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# CRITICAL INSIGHTS ON IRREGULAR MIGRATION FACILITATION: GLOBAL PERSPECTIVES

Gabriella Sanchez and Luigi Achilli



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# CRITICAL INSIGHTS ON IRREGULAR MIGRATION FACILITATION: GLOBAL PERSPECTIVES

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We dedicate this publication to the people who have contributed through their experiences to our work, and in particular to José Antonio Elena Rodríguez, shot and murdered on the US-Mexico border at the age of 16, accused of being a smuggler.

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# INTRODUCTION

The persona of the smuggler looms large in current narratives of migration worldwide. He—for the smuggler has been gendered as male – tends to be depicted as responsible for what has repeatedly been labelled as the European migration crisis; for the deaths of migrants in places as dissimilar as the Mediterranean, the Sahara, the Darien and the US-Mexico deserts and borderlands; and for the exploitation and suffering of migrant women and children. Smugglers are, in short, the masterminds behind the collapse of the efforts of governments to control irregular migration.

And yet, as many scholars have argued, the dominance of law enforcement perspectives in the definition and treatment of irregular migration facilitation practices has increasingly obscured the identities and experiences of the people whose efforts allow for the mobility of thousands of migrants around the world. And so a question emerges: who are those hidden by the smuggler label?

In this short collection of essays, a diverse group of scholars and practitioners sheds light on the experiences of actors widely spoken of but hardly ever included in the conversations around smuggling facilitation. These contributions challenge the monolithic perceptions of smuggling as merely exploitative, inherently criminal, violent and male, by documenting the experiences of the men, women and children whose actions facilitate migration along some of the most transited migration corridors worldwide. Hans Lucht narrates the devastating impacts that EU-driven control and confinement have had on Ghanaian migration brokers, known locally as *connection men*, and their communities. Kyunghye Kook describes the risks faced by the smugglers who facilitate the journeys of North Korean escapees. The authors demonstrate that those who facilitate migration processes are not exempt from stigma, criminalization, detention and violence, and are in fact often migrants themselves attempting to reach a destination, or residents along the migration pathway whose own possibilities of mobility are minimal at best. Wayne Palmer and Antje Missbach's work examines the legal processes against young Indonesian men who participate in smuggling, while DHIA shares the findings of its study on the US detention practices involving *circuit children*, the boys and girls from the US Mexico border who are forcefully separated from their families as a result of their involvement in smuggling. Luigi Achilli also writes about children, providing an overview of the mecha-

nisms that are developed for their specific protection in the context of smuggling journeys.

The authors are also cognizant of how irregular migration has given rise to specific forms of crime and violence. Stephanie Leutert and Caitlyn Yates write about migrant kidnapping in Mexico, while Conor O'Reilly outlines the challenges to conceptualizing and studying the same practice in the context of mobility. Tekalign Ayalew discusses abductions and the widely circulated representations of migrant 'slavery' in the African migration context. All the authors emphasize that violence targeting migrants in transit does not occur in a vacuum, having a strong connection to migration enforcement and controls, urging us as readers to reflect of how representations of migration are also shaped by colonial pasts and imaginaries and their long-lasting violent implications.

Along those lines, while Libya has been at the centre of the EU's focus, knowledge of its actors is still limited to orientalist narratives of barbaric militias and tribes. Mark Micallef historicizes the processes that gave rise to the now challenging smuggling landscape in the country, while Alessandro Tinti examines the claims that have linked foreign fighters to migrant smuggling groups.

Paolo Campana and Gabriella Sanchez's research challenges the dominant claim that smuggling is the domain of complex and hierarchical networks. Campana focuses on the Europe-bound smuggling market, while Sanchez describes the experiences of women prosecuted for smuggling in the United States, with similar conclusions. Both identify smuggling markets as having low barriers to participation, which allows for the participation of multiple actors, while also making these largely disposable. Sanchez also outlines the gendered impacts of smuggling criminalization, and the consequences of counter-smuggling operations on the children of women charged with the offense.

Sheldon Zhang closes this collection by posing a concluding question: can we dare to think the impossible? Are rational and realistic policies that focus on harm reduction while protecting the dignity of those traveling on the migration pathway worldwide –and those behind their journeys –a dream? Is a world without mobility restrictions possible or, in fact, merely unavoidable? We invite you to join the discussion, and to contribute to a much-delayed dialogue on the futures of mobility.



# MIGRANT SMUGGLING IN THE EASTERN MEDITERRANEAN: THE CASE OF CHILDREN

Luigi Achilli – Global Governance Programme,  
European University Institute

## Introduction

According to 2017 data, the number of unaccompanied and separated migrant children has increased five times over the past six years on a global scale. In the European case in 2017 alone, authorities registered the arrival of 33,000 in Greece, Italy, Spain, and Bulgaria, fleeing severe economic distress, political unrest, and warfare. Although this constitutes a clear decrease compared to 2016 (100,264), the percentage of unaccompanied or separated children (UASC) has increased by 31 percent (UNICEF 2019). It is estimated that approximately four minors in every five (86 percent) arriving in Italy and Spain were UASC (ibid).

Despite the growing visibility of this phenomenon, scant research has been conducted on children's migration patterns and/or their interactions with smuggling networks. The present contribution provides insights into minors' trajectories and their communications with smugglers and in so doing seeks to contribute to developing effective policy practices to prevent the exploitation of children on the move. This, however, demands an acknowledgement that the smuggling of children is often a desperate attempt to protect them on the part of the adults who care for them. In that sense, it is also fundamental to understand that smuggling practices are often grounded in community-based notions of cooperation and support (Achilli, 2018, Vogt 2018). When minors' exploitation occurs, this is more often the consequence of a protracted condition of deprivation and irregularity, emerging from their lack of recognized status, than it is a product of the criminal intent of mafia-like organizations.

This contribution is based on research on human smuggling conducted along the Eastern Mediterranean corridor between 2015 and 2017 among migrants and smugglers of different ethnic backgrounds (Achilli, 2018). It also draws from work conducted between January and May 2017 in Lebanon, Greece, and Jordan among children, local authorities and other stakeholders on children's migrations (Achilli et al. 2017).

## Whose “best Interest”?

Children's reliance on smuggling networks to cover legs of their journeys might be surprising. By virtue of their age, minors should be entitled to special forms of protection; especially if we consider that most – if not all – the countries they transit through have ratified the 1989 Convention for the Rights of the Child (CRC). While lacking specific references to migration, the CRC provides specific guidelines concerning the protection of children. Article 3 of the convention states: “In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.” In September 2016, the member states of the UN reaffirmed their commitment to addressing the specific needs of children travelling as part of large movements of refugees and migrants, especially children who are unaccompanied or separated from their families, in the New York Declaration for Refugees and Migrants.

However, the experience of children on the move as part of the most recent migratory waves in the Eastern Mediterranean and the actions carried out on their behalf by the states raise concerns over whose best interests are the ones being protected. In Greece, the prevailing tendency among authorities and the international community to enact “appropriate care provision” for minors on the move by endorsing the use of protective custody has led at times to the disruption of social relationships and the exacerbation of children's vulnerability (Achilli et al. 2017). Most disturbingly, data collected in mid-2017 in Jordan confirmed that minors are particularly vulnerable to being forcibly relocated to detention centers in refugee camps. Children found to be working without regular permits are often separated from their families and relocated to detention centers in refugee camps. As a result, nuclear families are frequently broken apart and children become separated from their parents, despite living in the same country.



## The journey

While media reports blame trafficking organizations for the disappearance of refugee children, no less disturbing reasons may be behind this trend. The reliance on protective custody and the increasing tightening of border controls along the Eastern Mediterranean route have encouraged many unaccompanied and separated children to avoid the child protection system altogether. In Greece, for example, 20 percent of unaccompanied minors disappear from reception centers within 24 hours of their placement there (Fili, 2014). The disappearance can be explained as the result of many of the children opting to travel, with the support of their families or on their own, with smuggling networks.

Minors travelling irregularly to Europe along the Eastern Mediterranean route seem to use the same channels as all other irregular migrants. The predominant route is from Turkey to the Greek islands by boat or, with increasing frequency these days, over the land border between Turkey and Greece. Migration trajectories from Greece onward depend on a variety of factors that are far from linear. Taken together, ethnicity, country of origin, time of the year, and especially the fast-changing scenarios of border controls make minors' journeys complex (Achilli et al. 2017; REACH 2017).

In 2015, for example, almost a million irregular migrants arrived in Europe – many of them minors – following the Western Balkan route. This trend was in part explained by the decision by a few Western Balkan countries to issue temporary transit documents for asylum seekers and migrants crossing their territories. The situation changed starting in early 2016. The decision of the former Yugoslav Republic of Macedonia to seal its border with Greece in February and the EU-Turkey agreement signed on March 20<sup>th</sup> of that same year considerably stemmed the flow of people through the Balkan route. It also led to the mushrooming of smuggling groups operating in the region, and increased the dangers faced by migrants (e.g., prolonged detention, arbitrary beatings, arrests, deportations, forceful separations, longer and more dangerous migration routes, etc.).

## Smuggling, border control, and exploitation: when smuggling goes wrong

The abuses and deception suffered by smuggled minors and other vulnerable groups in the context of their journeys have provided the basis for the emergence of mechanisms of protection within migrant communities (Achilli, 2018; Sanchez, 2016). In this sense, the establishment of ethnic-based smuggling networks along the Western Mediterranean route seeks to provide assisted if precarious crossing services for migrants. These networks should in theory constitute a “chain of trust” (Van Liempt, 2007: 171), a concept that assumes the existence of ethnic ties between smugglers and migrants as likely to prevent abuses.

Among this study's informants – mostly migrants from Arabic speaking countries – smuggling was not just about profiting because the smuggler (*muharrib*) was not necessarily driven only by material gain. The practice of smuggling involved smugglers restricting their margin of profit, using good-quality boats, and treating their customers with dignity. In the case of minors on the move, informants reported that smugglers are often chosen by virtue of their reputation as trusted and reliable guardians who care for the needs of the children and protect them against the risks present in the journey, while escorting them to their destination or the next stop toward their destination. Any conduct deviating from these standards of service would be considered reprehensible and even immoral.

More often than smugglers' individual actions, the establishment and enforcement of border controls and the reduction of channels for legal entry increase migrant minors' likelihood of being abused and exploited, even if traveling within groups with whom they share kinship and ethnic ties. Syrian minors for example reported that the inability to overcome border controls or to complete stages of their journeys had led them to accept work along the route under dangerous and exploitative conditions, or even to join smuggling networks to work off their fees (Achilli, 2018; Achilli et al. 2017; see also ICMPD, 2015).





## Policy implications

Empirical evidence collected among minors on the move along the Eastern Mediterranean corridor shows that smuggling networks are deeply enmeshed within migratory flows and in community practices of human security. Therefore, the eradication of smuggling organizations without addressing the causes leading to migration may prove difficult, if not impossible. Furthermore, one of the main conclusions of our study was that what is often framed as exploitation by protection agencies often constitutes conscious and willing acts on the part of “victims” to facilitate their own mobility and improve their quality of life. In this context, more stringent border policies and practices are doomed to fail young people on the move: they simply bolster the very phenomena – human smuggling and trafficking – they are intended to fight.

Elsewhere, scholars have argued how a truly effective answer to human smuggling would require the EU and its state members to concentrate on reducing “demand” for smuggling services more than curbing “supply.” (Achilli, 2015, 2018; see also Mandić and Simpson, 2017). Accordingly, the first step to help strengthen protection policies for children on the move is the opening of new channels of legal entry and the reinforcement of already existing ones for asylum seekers—presumably the largest group of people smuggled by sea in Europe. This would translate into the granting of humanitarian visas; the creation of humanitarian corridors between transit countries and Europe; the expansion of European countries’ resettlement programmes; and the development of alternative legal routes for migrants and refugees – such as family reunification, university fellowships and scholarships, training programmes, private sponsorships, and labour mobility.<sup>1</sup>

1 For a complete set of recommendations on the three countries where this research was carried out, see Achilli et al. (2017).

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# THE SMUGGLING OF MIGRANTS FROM THE HORN OF AFRICA THROUGH LIBYA: PROCESSES, PRACTICES AND IMPACTS

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## Introduction

In the face of desperate socioeconomic and political conditions in origin and transit lands and the limited availability of paths for legal migration, young male and female migrants from the Horn of Africa (Eritrea, Ethiopia and Somalia) travel irregularly along dangerous and long trails and across deserts and seas. In this context and since the year 2000, Libya has been both a destination and a transition node for Horn of Africa migrants who use the north-western migration routes towards Europe via the Sudan, the Eastern Sahara, Libya and the Mediterranean Sea (Ayalew, 2017).

The mobility of migrants is facilitated by their interactions with multiple actors: family members in their homelands, migrants en-route and in the diaspora, local people along the trails, and smugglers known in local parlance as *delaloch* or *semsaris* (in Arabic). In contrast to dominant narratives of irregular migration, the service of smuggling is not offered by networked criminal organizations. It is embedded in and functions through particular transnational social relations. Shared nationality, ethnicity and religion among migrants and smugglers generate the necessary resources and knowhow. However, various types of criminal and state actor also engage in predatory activity along these trails, kidnapping migrants for

ransom, or engaging them in labour or sexual exploitation systems.

Several international organizations have reported the human right violations of migrants in Libya – a fact existing prior to the collapse of the Gaddafi regime. The political crisis after the removal of Gaddafi, however, created further security vacuums (see Micallef, this issue) and led to the emergence of various types of criminal actors who engage in a vast range of abuses which often target migrants (Frouws et al. 2014a; Belloni 2015). On occasion, references to the existence of slave markets have been made, although these statements have yet to be contextualized. The circulation of a video by CNN in 2017 portraying an alleged auction was, for example, problematic and sensationalistic. Migrants frequently use the words ‘selling’ and ‘buying’ to describe a complex range of interactions that take place among criminal and state actors at their expense, and which have become common practice in the context of Libya. The propensity to be ‘sold’ or ‘bought’ varies according to the migrant’s individual profile, and should not be understood as carrying the transactional value as the CNN characterization sought to portray. Gender, religion and access to finances in the diaspora or countries of origin play a role in the likelihood of migrants to be kidnapped for ransom and/or imprisoned. But these are also factors that allow migrants to be better positioned to access services from well-organized criminal actors who sell their ‘rescue’ services and/or who can arrange for improved conditions during migrants’ precarious journeys, including sea crossings.

This essay discusses the emergence and role of irregular migration facilitating infrastructures that support and sustain East African migratory mobility towards Europe. It is based on the argument that smuggling constitutes a social practice. Yet it also explores what happens when smuggling journeys go wrong, especially in reference to the impacts on migrants’ safety. Lastly, it identifies research gaps and policy implications.

## Social organization of human smuggling

Hierarchically organized criminal groups are not behind the facilitation of smuggling along the Horn of Africa routes. Instead, migrants make disconnected, non-continuous journeys supported by small

and loosely organized operators and brokers offering specific smuggling-related services at particular transit points. The smugglers are not necessarily fulltime professionals. Rather they are ordinary individuals such as lorry or taxi drivers, shepherds along border areas and former migrants settled along migrations routes. They engage in smuggling tasks to transport migrants and refugees towards specific destinations, often collaborating with bought-out state officials or border guards.

In the Horn of Africa, smugglers –known in local parlance as *delaloch* or *semsaris* (in Arabic) –offer to guide migrants and refugees along safe routes towards Ethiopian and Sudanese borders, provide transportation services to cross borders, deserts and seas, and secure temporary jobs and safe houses in transit lands such as the Sudan and Libya. For these reasons, migrants and refugees often define the actions of smugglers as a form of brokerage, rather than as crimes.

The communication and interactions migrants and refugees establish and maintain with family members in their homeland, former migrants en-route and in the diaspora, and local people along the trails generate a body of collective knowledge about routes, smugglers, and timing. This knowledge is intended to communicate to the traveller how to behave during interactions with smugglers; where to hide money; which clothes, medicine and food to carry, and even ways to avoid and survive violence. Mobility itself also leads to the emergence of intimate relations and emotional attachments among fellow travellers, the ones left behind, those en route and in the diaspora. In sum, social, economic and practical organizations of migratory mobility take place through interactions of varying nature and meaning between multiple actors at multiple locations.

## When smuggling goes wrong

Migrants from the Horn of Africa (mainly Ethiopians and Eritreans) face extremely challenging conditions during their journeys: first during their mobility across the Sahara Desert, when transiting Libya and finally while crossing the Mediterranean Sea before arriving at the European mainland. In recent years Khartoum (Sudan) has become an important transition hub for Ethiopian and Eritrean migrants and refugees entering the country. Once the financial, psychological and material preparations for the journey are made, migrants proceed from this city to Libya via the Sahara desert with the hope of reaching Europe.

Despite all preparations and attempts to anticipate dangers, the journey is still risky and unpredictable given the obstacles migrants encounter along the route. All migrants are in a precarious position but their levels of vulnerability vary by virtue of age, gender, ethnicity and class. For instance, the physically fragile (such as those with health impairments, older people and children) face higher physical challenges due to exposure to the desert environment. Men are often the target of physical violence, while women are more likely to be subjected to kidnapping and sexual violence. However, people with access to financial resources – which often implies having access to remittances from abroad –have improved chances of escaping both violence and exposure by bribing guards and paying fees to criminal actors.

Libya and Sudan lack the capacity to properly receive and provide support to the Horn of Africa migrants and refugees entering their territories. Acts of discrimination and exploitation of migrants by virtue of their origin are perpetrated by criminal and official actors alike, and appear to have become commonplace, especially in Libyan territory. Sub-Saharan African migrants in particular are stereotyped as ‘carriers of diseases’, ‘criminals’, ‘threats to national security’, or ‘supporters or mercenaries of the Gaddafi regime’, while Christian migrants are seen as unfit to understand Islamic values (see also Reitano, 2015). Irregular migrants and refugees are collectively perceived in Sudan and Libya as ‘impure’, ‘polluting’ and ‘dangerous’ and become marginalized as a result of not fitting into the ‘national order of things’ (Malkki, 1995: 4-17).

While troubling, the violence migrants encounter en-route in the desert and inside Libya’s towns and cities, does not merely involve greedy smugglers committing crimes against the state and migrants depicted in the media (Gerard, 2014). There is in fact a broader context of structural violence in place: the EU has insisted on enforcing its borders and has signed agreements with African transit countries to intercept incoming refugees in exchange for aid. There are also unconfirmed allegations that the Italian government has signed agreements with militias and criminal factions, although this has not been confirmed. Together these have in turn made clandestine mobility more risky and costly.

Migrants’ testimonies indicate that multiple criminal actors have emerged. Armed gangs and robbers kidnap

migrants and hold them hostage for ransom in the Libyan desert or trade them to employers in Libya seeking cheap labor. There are also reports of sexual enslavement or the use of migrants for many other criminal activities. Some groups who once relied on mechanisms like pastoralism for their survival are now engaged in increasing violent actions against migrants for profit (Lucht, p. 32). This is the case of the Rashaida, a pastoral group known to engage in the kidnapping of Eritrean migrants on their journey to Sudan and even from the Shagarab refugee camp in Eastern Sudan (Belloni, 2015). There are unconfirmed, non-empirical claims that the Rashaida hold and torture migrants for illegal organ harvesting, but data are scant on this specific issue.

Several state actors abuse migrants in a variety of settings, including prisons (cf. Triulzi, 2013; Frouws et al. 2014a). The fear of encountering security or military personnel during their journeys has also led smugglers to sometimes abandon migrants in the middle of the desert. When this happens, migrants are likely to end up in state custody and subsequently in jail – or in the worst of cases, to die as a result of exposure. Shootings between smugglers and robbers, or smugglers and border guards are commonplace. Migrants report that ‘those who win take the migrants,’ who are seen as ‘profitable trade subjects.’

## Conclusion

Ethnographic research on irregularized journeys in the Horn of Africa indicates that among migrants and their communities, smuggling is far from being monolithically perceived as a criminal activity. It is instead a socially embedded collective practice, emerging in the context of restricted mobility and migration-control infrastructures where cross-border social networks, communication technologies, and brokering practices come together.

The risks migrants from the Horn of Africa face en-route are part of and an extension of complex forms of structural violence: externalization of European borders, reproduction of humanitarian crises, unequal access to safe paths to mobility, etc., and are far from constituting a response to the actions of smugglers alone. Therefore, one answer should be tackling the underlying conditions that lead to the reliance on smuggling as a path to mobility. This requires addressing the socioeconomic problems and political crises in

migrants’ countries of origin and transit, as well as the limited number of legal paths to mobility, instead of the targeting and criminalizing of migrants and smuggling facilitators and brokers. Furthermore, empirical work on the changing nature of the smuggling operations that take into account the gender, generational and ethnic dimensions of smuggling and criminal activities inside the Sahara Desert and Libya must be carried out.



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# MACRO TRENDS IN THE SMUGGLING OF MIGRANTS INTO EUROPE BETWEEN 2010-2016: ANALYTICAL REMARKS AND POLICY IMPLICATIONS<sup>2</sup>

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## The market for smuggling services

According to figures released by the European Border and Coast Guard Agency (Frontex), some two million illegal border crossings (henceforth IBC) were recorded between 2010 and 2016 at the Greek and Italian borders. This contribution seeks to tease out the analytical features of the human smuggling market, exploring the macro-level evidence on IBCs and offering policy-makers an analytical base upon which to build policy responses.<sup>3</sup>

Human smuggling is an illegal trade in which the commodity traded is primarily the illegal entry into a country (see Campana and Varese, 2016; Sanchez 2016; Zhang and Chin, 2002). Trade normally takes place in a market, which – by definition – is characterised by supply and demand. In this specific instance, migrants constitute the demand-side. They are willing to buy a service, i.e. illegal entry into a country, for a variety of reasons (e.g., leaving war zones, poverty, economic

<sup>2</sup> This work was supported by a grant from the University of Cambridge (Co-PI with Professor Loraine Gelsthorpe). An earlier version of this contribution has appeared in *Policing: A Journal of Police and Practice*.

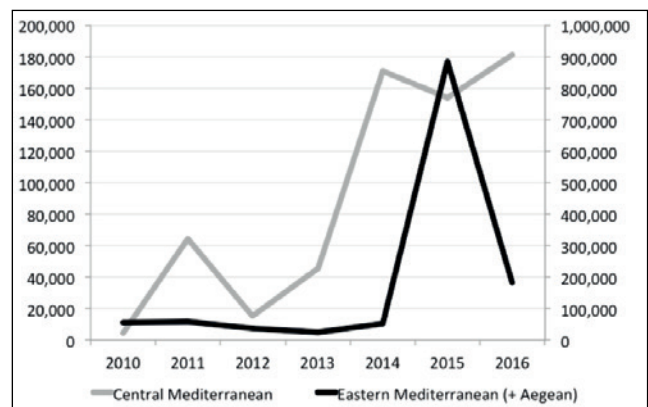
<sup>3</sup> Due to space limitations, I can only offer here some preliminary remarks; a more detailed analysis is included in Campana 2017 and 2018.

hardship or persecution). The demand for smuggling services is satisfied by a number of sellers collectively defined as smugglers.

## Eastern and Central Mediterranean routes: macro-level trends

IBCs into Greece and Italy refer respectively to crossings on the Eastern Mediterranean route (including the Aegean Sea) and the Central Mediterranean route. Figure 1 offers an overview for both routes between 2010-2016.

Figure 1. Illegal Border Crossings (2010-2016)

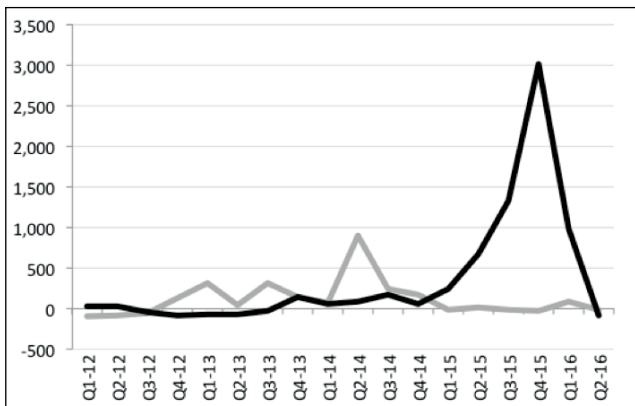


Note: Central Mediterranean route is plotted on the left scale; Eastern Mediterranean route on the right scale. Data from Frontex.

Both the Central Mediterranean route and, even more remarkably, the Eastern Mediterranean route showed a considerable increase in 2014 and 2015. The number of IBCs along the Eastern Mediterranean route increased by 1,641% from 2014 to 2015 (i.e., 885,386 illegal entries in 2015 compared to 50,834 in the previous year). IBCs also increased along the Central Mediterranean route: +199% between 2012 and 2013 followed by +277%. Interestingly, also this route recorded a +1,344% year-on-year change between 2010 and 2011: this is a level of growth similar to that registered by the Eastern Mediterranean route in 2015. Therefore, the ability of the market for smuggling services (IBC) to grow by very high rates does not appear to be a specificity of a single route. Instead when favourable conditions arise, the market for IBCs is quick to expand.

Figure 2 offers a more fine-grained picture based on quarterly data. To take into account the seasonality of the phenomenon, each quarter is compared to the same quarter of the previous year).

**Figure 2. IBCs: Rate of change for Central Mediterranean (grey) and Eastern Mediterranean (black), Q1 2012 – Q2 2016.**



Note: percentage of change year-on-year for each quarter. Data from Frontex.

The ability of the market for IBCs to expand quickly is confirmed by this quarterly analysis (see, for instance, the +3,011% between Q4/14 and Q4/15 in the Eastern Mediterranean). The graph also shows the likely effect of the implementation of the EU–Turkey agreement (second half of March 2016 onwards). The available evidence suggests that, while this agreement has fallen short of completely ‘shutting down’ the Eastern Mediterranean route (as 182,277 IBCs were still recorded in 2016), there has been nonetheless a considerable decrease from the 2015 peak. It is worth noting here that the EU–Turkey agreement is based mostly on a set of land-based policies (as opposed to naval operations such as those carried out in the Central Mediterranean).

## Theoretical implications

The trends in smuggling activities in the Eastern and Central Mediterranean routes recorded between 2010 and 2016 suggest that markets for smuggling services are able to grow considerably and often over a relatively short period of time. What characteristics should a market possess to achieve an output consistent with such a pattern?

Firstly, the absence of large monopolies. Arguably, monopolies would find it hard to satisfy such a sudden and vast increase in demand for their services. On the contrary, the trends in the smuggling activities described seem to be consistent with a situation of market competition. Secondly, assuming that a large number of new smugglers have indeed entered the market to satisfy the large and sudden increase in demand, the implication is that smuggling markets are likely to have low barriers to entry. Thirdly, the high rate of growth suggests that the level of resources required for an actor to enter the market successfully or for an existing actor to expand his operations is likely to be relatively low. These resources include skills and capital requirements. For incumbents, the set-up costs are also likely to be relatively low.

I have argued elsewhere (Campana, 2016) that one of the key factors hindering the growth of human *trafficking* organisations is the high monitoring costs borne by traffickers (i.e. the cost of monitoring victims). Although not directly comparable, a parallel reading of the data on IBCs and non-EU victims of human trafficking identified in the European Union immediately shows that the two phenomena manifest themselves at a different level of magnitude: on average, 2,198 non-EU victims of trafficking were identified between 2010 and 2012 (these are the most recent figures available: see Eurostat 2015: 39; cf. Figure 1). Thus, the expectation is that monitoring costs borne by offenders in the case of human smuggling are drastically lower than in the case of trafficking.

Finally, to support sudden and sizeable expansions in the market, smugglers and migrants alike need to rely on a flexible infrastructure that is able to handle informal transnational payments. According to many sources, the *hawala* system<sup>4</sup> of informal money transfer appears to perform this role well.

## Policy implications

The ability of the market for smuggling services to grow exponentially and over a relatively short period of time poses a dramatic challenge for law enforcement authorities and States alike. The presence of low barriers

<sup>4</sup> Hawala is an informal money transfer system based on trust; it is comparable to non-banking financial institutions such as Western Union or MoneyGram. Hawala bankers carry out their service outside government control: they accept cash, cheques or other valuable goods at one location and pay a corresponding sum at another location (see van de Bunt 2008).



to entry and a competitive environment means that the market can meet sudden surges in demand, but also that the void created by the arrest of a single smuggler can quickly be filled by other actors.

While the EU–Turkey agreement appears to have been relatively successful in decreasing IBCs in the Eastern Mediterranean, the EU naval operations in the Central Mediterranean do not appear to have been able to achieve the same outcome. It is difficult to imagine how naval operations in open sea can be successful in reducing the number of IBCs without adopting an Australian-type policy of towing intercepted boats back to a third country (incidentally, this was done by Italy on May 6, 2009; on 23 February 2012, the European Court of Human Rights ruled the push-back of boats to Libya to be illegal: see *Hirsi Jamaa and others v. Italy*, 27765/09). Amenta et al. (2016) have empirically tested the effect of naval operations on human smuggling in the Central Mediterranean, and have concluded that ‘Operation Mare Nostrum’ and its replacements have increased the size of the phenomenon.

Land-based policies may prove to be more effective than sea operations. Smugglers appear to be rational actors who enter this market when the opportunities arise and the benefits outweigh the costs. Therefore, working on the structure of incentives (and disincentives) in transit countries may prove to be a more effective strategy. Finally, there are indications that the market is more demand-driven than supply-driven. This supports the adoption of wider policies that reduce the necessity to migrate and/or to rely on smugglers when needed. The adoption of schemes that resettle refugees directly from conflict zones is a step in this direction.

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# REFUGEE SMUGGLING FROM NORTH KOREA TO CHINA

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## Introduction

Since Kim Jong-Un began his rule in late December 2011, North Korea's border controls have been further tightened, while people's movements have been increasingly controlled, and patrols and stricter barriers have been built between North Korea and China. The numbers of defectors, according to South Korea's Unification Ministry, have decreased significantly, with 1,417 entering South Korea in 2016 – nearly half of those in 2012 (UNIKOREA, 2017).

There is scant empirical research on North Korean irregular migration. This contribution seeks to address that gap. Based on work conducted between 2011 and 2016, it summarizes human smuggling dynamics from North Korea into China. It also provides policy recommendations for the legal protection of North Koreans in China by exploring the rights of refugees and victims of trafficking in persons.

## The Contexts

After World War II, the establishment of a demilitarized zone created a border barrier dividing the Korean Peninsula into North and South Korea. North Korea (officially the Democratic People's Republic of Korea), closely policing its borders with Russia and China, has defined itself as a socialist state. Its people's free movement to travel within the country and abroad has been widely restricted, and is allowed only for loyalists, politicians, party members and ordinary people in exceptional cases. This, combined with life-threatening food shortages, economic crises and political repression, has led North Koreans to migrate into China looking to survive (HRW, 2016)

The act of crossing the border illegally is referred to as 'crossing the river' by North Koreans, as the border between China and North Korea is marked by the Yalu

and Tumen Rivers. Since the Yalu is wide and deep, the Tumen is preferred for irregular journeys. Crossing the river is typically done on foot, especially during the winter months as its surface is frozen (International Crisis Group, 2006).

There are two ways to cross into China: independently or with a smuggler. Rather than being constituted as mafia-like criminal organizations, most smugglers are North Korean nationals who managed to cross the border and then went on to offer smuggling services to other North Koreans independently. As they build up their success, they become regarded as "smugglers" by escapees. Some informal North Korean smugglers work mainly through their personal networks with family, cousins, friends, neighbours and acquaintances, whereas others have extended networks including military border guards in North Korea and China (Kook, forthcoming).

While the unauthorised journey with smugglers is extremely perilous, migrants face specific risks once they have crossed the border. The Chinese government regards North Koreans as irregular migrants. Those detected and arrested by the authorities are forcefully repatriated to North Korea (Kim M 2010; Margesson et al. 2007). As irregular migrants, North Koreans in China remain underground, and therefore an accurate count is hard to estimate. However, numbers range between 30,000 and 125,000 migrants (Song 2013:401).

The South Korean Ministry of Unification (2017) keeps numbers of North Koreans who escaped to China and arrived in South Korea through a third country such as Thailand and Mongolia. Women comprise around seven percent of them, a number which has decreased since 2011. The number of North Korean defectors peaked at around 3,000 in 2009, yet dropped down rapidly to 1,1417 in 2011 by the start of Kim Jung-Un's rule. He has tightened border controls by increasing patrols and punishments for smugglers and border-crossers. North Korean and Chinese governments have also targeted smuggler and broker networks who assist North Koreans travel to China (HRW, 2016). It is also worth noting that the smuggling fee has increased tenfold, from USD\$800 dollars in 2010 to USD\$9,000 in 2011. A combination of strict border controls, more severe penalties and the targeting of smuggling networks have led to a significant decrease in the number of North Koreans who cross the river into China, or at least that is what the statistics suggest.



## When smuggling goes Wrong

When smuggling goes wrong, North Korean migrants risk physical harm, repatriation and the possibility of being trafficked. If detected by border guards and soldiers, defectors are shot at immediately. As the most common way to enter China is by the river, there is always a risk of being swept away during the summer, and of frostbite when walking over the frozen ice. Around ten percent of North Korean defectors who arrived in South Korea from China through a third country such as Thailand, Laos, and Mongolia, are mobility impaired as a result of having their feet or toes amputated (South Korean Ministry of Unification, 2016). If caught near the border before crossing the river, migrants are deported back to North Korea and sent to prison camps.

According to North Korean criminal law the repatriated can be charged with leaving the country without permission and with betraying the people and the fatherland (Ministry of Justice of Republic of Korea, 2002:55-56). They are sent to labor training (*Rodong danryundae*), or to re-education camps (*Kyowhaso*). Witnesses report human rights violations such as forced labour, beating, torture, starvation, unsanitary conditions, sexual abuse, and human experimentation (Davis, 2006:135; Margesson et al. 2007:9).

In the case of smugglers, if arrested, penalties are much more severe. If caught either in China or North Korea, smugglers are defined as political criminals instigating ordinary North Koreans to betray their leader by supporting their journey out of the regime. Smugglers are given sentences longer than those given to defectors in re-education camps. They are also sent to political camps (*Kwalliso*) where release is unlikely, or sentenced to public execution in extreme cases. For these reasons, smugglers are most often vested in the escapees' successful attempts, rather than focusing on solely making profit from them.

Even when North Korean escapees cross the border into China successfully and manage to go underground, their condition as irregular migrants means they are at risk of being detected and sent back to North Korea. This happens quite often as the Chinese government rewards those who report North Korean migrants –leading them to be known as ‘moving cash points’. In other words, their illegal status and repatriation outcome creates the conditions for North Koreans to be vulnerable to exploitation and violence.

Smuggling also fails when the smugglers turn out to be traffickers in disguise or when smugglers hand migrants into exploitative occupations as soon as they manage to irregularly cross the border into China. The use of the term “trafficking”, however, hides a socially and politically complex reality. Many women pursue smuggling opportunities into arranged marriages or sex work as a mechanism to leave North Korea (Kook, forthcoming). Over the last three years there have been increasing reports of North Koreans being kidnapped. Reporting or asking for help from the police is not an option as their irregular status make them vulnerable to deportation to a country where prison camps awaits them. During interviews, most migrants said they would rather be exploited by traffickers than be sent to prison camps.

## Policy implications

To frame North Korean escapees' situation as ‘trafficking’ does not protect them. On the one hand, adopting the language of trafficking limits the scope of protection that can be given to those who have experienced a very specific and particular constellation of abuse and exploitation. It also excludes those who either manage to escape independently to avoid mistreatment by employers or spouses in China. On the other hand, even those afforded the status of ‘victim of trafficking’—not an easy feat, given that migrants must produce evidence demonstrating they were forced or deceived into moving and coerced into forced labour—are not necessarily protected upon their return to North Korea (Kook, 2015:91-2). Although China has signed the UN Trafficking in Persons Protocol in 2010, since it is subdued by its 1986 repatriation agreement with North Korea by which North Koreans are categorized as illegal economic migrants, North Korean women cannot in practice claim the rights afforded to victims, which leaves them vulnerable to trafficking. In other words, before they are classified and accepted as victims, they are treated as irregular migrants and thus repatriation to North Korea takes place prior to any protection. In sum, being established as a victim of trafficking or a refugee in China is not always advantageous for North Koreans, as their illegal status is highlighted foremost (Margesson et al, 2007) and they thus remain highly susceptible to exploitation and human rights violations.



It has been suggested that migration and refugee policies can be pursued to ameliorate the plight of North Koreans in China. China can ratify the International Convention on Migrant Workers and Members of their Family for North Korea migrants and the Smuggling of Migrants Protocol, which protects the basic human rights of migrants. Although more effective policy should come from North Korea itself, this country is unlikely to work on promoting human rights or grant free movement to its people.

China, moreover, should reconsider its political agenda in favor of one that grants humanitarian rights to North Koreans in China in line with the 1951 Refugee Convention and the 1967 Refugees Protocol. As the UN Commission of Inquiry has suggested (UNOCI, 2014) if granting refugee status is not possible, the Chinese government can still halt the repatriation of North Koreans, and instead forward them to other countries, including South Korea, where they can receive immediate citizenship. In order to do so, the South Korean government should also be supportive of North Korean escapees in China.

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# MIGRANT SMUGGLING ALONG MEXICO'S HIGHWAY SYSTEM

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In the popular imagination surrounding migration through Mexico, the infamous train network “La Bestia” looms large. The images of migrants clinging to trains have come to represent migration through Mexico and Mexico’s migratory policies. Yet, despite being the most often characterized form of migration through Mexico, only between 10 and 20 percent of transit migrants ride the train on their journey north to the United States (COLEF 2017). After Mexico announced *Plan Frontera Sur* in July 2014—a major border security and immigration strategy—this percentage dropped even lower.

The present contribution addresses how smugglers bypass the train network to move migrants north, relying on buses, trailers, and private vehicles, along Mexico’s highway system. By analyzing smuggling reports from both before and after *Plan Frontera Sur*, our contribution describes migrants’ increasing reliance on more undetectable forms of transportation, and the risks associated with them.

This study relied on a mixed-methods approach to identify reliance on other forms of transportation. This included the creation of a database of 179 entries of human smuggling cases occurring along the U.S. and Mexican highway systems in the period between January 2003 and August 2017. The cases were coded by vehicle type, smuggled migrants’ demographics, location where migrants were found, and when available, information on smugglers and their practices. The information was cross-referenced against data from Mexico’s Attorney General’s office (PGR), surveys of deported Central American migrants conducted by El Colegio de la Frontera Norte (COLEF), and also supplemented by qualitative interviews and targeted open-source research.

The data indicates that after *Plan Frontera Sur*’s implementation in June 2014, migrants’ reliance on Mexico’s train network decreased, while there was a continued reliance on the use of vehicles. In the two years that preceded the implementation of the *Plan*, an average of 18 percent of surveyed Central Americans reported riding the trains during their last trip through Mexico. By 2014—as the number of migration enforcement operations increased—use of the trains dropped to 12 percent. Simultaneously, the data shows an increase in the number of Central American irregular migrants that used vehicles at one point in their journey through Mexico. For private vehicles, this percentage rose from 16 percent pre-*Plan* to 26 percent in 2016; for buses, it jumped from 86 percent to 93 percent, and for cargo trailers it inched up slightly from 9 percent to 10 percent (COLEF 2017).

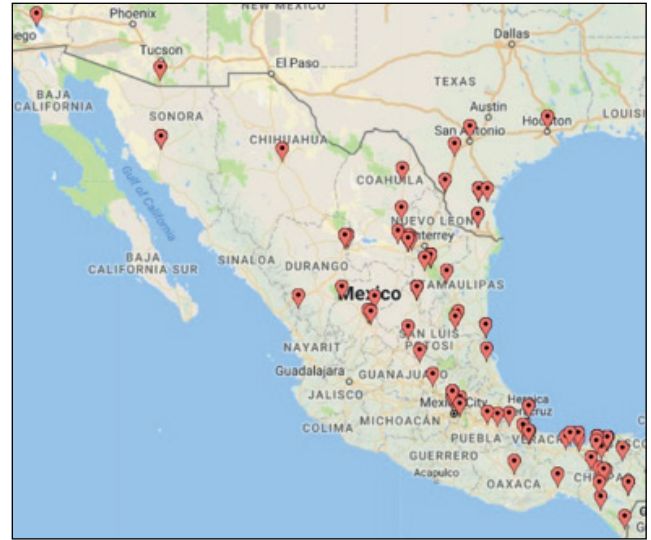
Despite the larger percentage of migrants traveling in vehicles for at least part of the journey, the migration routes did not appear to change. Smugglers continued to overwhelmingly favor the major highway routes throughout the country—probably because they are the fastest and safest roads—as highlighted in the vehicle apprehension maps below. One notable difference pre- and post-*Plan Frontera Sur* was the greater number of vehicle apprehensions in Mexico’s northern region, which allowed for greater visibility of smuggling routes in this section of the country.

Similarly, the profiles of migrants traveling through Mexico via vehicles remained largely consistent, with the vast majority of travelers continuing to originate from Honduras, Guatemala, and El Salvador (Isacson et al 2017), and with women making up an average of 20 percent of total migrants. However, there have also been an increasing number of minors reported in the apprehended vehicles since the implementation of the *Plan*. This finding matches the general trends in Mexican and U.S. migrant apprehension data that show increasing percentages of minors (both accompanied and unaccompanied) transiting through Mexico since 2014 (US Customs and Border Patrol 2017; Secretaría de Gobernación 2017). The profiles of migrant smugglers along Mexican highways remained relatively consistent throughout the dataset: they are almost exclusively male, Mexican in origin, and between the ages of 20 and 40.





**Pre-Plan Frontera Sur**



**Post-Plan Frontera Sur**

Google maps by authors, 2017

The dataset also highlights the dangers associated with human smuggling in vehicles. There were seven recorded incidents involving migrant deaths or injuries in Mexico and the United States. While this equals around 4 percent of the recorded cases, there are other risks that come with being smuggled in a vehicle, and particularly in a cargo truck. The most common risks are the effects from the potentially extreme temperatures migrants face while traveling in trucks without air conditioning in the summer heat. In addition to facing extreme temperatures —from below freezing temperatures in refrigerated trucks to up to 60 degrees Celsius— migrants are vulnerable to dehydration and starvation as a result of limited food and water availability, hyperthermia, hypothermia, and asphyxiation.

The risks faced while riding cargo trucks are different from those involving the trains. Surveys conducted in 2016 reveal that individuals traveling in the former were almost three times more likely to experience extreme cold throughout the journey and almost twice as likely to suffer from a lack of food or drink (COLEF 2017). However, traveling by vehicle may reduce the likelihood of being robbed or of enduring a serious injury as a result of falling off the train (COLEF 2017).

## Recommendations

For the previous three decades, Mexico pursued restrictive migration policies, including erecting more checkpoints and mobile revisions across larger geo-

graphic areas. However, this strategy had two serious consequences. The first was increased corruption as smugglers sought out officials who could be bribed to pass migrants through, leading to the eventual erosion of the legitimacy of security and immigration institutions enforcing controls. The second was of a humanitarian nature, and involved a high number of accidents, assaults, forced disappearances and deaths among migrants as they attempted to circumvent checkpoints in their journeys through Mexico.

Mexico’s migratory policy is currently evolving, but policymakers continue to rely on restrictive policies toward transit migration, leading smugglers and migrants to do as they have in the past and embrace an ever more diverse array of smuggling practices that continue to put human life at risk. To comprehensively address the dangers associated with transit migration requires steps to regularize irregular migrant populations, or at least to offer greater forms of international protection and/or temporary visas to people in transit. However, given the unlikelihood of large-scale migratory policy changes in the short or medium term, Mexican officials and non-governmental organizations could instead look to improve the situation for transit migrants traveling in vehicles through smaller policy shifts. These could include:

- *Mandating the installation of handles or emergency signals from inside cargo/trailer trucks and vehicle trunks.* One of the greatest risks that migrants face



while traveling inside cargo trucks comes from their inability to exit vehicles during emergency situations. Migrants often face hyperthermia or asphyxiation associated with rising temperatures, aggravated by the lack of oxygen and water, especially when vehicles are abandoned by scared or even unaware drivers (see Hui and du Lack, 2017). Similar to vehicle requirements that demand passenger vehicles have internal trunk releases, measures that order cargo trucks to be equipped with mechanisms that allow them to be unlocked from the inside out or to signal to other drivers in case of an emergency can be implemented.

- *Best-practices campaigns to include information on cargo truck related risks.* The Red Cross and other para and non-governmental organizations have launched campaigns to provide tips to migrants crossing Mexico via the country's train network. These campaigns include the distribution of fact sheets with travel recommendations (e.g. not boarding a moving train during a rainstorm, bringing a piece of cardboard to sit on, etc.) These fact sheets have yet to include recommendations pertaining to travel in cargo trucks, and therefore new versions could include tips such as bringing portable phone chargers in case migrants need to call for help from within a truck. These fact sheets could be distributed in countries of origin, as evidence indicates migrants using vehicles to transit through Mexico generally tend not to have much contact with migrant shelters or NGOs while crossing through the country (COLEF 2017).
- *Prioritizing access to justice.* The Specialized Unit for Investigating Crimes Against Migrants from Mexico's Attorney General's Office (PGR) reports having an active caseload of 111 files involving crimes committed against migrants and admits that 'there are no definite results on the vast majority of cases' (Unidad 2017:23). It is unclear how the Unit prioritizes these cases. While the increase in the number of staff members can be seen as sign of progress, Mexico's PGR should issue a directive to focus its prosecutorial energy on investigating open cases and identifying those who are responsible for crimes against migrants.

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# GHANAIAN MIGRATION BROKERAGE IN NIGER: DEATH, PROFIT, AND COMMUNITY

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The Agadez province in northern Niger has in recent decades emerged as the nucleus for trans-Saharan migration to Libya and the irregular routes across the Mediterranean to Europe. Based on ethnographic fieldwork in Niger, this contribution discusses the work of Ghanaian connection men (low-level migration facilitators) on the desert trail as they struggle to accommodate local needs for mobility in a time of EU-driven control and confinement.

Ghanaian connection men or migration brokers in Niger understand and negotiate the dangers of the desert vis-à-vis the responsibility for the passengers under their authority;<sup>5</sup> migrant brokers' desire for quick profit is weighed up against the potential loss of migrant lives in the desert, as well as the human and social responsibilities towards migrants that use their services. In this light this contribution asks whether the definition of smuggling captures the full complexity of migration brokerage in a disjointed world, and how anti-smuggling practice must be conscious of its unintended consequences on the safety of migrants.

In a time when the EU is expanding its range of interventions in the Sahelian countries, Niger has emerged

5 For further analysis on the work of connection men, see Lucht, Hans 2013: "Ghanaian connection men and the expansion of the EU's border regimes into Africa." In Gammeltoft-Hansen, Thomas and Nyberg Sorensen, Nina, eds. *The Migration Industry and the Commercialization of International Migration*. Routledge: London and New York. p.173-189. Lucht, Hans 2015. "The Station Hustle: Ghanaian Migration Brokerage in a Disjointed World". In Jackson, Michael and Albert Piette, eds. *What is Existential Anthropology*. New York and Oxford: Berghahn. Lucht, Hans 2016. "Death of a Gin Salesman: Hope and Despair among Ghanaian Migrants and Deportees Stranded in Niger". In Kleist, N. and Thorsen, D. *Hope and Uncertainty in Contemporary African Migration*. New York and London: Routledge

as a central partner. The vast majority of West African migrants to Europe – more than 300,000 in 2016 according to the IOM – transit through Niger to reach Libya *and* the smuggling routes across the Mediterranean to Italy. It is a hard and dangerous journey through inhospitable territory and into a Libya in such disarray that, according to some reports, it claims even more lives than the sea journey to Europe. To pursue a safer and more organized means of transportation is therefore a key issue for West African migrants.

In 2015, a new law against smuggling of migrants – formulated according to the United Nations Smuggling of Migrants Protocol and with the assistance of UNODC – was passed in the parliament in Niamey. About a year later, the law was implemented and the Nigerien police forces began to arrest smuggling facilitators and drivers, and seized cars used to transport migrants across the desert. These efforts were primarily felt in the northern region of Agadez, leading to considerable local anger and giving rise to local tensions (Zandonini, 2017). In Niamey too, the police located and arrested connection men at the bus stations and accused them of smuggling.

Thinking of Ghanaian connection men, many of whom are now either in jail or have fled Niger, the question becomes: how has the implementation of the new anti-smuggling law in Niger affected their work and lives? Has it created a safer environment for migrants on the move? To address the question, this contribution first looks at what work the connection men do and how the services they provide are viewed by themselves and by migrants.

Migrants, like everybody else, need to have a feeling that their lives are going places, moving forward, and that they have a chance of escaping the stasis of village life that is hampering so many places in West Africa. This quest is not just financial, but social and existential too. This is probably the attraction of the connection man: keeping the dream alive for those who need to see change the most.

Ghanaian connection men were all former migrants that had run out of luck and for various reasons ended up as stranded people in Niger. Yet they refused to give up the hope of making it to Europe. They instead began brokering paths for their compatriots – the journey that they have failed to make themselves – while waiting for the next move; the next piece of information; the next big deal.





Their work basically consisted of greeting migrants coming from Accra on the bus and guiding them to the bus to Agadez, and setting them up with a 'ghetto' in the desert (this is the name migrants give to the halfway houses where they await further transportation into the desert, and finally Libya). For these services connection men were paid by the migrants themselves, by the 'ghetto bosses' who were supplied with a flow of new migrants, and by the bus station, where they had a kind of semi-official affiliation. Here connection men were tolerated and allowed to spend time and wait. Sometimes they even wore a coat with the name of the station without being formally employed. But they were, by and large, independent operators that took orders from no one.

The organization of the migration networks – at least prior to reaching Agadez – is not really well-organized and interconnected, as often popularly imagined, but more decentralized and intermediary. To some extent this puts the individual connection man in a position of power vis-à-vis the smuggling networks in the desert. They need him to provide them with a flow of passengers, and the connection man has a relative position of autonomy to work with someone else if financial demands are not met or the operation is not trustworthy or safe. On the other hand, the connection men had little control over the fate of the passengers once they were passed on to a 'ghetto' boss in Agadez.

The connection men all had dramatic and failed migration trajectories behind them and had eventually relocated to Niger. In fact, by a strange turn of events, their many misfortunes on the road had become their social capital. They had first-hand knowledge of all the dangers and all the misery that await those who leave their homes to look for brighter opportunities. And to the migrants, the connection men in the desert control what is most desired: access to the outside world, and to the human need to be 'going places' when one's own world no longer offers such necessary mobility.

In this sense, the connection man is a typical West African trickster figure – someone who's approached at a risk but who holds the keys to social and material advancement beyond one's wildest dreams. He's a hustler, perhaps even a killer, and at the very same time a guardian of local aspirations in a disjointed world. Indeed, the connection man represents a form of globalization from below, as Jean-Francois Bayart would say; a very particular form of global political subject

that emerges in a dialogue with certain economic and political realities. Therefore, the term 'smuggler' does not really do justice to all the forces at play here, or to social reality from a migrant perspective.

Further, the legal discourse on mobility does not reflect how migrants see the connection men or how these men see themselves and enact their roles as facilitators of mobility – not as criminals, but as agents of change who play their part, legal or not, in the practical governance of the EU-African borderlands. Maybe it is too often assumed in political and public debates in Europe that our legal distinctions on mobility – or legal distinctions that are driven by European political interests – have any bearing on the choices of those who need to move the most.

The connection men are usually embedded in the Ghanaian expat community and run semi-official businesses with semi-official arrangements with local bus stations or local big men. Their roles entail responsibilities to the migrants that go beyond financial arrangements, for example arranging return transportation of the sick or injured or mentally distressed migrants. This, however, does not fit the clear-cut image of the smuggler that the new law is targeting (see Achilli, this volume).

The UN-backed anti-smuggling law has, however, dramatically changed the face of irregular migration in Niger, especially in the Agadez province, but also further down the line in the bus stations in Niamey (see Micalleff, this volume). The traditional semi-official connection man is now a thing of the past in Niger. They are all either in prison or have fled the country and new operators are moving in to take over the market. It remains to be seen how this new situation – the illegalization of migration brokerage – will affect migrant safety. One guess is that migrants will meet the smuggling rings at an earlier point on the journey, maybe even directly from home. In Agadez, the immediate effect of the crack down on smuggling has been to the detriment of migrant safety. Trucks now leave in the night with no headlights on, and along more difficult and dangerous routes, and the smugglers, for fear of the police, dump passengers in the desert if they think they have been seen.



## Recommendations

Europe must be mindful of the unintended consequences of the intervention against irregular migration in Niger. New and more cynical smuggling networks may benefit and the criminalization of migration could work to the detriment of migrant safety. Though it is certainly legitimate to want to protect one's frontiers in a time of terror and cross-border crime, Europe should be concerned that the intervention against smuggling is creating considerable local tensions, especially in the Agadez province.

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# HUMAN SMUGGLING AS RESOURCE PREDATION: MILITIAS AND THE DANGER OF FOSTERING AN ANTI-SMUGGLING BUSINESS IN LIBYA

Mark Micallef – Global Initiative against Transnational Organized Crime

Since the overthrow of Muammar Gaddafi in 2011 more than 750,000 migrants and asylum seekers have crossed to Italy through the Central Mediterranean, the vast majority of them starting their sea voyage from Libya. Conservatively, it is estimated that more than 15,000 have died attempting to cross that stretch of sea during this time.<sup>6</sup>

The phenomenon did not start with the revolution. Libya has been a regional funnel for Africans headed north since at least the turn of the century (see Ayalew, this volume). Nonetheless, the situation has escalated dramatically since the collapse of the North African state.<sup>7</sup>

At the most basic level of analysis, the collapse of Libya's security apparatus gave the human smuggling and trafficking industry greater latitude to expand its capacity and develop transnational connections that

6 For historic data on arrivals see the Frontex Mediterranean Route Update: <http://frontex.europa.eu/trends-and-routes/central-mediterranean-route/> For statistics on deaths see IOM's Missing Migrants Project: <https://missingmigrants.iom.int/region/mediterranean>

7 The number of people crossing raised from 40,000 arrivals a year prior to the revolution, to a yearly average of almost 170,000 between 2014 and 2016, and which will likely be sustained over 2017 with almost 120,000 people having crossed by November 15, 2017. This calculation is based on arrivals statistics from Frontex, and the UNHCR's data portal, <http://data2.unhcr.org>.

rendered the business far more networked and efficient than it ever was before. However, the changes that took place after 2011 also need to be set within the context of Libya's history and the conditions of post-Qaddafi Libya. That is this essay's goal.

The Libya that was born out of the post war compromise of 1949, later enshrined in the 1951 federalist constitution, never successfully rallied the country's ancient sub-national communities under the institutions of the state or a unifying national ideology. Qaddafi's bloodless coup in 1969 decisively undercut this embryonic project and deliberately set out to undermine state institutions, replacing them with a system of patronage –fuelled in part by the country's burgeoning oil economy –and repression (Vandevallé 2015).

The careful manipulation of the smuggling economy was very much part of the regime's strategy for control. Tribes, families and communities that were loyal to the regime were given access and ascendancy over the ones that did not (Shaw and Mangan 2014). In the words of the former US Ambassador to Libya, Deborah Jones, "when Gaddafi departed the scene, Libya by now both fragmented but heavily networked, became essentially a mafia without a Don. Gaddafi was gone but his legacy remained" (2017).

In the euphoric first year after the revolution, the removal of central control translated itself into market liberalisation. However, by the end of 2012, the scene came to be dominated by the multitude of militias that now make up the Libyan political canvas. During this time, the political process had already started stuttering. Disarmament efforts were undermined externally by foreign states sponsoring armed groups that could further their agenda, and internally by important Libyan political brokers able to put militias loyal to them on a state payroll.

The armed groups and associated communities that had no access to this gravy train (especially the case for those in border areas) sought to exploit whatever resource was found in their territory. For many, this meant turning to the smuggling economy. Initially, this produced classic protection rackets, in which militias essentially taxed activity in their territory. Eventually, they started running their own operations or partnered with seasoned smugglers to form criminal ventures (Micallef, 2017). In this sense, migrants became another commodity in the general resource

predation that pervades Libya's present socio-political landscape (Tabib, 2014).

It is in this context that the international engagement with Libya on migration needs to be understood. Ongoing conflict and instability prevented the EU from replicating in Libya the solution developed for the Aegean with the closure of the so-called "Balkan Route", and a border management deal with Turkey (see European Commission 2016). Instead the bloc funded an offshore anti-smuggling operation in the Mediterranean and launched a programme of capacity building aimed at the country's struggling migration management and border control apparatus. More importantly, it partnered with Libya's southern neighbours in cash-for-migration-control schemes with a view to decreasing the number of migrants crossing into Libya in the first place. While there is some evidence that these latter actions are producing the intended slowdown in traffic, especially in Niger (Saley 2017), the likely effects will only be seen in the medium term.

Simultaneously, Italy –which has been handling the flow of people coming out of Libya almost single-handedly –has over the past few years embarked on its own, more short-term oriented plan. Italy's multi-dimensional strategy engaged more directly the Government of National Accord (GNA) and its border control apparatus, as well as several municipalities and tribes in smuggling hubs across Libya. This culminated in the signing of a Memorandum of Understanding (MOU) in February 2017. The MOU is rather vague in its wording but essentially it promises development and investment in return for the policing of irregular migration (El Zaidy 2017).

In June 2017, this drive culminated in the co-opting of some coastal militias known to be involved in human smuggling in the coastal smuggling hubs of Sabratha and Zawiya. Virtually overnight, key smuggling outfits turned into law enforcement units. The effect on departures was extraordinary: July saw a reduction in arrivals of 51 percent over the corresponding month in 2016, which decreased to 83 percent in August before climbing moderately to a still substantial 65 to 68 percent reduction in September and October (UNHCR 2017).

It has been speculated that the co-opted militias were paid off by the Italian intelligence services (Lewis and Schrer 2017) – a charge the Italian government has denied. So far this claim has been unverified. Moreover,

it is only marginally relevant to the overall analysis as it is clear that named smuggling militias took on law-enforcement roles after receiving funding by state entities governed by the GNA (Micallef and Reitano, 2017).

The Sabratha deal, which left out other major players involved in smuggling, provoked confrontations in the town over September and October. Over a 19-day conflict, 39 people were killed and almost 300 injured. More than 15,000 Libyans were displaced, along with an equal number of largely sub-Saharan migrants, many of them previously unaccounted for, having been held in smuggling warehouses or unmarked detention centres.<sup>8</sup>

Militia co-option is not a new phenomenon in post-revolution Libya (Shaw and Reitano 2017). However, the fact that this latest action is widely viewed as forming part of Europe's strategy of stemming the flow of migrants coming out of Libya – whether intended or not – signals to militias that there are opportunities to be had in aligning their predation to the anti-smuggling agenda. In the process, Libyan stability and the state-building process are sabotaged as recruited militias get to launder their reputations without giving up their organisational integrity or their agendas. Moreover, in the new anti-smuggling business that risks being created, migrants remain a commodity to be exploited as targets for detention, indentured labour and extortion.

## Policy recommendations

- **Stability first policy:** the International community should renew its commitment to a stability first policy. Only a stable Libya can enable a long-term mixed-migration management plan for the country – a point of convergence for most stakeholders engaged with this phenomenon.
- **UN-led process:** the UN Special Envoy for Libya, Ghassan Salame, should be given the space and support to deliver on his mandate without side interventions by member states that risk undermining his critical work.

8 See Displacement Tracking Matrix Libya, Sabratha Flash Report, IOM, October, 12, 2017, <http://www.globaldtm.info/libya/>, and UNHCR, UNHCR Flash Update, ReliefWeb, October 16, 2017, <https://reliefweb.int/sites/reliefweb.int/files/resources/UNHCR%20Sabratha%20Flash%20Update%2016%20October%202017%20FINAL.PDF>

- **Exploit militias' quest for legitimacy:** many militia leaders sense that Libya is at a juncture where the end of the present political status quo is near, be it by military or political means. This analysis is driving their quest to legitimise their operations – a fact that can be exploited to produce genuine disarmament, demobilisation and reintegration into state structures under an agreed governance framework.
- **Investment in greater conflict sensitivity:** the international community's visibility on Libya remains relatively weak. Action should be based on a better granular understanding of dynamics on the ground.
- **Break away from hyper-focus on migration:** Libyans will never truly get behind migration management if these actions keep being perceived as a foreign intervention. This is no small task but it starts with the international community engaging more meaningfully in organised crime priorities that impact the lives of Libyan citizens, such as commodity smuggling and kidnappings.

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# CAPTURING (IM) MOBILITY: THE CHALLENGES OF KIDNAPPING RESEARCH<sup>9</sup>

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## Introduction

Kidnapping is bound-up with issues of (in)security and (im)mobility. It entails deprivation of liberty but is also a crime threat that *travels*. It is a source of mass insecurity across diverse states where impunity reigns, but is also an emergent feature of smuggling discourse. In terms of this collection's focus upon what happens when smuggling goes wrong, kidnapping represents a violent and parasitic by-product of irregular migration. It has been charted across transit routes through countries such as Mexico and Libya where migrants' precarious mobility leaves them vulnerable to criminal exploitation. The scale of this illicit practice is communicated in public representations of kidnapping that present its pervasive prevalence through terms such as 'epidemic,' 'industry,' and even 'business' (the latter reflecting how both licit and illicit private actors derive profit from kidnap and ransom scenarios).<sup>10</sup>

However, despite the significant media attention that highlights kidnapping victimization—whether in terms of domestic citizens or smuggled migrants—this phenomenon remains comparatively under-examined, under-theorised and neglected in terms of policy intervention. Certainly, the increased incidence of violent, exploitative abductions across the globe is acknowledged, but the sources informing debate around

9 I am grateful to the Workshop organisers and participants for their comments, and to my project colleagues, Ernesto Schwartz-Marin and Sonja Marzi, for their respective assistance with this presentation. The Project 'Mobile Solutions to the Mexican Kidnapping Epidemic: Beyond Elite Counter-Measures, Towards Citizen-Led Innovation' is being funded by the RCUK Newton Fund.

10 See, Lakhani, N. (2017) 'Mexican kidnappers pile misery on to Central Americans fleeing violence', *The Guardian*, February 21st, 2017; Leutert, S. (2016) 'The migrant kidnapping epidemic next door', *Lawfare*, November 30th, 2016.

kidnapping are highly problematic and media representations are often characterized by a sensationalist focus on its violence. In terms of research attention, a tendency still remains to focus upon more orthodox kidnapping forms –kidnap for ransom of wealthy elites or the more politically and ideologically-oriented kidnappings conducted by terrorist organisations– to the neglect of other, more complex mutations of this illicit practice. Quite simply, kidnapping is an age-old criminal phenomenon, but its contemporary manifestations are shaped by both local dynamics and global patterns, migrant kidnapping providing a very effective example.

Drawing upon ongoing research into kidnapping in Mexico, this paper highlights the acute research challenges that confront those investigating this phenomenon, as well as potentially more effective means to respond to its threat. Our work proposes new research and policy approaches that seek not only to shed new light on this illicit practice, but also to foster new strategies of intervention to counter and respond to kidnapping. Whilst this project has been designed towards promoting more sustainable security in the face of kidnapping in Mexico, its ambitions have wider relevance. Promoting a more nuanced, less sensationalised, understanding of kidnapping; capturing more useful data regarding this evasive criminal practice; co-producing counter-kidnapping resources that assist those most affected by this insecurity: these objectives all offer new possibilities to shape effective policy responses towards kidnapping.

## Kidnapping in Mexico

Kidnapping has emerged as a massive source of societal insecurity in Mexico. In a context of fear, mass distrust of law enforcement, failed state initiatives and high-levels of impunity, the insecurity born of kidnapping has become pervasive and the country is viewed as a global kidnapping hotspot. As Ochoa remarks in one of the more empirically-robust investigations of kidnapping in Mexico City, it is '[n]ot just the rich' who are now targeted, victimization having undergone a process of 'democratization'.<sup>11</sup> Whilst wealthy elites insulate themselves from kidnap risk through private security measures, as well as leveraging political and economic capital to enhance their protection, cash-rich (but

11 Ochoa, R. (2012) 'Not just the rich: new tendencies in kidnapping in Mexico City', *Global Crime*, 13(1): 1-21.



mobility poor) targets from within the middle/lower classes are increasingly targeted— sometimes multiple times. The threat is such that non-victims take kidnap risk into account as a matter of daily routine.

Of course, other contextual specifics also shape the topography of kidnapping across Mexico, not least ongoing narco-violence and the resultant insecurity, exacerbated by interventions such as the Mérida Initiative and its militarizing impact. Mexico's location as a transit country for Central American refugees and migrants travelling to the United States, has also witnessed them becoming kidnap targets for criminal groups and cartels such as Los Zetas, who derive massive profits from migrant kidnapping. These abductions represent one of a range of predatory crimes to which migrants may fall victim during their arduous travel north.<sup>12</sup>

## The Challenges of Kidnapping Research

The entry point for much commentary on kidnapping is, all too often, disturbing statistics or graphic accounts of the human suffering it causes.<sup>13</sup> Making a spectacle of kidnap-related violence and suffering, or promoting problematic statistical claims, are unhelpful entry-points to an illicit practice that remains poorly understood. We must look for stronger empirical foundations to better comprehend and address kidnapping. This is easier said than done. To pursue impactful research, we must first acknowledge the unique combination of challenges that are posed by kidnapping research.

Kidnapping is a highly-sensitive research subject. It is taboo for many Mexicans, who even if they have not personally experienced its effects, are aware of, and inhibited by, its threat. For those who have been directly affected—whether as a kidnap victim or their relative or friend—this is a heavily traumatic experience which they may constantly relive, but have little wish to re-visit. Even before engaging with research into kidnapping, we must recognise that many of those

12 Vogt, W. (2016) 'Stuck in the middle with you: The intimate labours of mobility and smuggling along Mexico's migrant route', *GeoPolitics*, 21/2: 366-386.

13 For example, the gruesome massacre of 72 kidnapped migrants in August 2010 by the Los Zetas cartel in a safe house in San Fernando, Tamaulipas became a staple feature of media and academic coverage of migrant kidnapping for subsequent years.

affected will not report it to the authorities, whether due to fear of reprisal by kidnapers, or through fear of law enforcement complicity. In the case of irregular migrants, they may also fear deportation. These concerns all render issues of access, consent and ethics especially challenging.

Under-reporting inevitably renders statistical claims regarding kidnapping problematic. However, public commentary on kidnapping still betrays a desire for quantification and there are multiple attempts to impose form onto this opaque criminal practice—albeit that to do so is to try and measure the unmeasurable.<sup>14</sup> Public security agencies, public research organisations, human rights NGOs, anti-kidnapping activists and private security companies all compile kidnapping statistics. However, these diverse sources are marked by huge disparities, as well as methodological blind spots. For example, the 2014 collation of official reports by the *Secretariado Ejecutivo del Sistema Nacional de Seguridad Pública* placed the number of kidnappings at 1,395 whilst the victimization surveys of the *Encuesta Nacional de Victimización y Percepción sobre Seguridad Pública* estimated 102,883 kidnappings for the same year. Figures from other groups fall between this range.

Official reports/statistics are also shaped by variable police reporting patterns. In Mexico, there are concerns about inconsistencies in reporting practices across the country, as well as general under-reporting. Even victims' families may intentionally corrupt kidnap statistics in their pursuit of missing loved ones. A recent project by the Mexico-lead within our research team uncovered that some relatives of the disappeared in Mexico fabricated ransom requests to trigger police investigations, as police would investigate a documented kidnapping, but not a disappearance. Kidnapping statistics must, therefore, be subject to significant caveats and more effective ways to collect/compile kidnap statistics explored.

Kidnapping research must also account for the multiple, and mutating, manifestations of this criminal phenomenon. In the Mexican context, kidnapping is not a distinct criminal activity, but one that both takes different forms and is also part of a spectrum of criminality. It may be carefully planned or opportunistic. It may be a traditional case of extorting ransom,

14 Merry, S.E. (2016) *The Seductions of Quantification: Measuring Human Rights, Gender Violence, and Sex Trafficking*. London: University of Chicago Press.





or it may be a form of revenge, threat or intimidation, a mechanism of extracting labour for the drug-trade or sex-trade, or even a mechanism of recruitment into cartel activity.

Moreover, there is a temporal dimension to kidnapping that must also be recognized; kidnapping events can have different endings (most commonly release, disappearance, or death) and victim status may therefore evolve. This is manifest in the memorial-plaques to victims placed at the top of Mexico City's Paseo de la Reforma, some of which read '*Fui secuestrado y estoy desaparecido*' ('I was kidnapped and I am disappeared'). To truly understand the problem of kidnapping in Mexico, we must also consider the relationship between kidnapping and disappearance. In the aforementioned project on Citizen-Led Forensics and the disappeared, their independent registry found that 38 percent of recorded disappearances began as kidnappings. Approached from a different angle, the boundaries between extorting smuggled migrants and kidnapping them may also be difficult to discern.

Kidnapping cannot, therefore, be researched in isolation from other overlapping criminal activities. The patterns which these will take, inevitably, vary by context. For example, in the case of migrant kidnapping –and also speaking to aforementioned sensationalised media coverage– recent attention has focused on the linkage between migrant kidnapping and slave markets in Libya. We also know little about the micro-economies that support kidnapping: victims must be held captive – housed, fed, secured; negotiations must be conducted; ransom payments must be made/transferred. Kidnapping has its own eco-system and again the research around this is limited.

## Problems with Existing Interventions to Combat Kidnapping

It would be wrong to suggest that states, NGOs and INGOs have not sought to address kidnapping. For example, public outcry in Mexico at this threat's endemic persistence has triggered a sequence of national anti-kidnapping initiatives. However, these have consistently failed to impact upon this illicit practice, some initiatives even being criticized as ineffective in a context with high levels of impunity, where most kidnappers will not face conviction. A deeper problem is that if the state –and its actors– are

perceived as, at best ineffective, or at worst complicit, in the illicit practice they are tasked with combatting, then state initiatives will encounter limited public confidence and support.

Such criticisms also apply to transnational initiatives, given that these have traditionally prioritized assistance to state actors (e.g. in terms of criminal justice reform or police training). A case in point is the UNODC's *Manual de Lucha Contra el Secuestro* (Anti-Kidnapping Manual) which principally offered support to public institutions in Latin America that were confronting this threat. Whilst the importance of developing community participation was acknowledged in this UNODC initiative, its cornerstone of advice and assistance to state actors was criticised by commentators who reflected that 'the irony surrounding this manual is that some of its contributors are officials in countries that have yet to curb the practice of kidnapping within their own borders.'<sup>15</sup>

## Citizen-Led Counter Kidnapping: A Better Way Forward

Our project on kidnapping in Mexico is constructed around one key question: how do you counter kidnapping when you cannot afford private solutions or rely on the state? In a context of impunity and pervasive kidnap threat, we are aware that both Mexican citizens and irregular migrants are developing self-protection strategies and collective resilience to kidnapping. In our project, rather than focussing upon collaboration with state-actors, we prioritise engagement with such activism. Our objectives are to share the knowledge and skills that these actors have developed in counter-kidnapping, as well as to develop a portfolio of new resources that can be disseminated more widely across Mexican society. Through a structured programme of participatory action research workshops, we will provide a forum where training can be provided and knowledge-exchange fostered. Our activities help tailor counter-kidnapping to the needs and expectations of those most affected by it. Through a process of co-producing and co-governing counter-kidnapping resources, we focus upon citizen-led intervention to assist those at the frontline of kidnapping response.

15 McGlamry, C.G. 'Kidnappers without borders: An epidemic in need of global solutions' *Georgia Journal of International Law*, 40: 807-832.



Our research endeavours to highlight how valuable avenues to counter-kidnapping exist outside the orthodox response channels of state interventions or private security actions. To date such initiatives in the Mexican context have centred on the emergence of activist-citizens, but they may also be detected in migrants' resistance mechanisms to predatory violence on migration routes through Mexico (Vogt 2016). Recognizing that kidnapping is a threat encountered in states of impunity and increasingly parasitic upon irregular migrant flows, the following recommendations for research-informed policy are proposed:

- That kidnapping be recognized as under-researched, and counter-kidnapping as under-resourced, despite this illicit practice's prevalence, notably within smuggling contexts.
- That strategies which make state actors the dominant focus of counter-kidnapping strategies be re-evaluated and increased policy attention and resources be devoted to micro-strategies of counter-kidnapping.
- That a forum for comparative exchange on kidnapping as a predatory crime and on human smuggling be established to facilitate more empirically rich understanding of this illicit practice, as well as measures that might prove effective in mitigating risk to migrants.



# BRINGING THE FERRYMEN INTO THE DOCK: UNDERAGE INDONESIANS AS ‘PEOPLE SMUGGLERS’ IN TRANSPORTING ASYLUM SEEKERS AND REFUGEES TO AUSTRALIA

Wayne Palmer, Department of International Relations, Bina Nusantara University, and Antje Missbach, Monash University.

Worldwide, children and teenagers are recruited for activities related to people smuggling. The reasons for their recruitment range from the lower cost of their labour and their readiness to obey orders to their perception within smuggling operations: since children have a low chance of being prosecuted, it is often believed that laws are more lenient when they are tried for their involvement in smuggling.

Many underage transporters are among those involved in the irregular transportation of asylum seekers from Indonesia to Australia. They are usually hired as deckhands to help with tasks such as operating the boat’s engine and preparing food for passengers. According to the Indonesian Foreign Ministry, between September 2008 and September 2013, 1,440 Indonesian boat crew members were arrested and sentenced for people-smuggling offences in Australia; of these, 316 were under the age of 18 (Indonesian Foreign Ministry 2013). These numbers may not be entirely reliable, as the method used most frequently for determining age was the x-raying of a wrist, a technique which is far from providing accurate assessments of

age –not to mention that because of different diets and propensity to chronic malnutrition, the bone composition of young Indonesian fishermen is likely to be very different from that of young Australian people.<sup>16</sup>

Since 2011 it has been public knowledge that dozens of Indonesian minors have been unlawfully imprisoned in adult jails in Australia.<sup>17</sup> Yet it was not until 2012 that the Australian government began to give the benefit of the doubt to transporters who claimed to be minors (Roxon 2013). The Indonesian government has, on several occasions, urged Australia to differentiate between the fishermen who staff the boats and the organizers of the people smuggling networks. Moreover, it has also criticized the imprisonment of Indonesian fishermen and particularly minors, arguing that this re-victimizes already disadvantaged and innocent children (Missbach 2015). However, when taking a closer look at how Indonesia itself has dealt with the involvement of underage transporters who have been involved in people smuggling, a number of shortcomings and weaknesses in that country’s legal mechanism also become obvious.

In Indonesia, people smuggling was classified as a crime, starting in May 2011. Under Law 6/2011, smuggling carries severe sentences of between five and fifteen years in prison as well as fines ranging between Rp500 million (US\$39,000) and Rp1500 million (US\$117,000). Since the enactment of this law, dozens of people have been prosecuted and sentenced for their involvement in people smuggling in Indonesia (Missbach 2016).

Our work has investigated how Indonesian courts have dealt with underage smugglers. In particular, we examined the case of Hidayah (a pseudonym), a young repeat offender who ferried asylum seekers to Australia on three occasions but had escaped conviction there. On his fourth attempt Hidayah was arrested and sentenced in Indonesia, but his sentence was less severe than the minimum prescribed by Law 6/2011, as he was still considered a minor.

16 The reliance on wrist x-ray analysis as evidence of maturity appears to have contributed to efforts to obtain documentary evidence of age from Indonesia and to the giving of limited, if any, weight to such evidence when assessments were made of the ages of the young Indonesians. See Australian Human Rights Commission, 2012.

17 Currently, there are two trials in which the underage Indonesian offenders seek restitution from the Australian government for the wrongful imprisonment. See Hawley, 2017.

How and why was Hidayah recruited into people smuggling operations? As a teenager who had quit school as he had to find work in order to financially support his family, he was more open to accepting job offers that promised unusually high compensation. When recruited as a transporter to bring asylum seekers to Australia, Hidayah was promised by the recruiter that he would be paid at the time of departure, rather than upon arrival in Australia. Hidayah had insisted on this condition, not only because his payments during his previous trips had not come through in full. However, despite his insistence on a timely payment, the organizers deferred his payment. Hidayah had no opportunity to protest this change or to withdraw from the job.

Our research indicates that underage people smugglers are more vulnerable to exploitation in people-smuggling operations because of their age and are thus often not positioned to object. Our examination of Hidayah's case points to the judicial system's inability to understand the deception inherent in recruiting minors for these smuggling operations. In some cases, their recruitment and treatment during the people-smuggling journeys equates to trafficking. Criminal investigators and courts give very little consideration to the possibility that the minors arrested for people smuggling might have been trafficked themselves. In fact, because of their repeated involvement in smuggling operations, Indonesian courts dismissed the possibility that the transporters may be victims of trafficking, ruling instead that, despite their young age, they should have known from their previous encounters with law enforcement agents that they were acting illegally, as was argued in Hidayah's case. His high vulnerability to recruitment into illegal activities resulting from his family's poverty was ignored by law enforcement.

Under political pressure to show their commitment to combatting people smuggling, Indonesian law enforcement and justice officials must show results in the arrest and prosecution of smugglers. Having studied closely a number of trials and court documentation, our research indicates that there is an inherent tendency to seek punishment for people smuggling rather than for related crimes, simply because the evidentiary requirements for people smuggling are easier to meet than, for example, those for proving human trafficking.

Our research defines the employment of underage Indonesian males in smuggling as exploitative on the basis of four factors.

These are:

- Deception: the minors are often not given correct information about the real destination of their journey when they are recruited.
- Restricted decision-making: the minors are unable to make decisions about matters such as the journey's route, the selection of passengers, the preparation for the journey, etc.
- Inability to object: once at sea, the minors have scant opportunities to object. Even if they realise they are committing or are expected to commit a crime, such as entering Australian territory illegally, they have no option but to follow instructions.
- False, unpredictable compensation offers: it is common for minors not to be paid the compensation they were initially promised.

## Recommendations

Law enforcement and other justice officials in Indonesia ought to pay more attention not only to factors such as age and age-specific vulnerabilities. More importantly, when scrutinising people-smuggling cases they should start to consider socio-economic disadvantages experienced by young Indonesian fishermen during their recruitment into criminal activities. Also, the minors' limited power in decision-making before the journeys, as well as their overall lack of agency during the journeys and of course the unpredictability of compensation need to be considered as part of the judicial process.

By paying closer attention to the recruitment processes and the pathways that lead underage fishermen into participating in people smuggling, law enforcement and other justice officials in Indonesia might be able to detect trafficking practices. Becoming more aware of the inherent deceptive and exploitative practices used within the recruitment and treatment of underage fishermen before and during the transportation of asylum seekers to Australia would improve minors' access to justice. Recognized as victims of trafficking, these underage fishermen would not be convicted for people smuggling and would not have to carry the main blame for the unsanctioned mobility of asylum seekers, but rather they would be entitled to state support for their recovery and reintegration, which is required by Indonesia's human trafficking law.



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# WOMEN AND MIGRANT SMUGGLING FACILITATION IN THE UNITED STATES

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In early 2019, three specific stories about women and migration were commonly seen online. Re-tweeted consistently were a New York Times report over the sexual violence faced by migrant women in transit from Mexico into the United States; the gruesome images on the treatment of migrants being held in detention centers in Libya –consistently labeled in Europe as a case of ‘slavery’ following a sensationalistic and graphic CNN report in late 2017; and Al-Jazeera’s coverage on women from Niger who, following the EU-crackdown on smuggling facilitators and having worked themselves in what was depicted as the once profitable world of smuggling, had found themselves again subdued to men.

All three stories matter, for they are indeed reflective of the widespread concerns among European and American audiences over the perceived challenges women from the global south face in the context of migration. They also, however, constitute yet another round of repetitive, palatable stories reducing women’s experiences on the migration pathway to sex, suffering and subjugation. But is there room for a more complex narrative concerning women to emerge? The stories reminded me of the rich ethnographic work of scholars like Wendy Vogt, Noelle Brigden, Lupe Flores, Robin Reineke and Soledad Alvarez Velasco, whose work has documented the intimate and personal nature of the experiences of women in relation to migration. My own work documents both the experiences of women who have been convicted of migrant smuggling in the US and those who in the context of their migratory journeys perform smuggling-related tasks. These nuanced approaches have hardly been part

of the conversation surrounding the alleged migration crises worldwide, or specifically those purportedly taking place on the US Mexico border. In fact, despite the ubiquity of references to smugglers and traffickers in the often racist discourse coming out of the US White House, empirical research and data on the facilitation of migration continues to be scant.

Why have the experiences of women remained largely invisible in this conversation? The answer may be connected to the dominant narratives counter-smuggling enforcement relies upon worldwide –those where smuggling facilitation is portrayed as the domain of dark-skinned male smugglers operating in Africa, Mexico or the Middle East—but also to the stories we as audiences like to tell ourselves. Smuggling has historically been described as a criminal and obscure domain in which men from the global south organized in vast criminal networks extract financial profits from a seemingly unstoppable number of desperate people. Within this framework references to women are limited to the kind that portray them as victims of men’s sexual impulses, or as their devious partners in an evil human trade.

The forms of violence migrant women face –and inflict—on the migration pathway must *not* be ignored. Yet to attribute them solely to ‘smugglers’ or organized crime masks the vast range of actors –including the state –playing a role in the execution of such violence. Furthermore, the focus on sexual violence leads to the fetishization of the bodies of migrant women of color, obscuring the very strategies they deploy for their protection and that of those who travel with them, and the relationships that they may forge along the way for survival, company and care (Brigden 2018; Vogt, 2019). Furthermore, conceiving the facilitation of irregular migration as being solely under the control of an organized criminal element hides the many actors who facilitate mobility (friends, family members, indigenous communities, seasonal or incidental *passeurs*) who, despite lacking criminal intentions, have become increasingly criminalized (Stone-Cadena and Alvarez Velasco, 2018; Guevara Gonzalez, 2018; Kook, this volume).

The examination of women’s experiences with smuggling facilitators, but also as facilitators themselves, further reduces the need to rely on the victim/predator binary often present in smuggling narratives. It reveals complex, if certainly often unequal interac-



tions that vary in context, duration and nature. Data reflects that the tasks women perform in smuggling are key to their survival and that of other people in transit and that to do so often involves not just violence, but also the crafting and deployment of forms of protection and care in economic and socially-precarious settings.

## Who are the women in smuggling?

While the following must not be interpreted as reflective of the experiences of all women, there are a few generalizations that can be made on the basis of research and data concerning women in smuggling. The United States, through the US Sentencing Commission (USSC) is one of the few countries in the world that makes data on smuggling convictions available. This shows that out of the 2,400 people who on average have been convicted for smuggling offenses at the federal level since 2011, about 25 percent (that is, approximately 600 of them) have been women.

Their ages vary widely –official data only provides numbers involving adult women, but I have also interviewed women who indicated their involvement started prior to them turning 18 (Sanchez 2018; DHIA this issue). While the statistics from the USSC indicate the number of US citizens convicted of smuggling at the federal level is increasing, most women I have interviewed for the purpose of my research have been undocumented migrants from Mexico and Central America. Few of them spoke English. Some had received no formal education, while others had attended few years of elementary school; others had completed trade school courses in their countries of origin. But what they systematically had in common was the fact that they all lived in low-income, working class communities throughout the United States and on the US Mexico border, and were employed or underemployed –in addition to performing smuggling tasks—in low-wage jobs, such as fast-food cooks, maids, nannies and janitors. Two were hairdressers. The vast majority were mothers to US born children.

Women's entry into criminal markets is often explained in the criminological literature as dependent upon their romantic involvement with men who are almost invariably portrayed as occupying positions of power. Testimonies of women convicted for smuggling reveal that while that is occasionally the case, participation is often the result of social obligations towards friends or

family members, male and female, who have already participated in smuggling activities. Other women reported having independently approached people known to be involved in smuggling seeking an employment opportunity. Others were migrants themselves who, having been unable to complete their fees, agreed to pay them off through the performance of varying tasks.

The circles the women interacted with were comprised of people like themselves living in communities along the migrant trail. Despite the common allegations in the media of a convergence between different criminal markets, there was no indication that any of the women had ties to transnational criminal organizations. Some did report interactions with other men and women involved in drug trafficking activities, yet the nature of such encounters varied widely. It ranged from warnings against the use of specific routes to having to pay fees or *piso* for the right to travel through them, and from sharing food and water while en route to running into each other at schools, churches, markets and parties. In short, there was no conclusive evidence of structural convergence between migrant smuggling and any other crimes.

## What are women's experiences in smuggling like?

Many women perform smuggling-related tasks in the context of their migratory journeys. As described above, some were offered discounts on their smuggling fees or improved travel conditions for themselves and/or those they traveled with (their children, spouses) in exchange for work. Among the tasks women consistently performed were cooking, cleaning, and caring for children and elderly migrants. Many of the women who were already settled reported being compensated for assisting recently-arrived migrants secure medical attention, clothing, furniture, information on schools, housing and employment. Others housed migrants during specific segments of their journeys, and on occasion enlisted the assistance of other women, especially when hosting several migrants simultaneously.

While it is quite likely that the shame or stigma might have prevented the disclosure of these cases, none of the women I have interviewed to date have reported having experienced sexual assault. All of them, however, endured often heinous forms of sexual intimidation and harassment at the hands of male smuggling facili-



tators, other migrants in transit, and law enforcement and other state officials in both Mexico *and* the United States. Many witnessed or heard of women who had been victims of sex crimes. But women also learned, found and developed ways to resist and challenge these incidents, both by themselves and with the help of other women *and* men. Several acknowledged having willingly forged close and in some cases intimate relationships during their journeys with smuggling facilitators and other migrants, for protection and expedited transit, but did not characterize them as forced interactions or as constituting sexual assault.

## The legal ramifications of women's participation in smuggling

Data indicates that women's participation in the facilitation of irregular migration has less than nefarious motives. It emerges from individual decisions to improve personal living conditions, and is indicative of the ways women navigate the precarity arising from gender, class and race-based inequalities. Participation is primarily motivated by hopes of material gain, but also by different reasons and goals— ranging from the desire to supplement low wages from low-paying occupations, to reducing the financial and/or physical impact of their own irregular journeys.

When undocumented migrant women are convicted for smuggling, their status leads to their deportation following the completion of their incarceration sentence. This in turn invariably results in family separation. Furthermore, a felony conviction of the kind resulting from smuggling charges eliminates the possibility of women being allowed to re-enter the country legally in the future. Interviewed women who were prosecuted in the US often opted to leave their children under the care of other women or older relatives in the US, for they believed this would provide the children with better opportunities than those available in the mother's country of origin.

Smuggling criminalization also has other impacts on the women's children. These are often subjected to surveillance and intimidation themselves. Legal records provide abundant evidence of this kind of policing behavior. In one case, police placed a woman's young daughter under watch, stopping her one day on her way from school and confiscating her maths notebooks

claiming the numbers it contained were evidence of the family's involvement in smuggling. Another case outlined how police had placed two young children under house arrest, threatening their mother with removing them unless she confessed to a smuggling charge.

Among the women who participate in smuggling as a way to pay off the remainder of their smuggling fees, detection by law enforcement was a constant fear. Arrests almost invariably result in the confiscation of any smuggling fees already paid as evidence –funds that are often borrowed by migrants and their families at high interest rates. Hoping that their silence will be rewarded with additional border crossing attempts, many migrants refuse to disclose the identity of predatory smuggling facilitators. Other cases lead to criminal charges being filed against migrants themselves. One of the cases I examined involved that of a pregnant woman who was charged with aggravated smuggling, despite evidence that she was working in indentured-like conditions with the hope of eventually being transported to her destination.

## Recommendations

- The roles and motivations of women who perform smuggling-related tasks are varied and complex. Yet their backgrounds are primarily the same: they are low income residents of marginalized communities along the migrant pathway, who are often undocumented migrants with limited mechanisms to improve social or economic mobility. Their experiences show enforcement measures to counter smuggling do not impact transnational organized crime but rather poor, often marginalized people who rely on smuggling facilitation as an income generating mechanism and at times as a path to migration. Operations chasing the myth of the organized smuggling ring have scant if any impact on the overall smuggling market, its more predatory forms and their often dangerous ramifications.
- Relief from deportation for the mothers charged with smuggling can reduce to some degree the impact of criminalization, as well as the establishment of policies regulating contacts with women's children in the context of an investigation.





- Policies concerning the reimbursement of confiscated smuggling fees may also reduce the long-term vulnerability of migrants who, regardless of the outcome of their journeys, are still responsible for the debt accrued.

Exploring the implications of smuggling's practices and its enforcement on women opens doors to the possibility of creating improved mechanisms for the administration of justice and for victims' access to protection. Enforcement practices but also sensationalistic stories that perpetuate the myths surrounding the smuggling market on the other hand just allow for the continued victimization of people who have been intentionally silenced for too long.

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# BOYS, GIRLS AND ADOLESCENTS IN THE U.S.-MEXICO BORDER MIGRANT SMUGGLING MARKET<sup>18</sup>

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## Introduction

Migrant smuggling along the U.S.-Mexico border has generated much discussion in policy, academic and law enforcement circles, particularly under the current U.S. administration. Yet there is scant empirical and grounded research on its dynamics, actors, and human security implications. In this essay we provide an overview of a community intervention carried out in El Paso, Texas and Ciudad Juárez, Mexico (both cities on neighbouring sides of the U.S. Mexico border) on the experiences of boys, girls and adolescents working in the facilitation of smuggling journeys. We argue that the often-monolithic representation of smuggling as a crime carried out by *cartels* or transnationally organized criminal networks obscures the dynamics of the communities where smuggling takes place, and the risks faced by actors involved in smuggling, which along the U.S.-Mexico border include historically marginalized children and youth.

## Context

Even though current border and migration enforcement discourses in both Mexico and the United States often characterize it as an unprecedented phenomenon, migrant smuggling along the U.S.-Mexico border is not new. Throughout history it has been tied to systematic restrictions imposed on the mobility of specific groups of people, often on the basis of ethnicity and/

18 This research was supported in part by the Fund for Research Excellence at the University of Texas. The full text of the report can be found at <http://cadmus.eui.eu/handle/1814/50984>

or citizenship.<sup>19</sup> For decades, *coyotes* –the colloquial term used in reference to migrant smuggling facilitators–have been known to assist employers as well as migrants from across Latin America to overcome legal restrictions and physical barriers preventing them from entering the United States.<sup>20</sup> Increased border enforcement and militarization on both sides of the border, changing migration trends and national security practices, along with growing inequalities in Central America and Mexico, have also led to the emergence and consolidation of Mexico as an important migrant smuggling corridor, where migrants have increasingly become the target of acts of violence and victimization.

The ill-treatment irregular migrants in transit face when traveling through Mexico has been extensively documented. Tens of thousands of migrants have been reported dead or missing during their journeys along the U.S.-Mexico migratory corridor, while kidnapping, extortion, sexual assault and torture are commonplace.<sup>21</sup> These crimes are carried out by a constellation of actors, ranging from criminal groups and smugglers themselves to migration enforcement officials, police agents, military forces and ordinary citizens.<sup>22</sup>

Over the last decade multiple reports have depicted the smuggling market along the US Mexico border as a sophisticated operation performed by hierarchically organized criminal groups, particularly Mexican drug trafficking organizations (DTOs). While the claim is ubiquitous,<sup>23</sup> it draws from limited empirical research.

19 See Chao Romero, Robert (2010). *The Chinese in Mexico 1882-1940*. Tucson: University of Arizona Press. Spener, David (2009) *Clandestine crossings: migrants and coyotes on the Texas-Mexico Border*. New York: Cornell University Press.

20 See Gamio, Manuel (1971). *Mexican Immigration to the United States: A study of human migration and adjustment*. Mineola: Dover Publications.

21 See Leutert and Yates, this issue.

22 Sanchez, Gabriella and Sheldon Zhang (2018). 'Rumors, encounters, collaborations and survival: the migrant smuggling-drug trafficking nexus in the US Southwest.' *The Annals of the American Academy of Political and Social Sciences*, 676(1): 135-151.

23 For examples, see Leutert, Stephanie (2017). 'When Drug Trafficking is your only option.' *Foreign Policy*. 14 July 2017. Available from: <http://foreignpolicy.com/2017/07/14/when-drug-trafficking-is-your-only-option>; Slack, Jeremy and Howard Campbell (2016) "On narco-coyotaje: illicit regimes and their impacts on the US Mexico Border." *Antipode*, 48(5): 1381-1399; Correa-Cabrera, Guadalupe (2017). *Trafficking in Persons along Mexico's Eastern Migration Routes*. Washington DC: Wilson Center Latin American Program.

Most of the data used has been collected in shelters among migrants who have been victims of violence, or is derived from statements from law enforcement or migration authorities, whose actions have consistently come into question among extensively documented claims of corruption and extortion.

The claim has also become increasingly questioned by recent ethnographic work on smuggling dynamics. For example, knowledge of migration routes and travel techniques to avoid law enforcement detection is indeed a valuable and profitable skill amid stepped-up immigration enforcement. This knowledge, however, is far from being solely under the control or administration of large organizations or networks.<sup>24</sup> Instead, it is most often held and mobilized by those who live along the migration trail and understand its challenges.

Frequently, those behind the journeys of migrant are migrants themselves who became stranded at some point during their own transits, and who profit on the expertise they have acquired in the process of crossing borders to make a living. Many others are knowledgeable about crossing paths and hiding places by virtue of living along the migration pathway, and are able to profit from that knowledge.

This is indeed the case of the children whose experiences we document here. They are residents of some of the most marginalized communities along the US Mexico borderlands, their neighbourhoods consistently ranking among those with the highest rates of poverty in national surveys on both sides of the border. For generations these communities –known as *colonias* --have endured low educational and employment opportunities, and limited access to medical care, water, electricity, sewage and public transportation. Their residents are also more likely to present higher rates of substance abuse, malnutrition and exposure to toxic chemicals than those residing elsewhere. Ironically, these communities are also situated along strategic points to access the United States undetected, and constitute for that reason prime territory for contraband activities. In this context, participation in illicit and/or criminal activities is often seen as a mechanism to counter the impact of poverty. Many of those who participate in these activities –which include migrant smuggling -- are children.

24 See Campana, this issue; Sanchez, Gabriella (2018). Five misconceptions about migrant smuggling. Policy Brief. Florence: Migration Policy Centre. Available from: <http://cadmus.eui.eu/handle/1814/54964>.

## “Circuit Children”

In Mexican protection circles the term *niñez de circuito* (‘circuit children’) is used to designate the boys, girls and adolescents within the ages of 11 and 17 who recurrently perform drug and migrant smuggling tasks along the U.S.-Mexico border. While drug and migrant smuggling are considered criminal offenses under U.S. and Mexican law, children do not face criminal charges as a result of their involvement in the markets given their age. If apprehended in the context of these activities binational agreements establish that the children must be returned by U.S. authorities to Mexican authorities, who must then release the children to their parents or mentors.

It is common to hear claims that criminal organizations and/or drug trafficking groups (*cartels*) are aware of this legal gap, and forcibly recruit the children to perform tasks for them. While this may indeed be the experience of some children along the border, those interviewed as part of our study entered the market as a result of their personal awareness of the financial and social benefits derived from participating in illicit and/or criminal markets. Most children are recruited by peers, friends and even family members with no ties to organized crime, who participate in smuggling to supplement precarious wages from jobs in the mainstream economy. Most children reported not having faced coercion or violence at the time of their recruitment. Participation in smuggling becomes instead normalized as a viable if not ideal form of labour, especially given the systemic lack of employment and educational opportunities on the border region. The children’s knowledge of the border’s geography becomes a skill they can market and profit from without having to leave their communities.<sup>25</sup>

The income generated through smuggling constitutes an important reason behind children’s involvement in the market. As guides, children are paid a commission for every migrant they are able to cross successfully, and receive additional compensation if the person is from a country other than Mexico. The children are aware of and often proudly reflect on the impact their income has on their family’s quality of life. One teenage boy stated: “with the money I got I bought shoes for all my little siblings; I would take everybody

25 All 454 circuit children identified in 2016-2017 by Ciudad Juárez’s child protection authorities were residents of 4 hard-to-access neighborhoods in the immediate proximity of the border fence.

out for pizza.” But the reasons they cite for participating in smuggling often go beyond profit. The children express a desire to help others amid the criminalization and enforcement of migration. A teenage girl who worked as a decoy stated: “it is nice to know you help [migrants] reunite with their family, especially now that it is harder to cross.” Aware of the risks inherent to irregular migration, on occasion the children reported assisting migrants they perceive as vulnerable or at risk. A teenage boy who worked as a driver stated: “I always got women and girls out of the safe houses<sup>26</sup> first because they reminded me of my mom and my sisters and I didn’t want them to suffer.” The testimonies of the children, most of whom are male, also reflect their aspirations for social recognition. Statements like “my boss really liked me, he said I was a good worker;” “I was good at what I did; I liked taking risks and knew more than the other guides and that’s why they kept me” were common during our fieldwork.

## The Implications

The children may not specifically describe the work they perform in smuggling as precarious, forced or violent. Yet their testimonies reveal smuggling’s high levels of risk. They often work at night guiding migrants through rough or dangerous terrain to avoid detection. A child reported having almost drowned while attempting to cross the canal between the cities of El Paso and Juarez (“my partner pulled me from the collar of my shirt, otherwise the current would have dragged me”). They also operate heavy equipment or tools, which often results in injuries.

Much has been said about the violence children can face as a result of working for organized crime. Yet it appears their vulnerability is compounded by their condition as young people in precarious work environments, rather than by the actions of criminal groups. One child described being brought blindfolded to a location where his employer –a teenager only one or two years older than him and who claimed to have ties to drug trafficking—unleashed a fight dog onto him as punishment for requesting a day-off from work. Another child shared that his own father forced him to remain in the market as a guide, which eventually led the child to run away from home and file an asylum claim in the U.S. The desire to improve their financial situation also leads the children to endure mistreat-

26 Locations where migrants wait for transportation services or while their fees are being paid and/or negotiated.

ment and violence. Despite disliking the job, one of the children could not find an occupation that paid as well as smuggling or that allowed him to support his family. While he had left the job voluntarily, he returned after a brief hiatus to work for a man he described as an abusive employer: “I took a job bagging groceries but I made virtually no money, and by then my girlfriend had had a baby so I just had to go back. I had no other option.”

Children’s interactions with law enforcement are also source of continued tension. In 2014, U.S. Customs and Border Protection (US CBP) implemented the Juvenile Referral Program, which involved the identification and holding of “alien minors suspected of smuggling.”<sup>27</sup> Under the claim that “criminal organizations used unaccompanied alien children from Mexico to smuggle aliens and narcotics,”<sup>28</sup> USCPB brought an estimated 800 children into custody. Identified on the basis of criminal and biometric records as recurrent smugglers, the children were subjected to questioning by US CBP and other law enforcement agencies without legal counsel or parental authorization. During this time children were placed in juvenile detention facilities in locations across the United States, often away from their neighborhoods on the U.S. Mexico border. This resulted in families not being able to contact or visit their children, or simply know their whereabouts. Our research indicated parents were often not notified of their children’s apprehension. One mother stated she did not hear from her son in 6 months, while another stated it was 3 months before her son was allowed to communicate with her. While the program officially terminated in 2015, children continue to report that they were subjected to intensive questioning and intimidation by U.S. immigration enforcement agents. Furthermore, there are also reports of children being returned to Mexico even in cases when they have reported fearing for their personal safety and that of their family. Children also report being questioned in plain sight, being denied food or medical attention, and being placed in holding cells with very low temperatures.

27 American Civil Liberties Union Foundation (ACLU) vs. US DHS, US CBP, US ICE, USCIS, DHHS, ORR (2017). Opinion. (US, March 22, 2017) Case no. 1:15-cv-09020-RWS. Available from: <https://www.courthousenews.com/wp-content/uploads/2017/03/CBP-FOIA.pdf>

28 See ACLU, above.

## Recommendations

Boys, girls and adolescents in smuggling activities along the U.S.-Mexico border face specific challenges, which have been obscured by the emphasis on fighting smuggling primarily as a transnational organized crime. U.S. immigration authorities have repeatedly argued the children, despite their age, are willing actors within smuggling networks and that they ought to be prosecuted, while Mexican authorities lack long-term strategies that may reduce children's involvement in the market. Our research found structural marginalization on both sides of the border creates the conditions that lead families and children and youth to resort to criminalized activities as subsistence mechanisms –in other words, despite the fact that smuggling is known to be an illicit activity, children and their families often see it as a legitimate form of labour amid the lack of other employment or occupational opportunities. As long as policy and practice continue not to include the perspectives of the communities where activities like smuggling takes place or to address their challenges, the often-devastating consequences of children's participation in smuggling are likely to continue.

At the same time, as researchers and border residents, we understand that the conditions within border communities are unlikely to change overnight. Yet we provide a series of specific recommendations that can be carried out to reduce the vulnerability of children in smuggling:

- Law enforcement's contacts with children must be performed in a fashion that ensures the protection and the respect of their privacy, identity and well-being. Interactions must be in the language of the child and non-antagonistic in nature.
- Children must be allowed to communicate with a trusted family member or adult immediately following their contact with any authority, particularly if apprehension or detention is expected. If no adult is available, a special advocate must be appointed.
- If criminal charges are filed, the children and their family must also be given appropriate notice and support, including access to counsel.
- Binational protocols outlining the responsibilities of the authorities to the children on both sides of the border must be developed and enforced.



# DEBUNKING THE SMUGGLER-TERRORIST ANALOGY: HUMAN SMUGGLING AND FOREIGN FIGHTER NETWORKS IN SYRIA AND IRAQ

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With Syria descending into a brutal civil war and the outbreak of the Islamic State (ISIS<sup>29</sup>), since 2011 millions of Syrians and Iraqis have been displaced or forced to leave their home country. The influx of refugees and asylum seekers fleeing from conflict has created a state of anxiety in Europe. Amid the parallel increase of terrorist attacks in European countries, alleged connections between terrorist fighters and irregular migrants are frequently represented in contemporary narratives of the “refugee crisis”. Smuggling networks are thought to be readily available to terrorist organizations such as Al-Qaida and ISIS to finance their operations and infiltrate fighters below the radar of security apparatuses.

However, though commonplace in the public discourse, such a nexus is based on anecdotal information only. Europol has not found evidence that migrant smuggling is a source of revenue for terrorist organizations (Europol 2016a: 12). Despite there being only a few isolated cases, the EU law enforcement agency also stated that foreign fighters “typically do not rely on the facilitation services offered by migrant smuggling networks” (see also Interpol & Europol 2016).

29 The acronym stands for “Islamic State in Iraq and al-Sham” and it is preferred here to IS (“Islamic State”) because the study focuses on the militia that rose from the ashes of Al-Qaida in Iraq and established itself over a contiguous area across Syria and Iraq, while the latter denomination has a global reach including under the umbrella of the Caliphate, a variety of branches and affiliated groups that may follow different organizational models.

In this regard, a look into ISIS internal documents allows us to shed light on the purported intersections with smuggling networks and, eventually, debunk the thesis of an organic connection. The available evidence shows indeed that ISIS never systematically used migrant smugglers to fund its insurgency or move affiliates across borders. I argue that this occurs as a result of structural and operational differences, which relate to opposing rationales. Before entering into that discussion, a few considerations on ISIS political economy and facilitation schemes are in order.

## The Islamic State revenue generation and facilitation network

ISIS financial and personnel records, retrieved by US Special Forces or provided by defectors, reveal the fingerprints of the Islamist group. ISIS is the best-funded terrorist organization worldwide due to a diversified mechanism of revenue generation, which reportedly managed to generate \$1-3 million per day in late 2014 (Johnston & al. 2016: 255) and thrives on a wide array of criminal practices – oil and natural gas smuggling, bank looting, extortion, and kidnapping for ransom to mention a few (CAT 2015). Despite imposing taxes on trade and border crossing, the organization has not taken up the smuggling of migrants as a means of financing. This is not by chance: since its inception, ISIS has followed the criteria of looting resources and taxing licit and illicit economies in order to be financially independent. The approach vis-à-vis human smuggling is rooted in its organizational culture, military imperatives, and also in the power vacuum opened by the collapse of the Ba’athist regime in Iraq and mounting civil strife in Syria. Even though militants have levied fees on smuggling routes in areas under de-facto jurisdiction (Humud & al. 2015: 9), or at least did so while they maintained territorial control, that share is marginal in the ISIS criminal economy. Rather, taxation performs a political function for the insurgent group, namely acquiring legitimacy and social control by acting as a state-like authority.

Similarly, ISIS has not outsourced its logistics to external facilitators. Data on the transit of foreign fighters details a peculiar modus operandi with a limited number of key crossing points on the Turkey-Syria border managed by military commanders (Dodwell et al. 2016). Fear of infiltration, volatile



war conditions and the need for a constant supply of foreign fighters led the organization to build its own infrastructure to move fighters, weapons, and money. As a further illustration of that, ISIS forces took over villages and towns on the Turkish southern border to secure safe passages for foreign recruits.

This also applies to those moving out of the ISIS-held territories after fighting for the Caliphate. Although very few foreign fighters have engaged in acts of terrorism upon returning back to their home countries –only 1 in 360 returnees according to Hegghammer & Nesser (2015)—most of them used legal channels –mainly flight connections from Turkey (Europol 2016b) –or the organization’s transnational network. It should also be noted that jihadist attacks in the West are predominantly “lone wolf” attacks, executed by self-radicalized Western nationals without previous fighting experience and not directed by any jihadist group.

## Not the flip side of the same coin

If smuggling networks and terrorist groups such as ISIS neither coincide nor overlap, I argue that a crucial reason for that lies in their opposite organizational models. Being an armed militia, ISIS follows a hierarchical, vertically integrated, and highly specialized structure. These characteristics cannot be attributed to smuggling networks. Recent research has shown indeed that these are not sophisticated criminal cartels, but rather flexible and loosely connected groups in which the division of labor does not translate into rigid hierarchies (Achilli, 2016). As other contributors to this publication clearly point out, smuggling networks tend to be horizontal, structured on an ad-hoc basis, and also relatively accessible.

Most importantly, these organizational differences underline contrasting purposes. Whereas ISIS is geared to sustaining warfare and mimicking state-like functions, human smugglers provide a mechanism of protection to people seeking safety and who are unable to leave conflict zones. Critical research on smuggling has stressed that these mechanisms “are often community initiated” and “constitute a form of human security from below” (Sanchez 2017: 20). The siege of Mosul is a case in point. Long a stronghold of the Caliphate, militants deterred people from fleeing with public executions and landmines all around its

perimeter since out-migration was detrimental to ISIS legitimacy. On the other side, smugglers took high risks to help civilians leave the city.

This puts into question the mainstream depiction of smugglers as ruthless and exclusively profit-driven exploiters: kinship and solidarity are powerful motivations as much as material gains. It also draws attention to the fact that smuggling processes originate as a coping strategy to overcome restrictions to mobility and the lack of international assistance, which in the first place created the conditions for clandestine alternatives.

## Policy implications

Especially after 9/11, irregular migration and international terrorism have been viewed as interrelated threats, making migration policies more restrictive on the grounds of security concerns. The assumption behind this is that the smuggling of migrants is a lucrative and murky business which naturally attracts terrorist organizations. However, this general understanding is not empirically supported.

Putting smugglers on the same level as terrorist fighters is not only analytically misguided, but also produces unhelpful policies. Deconstructing such a connection has therefore relevant implications. First, targeting migrant smugglers does not degrade terrorist organizations neither financially, nor logistically. Second, linking the occurrence of terrorist violence in Europe with migration flows is deeply flawed. Rather, since terrorism is a driver of migration (Schmid 2016), we should be asking whether stricter border management prevents or increases violence by forcing refugees and asylum seekers to leave themselves to the mercy of unsafe journeys.

From this perspective the criminalization of smugglers, as well as the militarization of borders, do nothing but increase the vulnerability of irregular migrants without crafting effective responses. Even more dangerously, it spreads resentment against migrant communities settled in Europe. These considerations recommend decoupling counter-terrorism and migration policies, and in the latter case placing more emphasis on the risks that migrants face during border crossings.



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# DARE WE QUESTION THE OBVIOUS AND RECOMMEND THE IMPOSSIBLE? — CRIMES OF SOLIDARITY AND A QUEST FOR A HUMANITARIAN RESPONSE TO MIGRANTS IN PERIL

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## The “Crisis” of Irregular Migration in the (Western) World

The Western world has in recent years been screaming alarm at the massive influx of migrants, mostly unwanted because of their unfortunate origins from the underprivileged global south. What is more interesting is that by most government accounts, criminal networks are responsible for much of irregular migration, placing migrants in circumstances replete with abuses and exploitation. The official narrative is rather simple to present. It is often reduced to (1) the brutality of the criminal networks, and (2) the vulnerability of naïve migrants caught in an unfortunate journey. For instance, Europol claimed that ninety percent of the one million migrants who reached the EU in 2015 had been assisted by criminal networks as well as individual criminal entrepreneurs (2016).

Western governments largely consider combatting migrant smuggling activities an important, if not the most important, aspect in its efforts to stem the flow of illegal migrants. For instance, in February 2016,

Europol launched the European Migrant Smuggling Center to “proactively support EU Member States in dismantling criminal networks involved in organizing migrant smuggling.”<sup>30</sup> The U.S. government follows the same response strategy—stepping up efforts to combat criminal smuggling organizations to reduce illegal entries by foreign nationals.<sup>31</sup> Along the same lines, major international organizations such as the United Nations also advocate positions that aim at improving legislative development and cooperation among member states to combat what is considered a multibillion-dollar global criminal enterprise.<sup>32</sup>

The response strategy seems uniform across the global north—combatting smuggling organizations is key to reducing the influx of unwanted immigrants. News media seem to support such a policy discourse. Not a single week passes by without stories of migrants rescued off open seas, rickety boats capsized, dead bodies floating in the Mediterranean Sea, or Mexican migrants dying in the hands of “kingpin smugglers with blatant disregard for human life” (Beavers 2017). This binary predator-victim position saturates much of the official discourse on illegal migration, and has remained largely unchallenged in the West for many years. It claims migrant smugglers are major enablers of illegal transnational migration and the main cause of abuse and violence experienced by migrants worldwide.

## Crimes of Solidarity in Mobility

Field researchers such as those included in this series have time and again found evidence contrary to the mainstream official narrative. Migrants are not passive actors in transnational migration but active in vetting and procuring smuggling services (see Achilli, this volume), evaluating the reliability of smuggling fa-

30 Detailed information about this center can be found at: [https://www.europol.europa.eu/content/EMSC\\_launch](https://www.europol.europa.eu/content/EMSC_launch).

31 The lead federal agency in charge of combatting migrant smuggling is the Immigration and Customs Enforcement (ICE) under the Homeland Security. For details of the U.S. official counter-smuggling strategies, see <https://www.ice.gov/human-smuggling>.

32 An example of the official assessment and counter measures advocated by the United Nations Office on Drug and Crime (UNODC) can be found at: <https://www.unodc.org/toc/en/crimes/migrant-smuggling.html>.

cilitators (see Ayalew, this volume), and learning through failed journeys which smugglers are worthy of trust (see Lucht, this volume). Migrant smuggling is a complex and layered social process where kinship, friends and associates, overseas migrant communities, personal connections, money, and prior experiences combine to form the basis for protection, safety, and decision-making along the journey. The rise of migrant smuggling as an underground travel service is nothing but a market solution to officially erected barriers. In this “illicit” market space, mutual vetting by buyers and sellers takes place, and sufficient trust must exist, at least superficially, before a transaction can occur. The binary predator-victim perspective rarely applies in a context where both migrants and smugglers actively engage in negotiating, vetting, and trading. Researchers have found similar patterns in which smuggling merely presents an opportunity to sell or exchange one’s resources (see Zhang 2007, 2008; Chin 1999, and Sanchez 2016).

Many field researchers on irregular migration consider the predator-victim binary a narrow portrayal of complex cooperation and mutually beneficial interactions because both smuggling facilitators and migrants are frequently found to be members of the same social networks (e.g., relatives, friends, associates, or social acquaintances), thus “committing” crimes of solidarity by providing mutual aid in advancing one another’s respective agenda for mobility. By the same token, they are subjected to the same informal control processes and therefore tend to engage in transactions in ways similar to other social enterprises. Smuggling facilitators may break away from commonly accepted social mores and codes of conduct for profit and self-preservation, especially in the face of hostile social settings. Some may abandon their clients in the deserts or charge ransom-like fees. Yet the majority of their operations proceed uneventfully, with little fanfare.

Solidarity features prominently not only in migrants’ journeys but also in their adaptation strategies in transit communities. Although most migration journeys proceed uneventfully, some smuggling operations do end in failures. Such failures can lead to many outcomes, some disastrous, while others are prolonged. In most cases, smugglers attempt to re-smuggle the migrants if they want to be paid or remain in business. The financiers or whoever fronted the cost of the smuggling operation must then decide if they can afford repeated failures or abandon migrants in transit countries. Secondly, when smuggling operations fail, migrants

often blend into their ethnic communities to settle in transit countries, thus unwittingly strengthening the infrastructure of these way stations. As most of us field researchers who have spent much time mingling with migrants and smugglers in different parts of the world can attest, the vast majority of migrants remain undefeated in spirit and will find ways to make money and connections for future attempts. Many of them become smugglers themselves while others choose to provide support services such as food and shelter to other travellers in transit countries (see Kook, this volume; Achilli, this volume).

## Questions Too Obvious to Ignore

A few themes have remained unchanged for decades in irregular migration: (1) there appears to be no shortage of attempts by migrants from the global south to travel to the north; (2) increased efforts from the global north to erect barriers through border hardening and criminalizing irregular migration and imposing harsh punishment on migration facilitators; and (3) intensified information campaigns to demonize migration facilitators and to employ scare tactics to dissuade would-be migrants.

The persistent demand for smuggling services in transnational irregular migration begs the question of why migrants fail to heed the warnings from government agencies and continue to seek out smugglers, seemingly oblivious of the dangers awaiting them. Why do so many migrants continue to place their lives and large amounts of money into the hands of their migration handlers?

The response seems equally obvious: unwavering aspiration for upward mobility in the face of blocked opportunities. In a globalized economy, images of good living through material goods have crossed all geographical and cultural boundaries. Internet and mobile electronics accelerate the spread of information about living and working conditions elsewhere but also fuel aspirations among the less fortunate. Mobility has largely been equated with pursuit of greater opportunities and better living conditions for oneself and one’s social clans. Unfortunately access to good living and job opportunities are not evenly distributed. Those with aspiration and self-determination will travel to places of greater possibilities. These mobility-aspirants are not easily deterred or suppressed.



However, the existing political system of the nation-state and the securitization of borders presents a serious obstacle to these migrants. In the age of capitalist globalization, movement control rarely applies to the rich and wealthy. Barring temporary diplomatic flare-ups between nations, capitalist elites are rarely concerned with border restrictions. Mobility for them means investing their money anywhere in the world or producing and selling goods and services wherever the highest margins of profit can be achieved.

While researchers seek to understand how individual and collective strategies towards mobility adapt and adjust under the increasing militarization of border control, one must question why so many are willing to risk their lives to migrate. Wouldn't it be nice if they could all just walk up to a check-in counter at an airport, hand over their identification papers, and request that the boarding pass be printed? Although not all want to migrate, many do for various reasons, from escaping armed conflicts or man-made calamities to looking for better economic opportunities. For those who have the misfortune of being born into underprivileged circumstances in the global south, mobility often requires alternatives to conventional travel arrangements.

As Spener (2009) argues, human migration from open to clandestine and from legal to illicit is not a mere reflection of migrants' preferences in travel but rather the manifestation of the obstacles created not by criminal networks but by governments striving to keep out those they consider undesirable. Migrant smuggling via maritime, overland, and air demonstrates the collective desire and response strategies to circumvent these obstacles. To Spener, irregular migration is a form of resistance by people seeking to improve their life or to escape wars and conflicts, a universal desire that is often reserved for the privileged in a world increasingly impacted by economic apartheid (2009). Recent geopolitical developments provide ample evidence that legal access to desired destinations will remain the purview of a privileged few (Gallagher 2015). As border control regimes rush to erect more barriers, people aspiring to mobility will continue to rely on their communities and kinship networks to find ways to migrate.

## Towards a Harm-Reduction Policy on Irregular Migration

One may argue that it is rather Orwellian to suggest that since the nation-state creates perilous migration conditions it then must tear down the control regime to allow a free flow of people. Few believe this is possible. Even those who advocate for the rights of migrants from the global north are not ready to open their doors to the economically unwanted. But may I ask: why not? Why not imagine a future where the mobility of humans can be compatible with the mobility of goods and services? For those who are in favour of building walls and digging moats, what are our moral grounds for enforcing an apartheid to shut out the economically underprivileged, while advocating a borderless global economy and touting the virtues of the free trade of goods and services?

Instead of resorting to more knee-jerk response strategies on irregular migration, perhaps it is time we start an honest conversation that exposes the real cause of irregular migration and the human miseries that goes along with it, acknowledges the futile efforts to intercept migrants aspiring to mobility, and contributes to an evidenced-based foundation for rational and realistic policies that focus on harm reduction while protecting the dignity of those swept up in migration flows worldwide. A world without borders is not only possible, but inevitable. Time will tell.



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