
Issue Brief
(Commission on Crime Prevention and Justice)

The Rights of Smuggled Migrants

Migrant smuggling is large and ever-growing criminal industry that effects virtually every country in the world and costs the lives of thousands of people every year. The UNODC defines migrant smuggling as the illegal transport of people into a country of which they are not a citizen or national, in exchange for financial or material benefit. It is important to note here, the differences between migrant smuggling and human trafficking. A smuggled migrant agrees to be moved across borders via unlawful means, whereas a trafficked individual does not. Smuggled migrants are aware of the dangers they are going to face, while trafficked persons are not. Migrant smuggling also only refers to movement across international borders, whereas human trafficking has no particular distinction. So, if migrants have consented to being smuggled, having full knowledge of its perils, why should they receive protection?

Most people who depend on migrant smugglers do not resort to do so by free will. They are driven to such extreme measures by conflict, human rights abuse, corruption, natural disasters and crippling economic sanctions; hence they do deserve aid. Smugglers are well aware of this fact, they frequently target irregular migrants and destabilized communities to sell their trade. With modern improvements to border control, increasing numbers of asylum seekers are discouraged from attempting to illegally cross themselves, thus they turn to the services of smugglers. Migrant smuggling is a highly profitable and relatively risk-free enterprise, as such small smuggler groups quickly grow to vastly complex professional networks that transcend international borders.

Classed as a transnational organized crime by the UNODC, Migrant smuggling is the subject of the United Nations Convention against Transnational Organized Crime, as well as one of its two Protocols, the Protocol against the Smuggling of Migrants by Land, Sea and Air, both of which were signed in 2000. However, the issue lies not just in combatting smuggling, but also protecting the victims of migration. Governments of nations often attempt to ignore the causes of hardships of the population driving them to migration by claiming that migrant smuggling is a domestic law enforcement issue in order to mask their support of the criminal activity or to avoid drawing media coverage and the attention of international policy-making bodies. Both this fact and the human rights of migrants must be kept in mind when drawing comprehensive solutions to the issue of migrant smuggling. Whether they are successful in safely crossing the border or not, almost all smuggled migrants end up as victims. Unless they can adequately prove their desperate origins, migrants will face the full wrath of the law enforcement bodies of their destination, but regardless of what's their story, aren't these migrants still human beings?

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