret Foundation. His latest book, *The field researcher's handbook*, is a guide to travelling for fieldwork. He lives in West Texas.



Isaac Kfir: Isaac received a BA in History with honours from the University of Buckingham (1994), an MA from the University of Kent (1995) and a PhD in International Relations from the London School of Economics and Political Science (1999). He also has a Postgraduate Diploma in Law (2000) and a Bar Vocational Course degree from BPP Law School, London. From 1999 to 2005, he was a member of Inner Temple in London. Isaac was an Associate Professor of International Relations at the Institute for International Strategy, Tokyo International University (2016–2017). Prior to that posting, he was a Visiting Assistant Professor of Law and International Relations at Syracuse University (2009–2016), where he was also the Associate Director of the Mapping Global Insecurities Project at the Moynihan Institute for Global Affairs, Maxwell School of Citizenship and Public Affairs, Syracuse University (2014–2016). Between 2014 and 2016, he was the Co-director of the National Security and Counterterrorism Research Center (2014–2016), working on foreign fighters with the UN Counterterrorism Executive Directorate on Islamic radicalization. Isaac served as a Senior Researcher, International Institute for Counter-Terrorism, The Interdisciplinary Centre, Herzliya, Israel; and as an Assistant Professor of Political Science and Security Studies, Raphael Recanati International School, The Interdisciplinary Centre (IDC), Herzliya, Israel.



Mark Micallef: Mark, Secretariat, Global Initiative against Transnational Organized Crime is an investigative journalist and researcher specialising in human smuggling and trafficking. He has been engaged with migration from Africa to Europe for over 10 years and has reported extensively from Libya, both before and after the overthrow of Muammar Gaddafi, as well as during the 2011 revolution, filing dispatches from Benghazi, Ajdabija and Ras Lanuf during the rebels' advance on Sirte, where Gaddafi was eventually found and killed. In 2015, Mark helped set up and direct *Migrant Report*, a specialised news website dedicated to migration. He also carried out in-depth research on human smuggling and trafficking with extended fieldwork in Libya, Turkey, Myanmar and Bangladesh.

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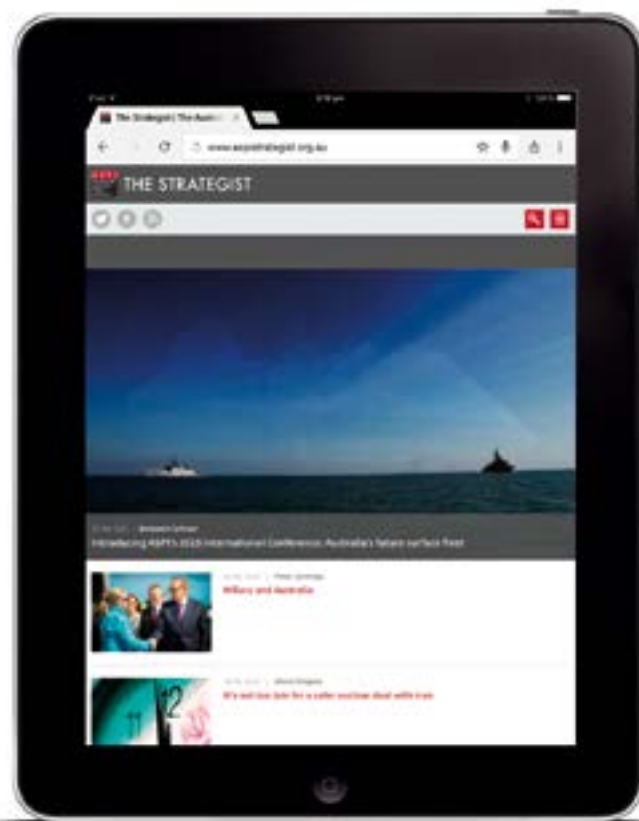


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