

Ilse van Liempt*

A Critical Insight into Europe's Criminalisation of Human Smuggling**

Abstract

Despite being framed as a recent phenomenon, human smuggling practices have existed for a long time and have historically been tied to border crossing regulations and controls. What is relatively new however is the criminalisation of human smuggling. Since the 1990s human smuggling is increasingly penalised and criminalised in Western Europe. As a result of this, a shift in popular discourse around human smuggling is notable. Human smugglers today are generally perceived as 'evil criminals' who undermine states' ability to manage migration and who need to be punished. This policy brief provides an overview of how smuggling has been framed over time in the European Union, and questions what the effects are of criminalising human smuggling for the protection of international migrants, dependent on smugglers for their mobility.

1 Introduction

The number of migrants crossing the Mediterranean with the intention to irregularly cross a European border reached a record high in 2015. According to the International Organization for Migration (IOM)'s *Displacement Tracking Matrix- Flow Monitoring System* over a million irregular migrants and refugees arrived in Europe in 2015, mostly from Syria, Africa and South Asia (IOM 2015). Frontex, the border agency charged with European external border management, released data claiming that the total number of detections of illegal border crossings in the first 11 months of 2015 reached 1.55 million (Frontex 2015). A risk of double counting has however been identified as people often cross multiple borders within the EU (Sigone 2015). A large number of the people who were for example counted when they arrived in Greece were again counted on entering the EU for the second time through Hungary or Croatia. Exact numbers of people crossing irregularly into the EU are not available, but it is evident that Europe is

facing a high inflow of irregular migrants and refugees, even though the number is very low compared to the amount of refugees hosted in the region (85% of refugees are hosted in the developing world) and it is less than 0.02% of the entire EU population (500 million).

Apart from putting the numbers into perspective it is equally important to realise that the levels of security at the European external borders, and therefore the numbers of migrants being detected, have increased rapidly over time. It is often forgotten that 'boat migration' across the Mediterranean is a 25-year old phenomenon, which started when Spain and Italy introduced Schengen visas for North Africans in 1991. Before that circular migration between North Africa and South Europe was very common, but since the introduction of the visa, North Africans who had no access to visas started to cross the Mediterranean illegally in *pateras*, small fishing boats. Empirical research in North Africa found that most of the Moroccan and

* Ilse van Liempt is Assistant Professor in Urban Geography at Utrecht University, the Netherlands.

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Tunisian fishermen who now work in the smuggling business are doing so only after they have lost their jobs in the fishing industry, in part due to European legislation, and in part because their governments sold their fish quotas to Spain and Italy (Mabrouk 2003). When Spain started to introduce sophisticated military border control systems, smuggling professionalised and the points of departure of boats diversified (De Haas 2007; Mabrouk 2003).

Today it is no longer North-Africans but migrants from conflict-affected countries such as Syria, Somalia and Afghanistan who arrive at the borders of Europe with the help from smugglers. This shows that the patterns of migration to Europe are continually changing (Collyer et al. 2012). The EU has reacted to increased irregular migration flows mainly through increased border securitisation. Increasing border controls however have not stopped asylum seekers and other migrants from crossing borders. This policy brief will look into migrants' dependency on smugglers over time, the shifts in policies and perceptions around smuggling in Western Europe, and the effects of criminalising smuggling for the protection of international migrants.

2 Irregular migration

An irregular migrant is defined as someone who crosses a 'border without proper authority or violating conditions for entering another country' (Jordan & Düvell 2002, p. 15). A critical difference is made in the literature on irregular migration between irregular *entry* and irregular *stay* (De Haas 2008). A migrant can *enter* a country without documentation and thus be considered irregular, but that individual can later acquire regularisation, and their *stay* is therefore not irregular. Conversely, a migrant can enter regularly, such as with a visa, but can become irregular by overstaying the visa (De Haas 2008). Prior to 2014, the majority of irregular migrants currently residing in the EU entered regularly, either based on short-term visa-free regimes or with a visa, but consequently overstayed their visas or took up employment in violation of their visa restrictions, thus becoming irregular migrants (i.e. Collyer et al. 2012; ; Castles et al. 2014; Koser 2010; Kromhout et al. 2008; van Meeteren & Pereira 2015).

Individuals can enter irregularly through three main routes: 1) entering a country without proper authority, either through clandestine entry or with fraudulent documents; 2) entering with authorisation but overstaying that authorisation and; 3) deliberately abusing the asylum system (Uehling 2004). Koser (2005) adds an additional route: movement into a territory under the control of

smugglers and traffickers. We can consider this similar to individuals entering a country without proper authority, either through clandestine entry or with fraudulent documents. It is important however to distinguish between irregular migrants and asylum seekers. These terms are frequently used in the same frame, particularly within policy (Düvell 2012). There are two important ways in which these terms intersect. First, asylum seekers may enter a state irregularly, although this is clearly not always the case. And should not have any impact on their right to asylum. Second, rejected asylum seekers without the right to stay may become irregular migrants, if they do not leave the country.

3 Human smuggling

Irregular migration can be autonomously organised by migrants themselves, but most of the time human smuggling plays a central role in facilitating irregular migration. In many parts of the world, migrant smugglers have become a necessary part of the migration journey. Recent research has indicated that roughly two-thirds of migrants use smugglers to access Europe (Koser & Kuschminder 2015; Crawley 2010). If we take the number of one million who have entered the EU during 2015, then 650 000 have probably arrived to the EU with the help of a smuggler, which is a substantial number.

When writing and talking about human smuggling it is often forgotten that smuggling arises from a mismatch between global migration intentions and opportunities for legal immigration. For asylum seekers it is most of the time impossible to cross borders legally. In this context, smugglers provide opportunities to asylum seekers to leave their country and find protection somewhere else. The motives of smuggled migrants are generally not different from the motives of other migrants: to improve one's live, to join family members or to escape from persecution (Bilger et al. 2006; van Liempt & Doomernik 2006). Human smuggling thus arises out of the existence of borders and because border crossing is possible only under certain defined legal conditions, while the motivation for global migration by far exceeds the given legal possibilities.

4 A historical perspective

As previously stated, restrictions to mobility are nothing really new and assistance for migrants who are officially prohibited from migrating through legal channels is not new either. In the United States, for example, bans on the slave trade after the civil war triggered smuggling practices that lasted for decades. Later, the prohibition imposed upon certain types of immigrants, such as those enabled by the

US-Chinese Exclusion Act of 1882, generated a smuggling market along the US-Mexico border involving Chinese nationals trying to re-enter American territory (Langrognet 2015).

During the Second World War Jews were smuggled out of Nazi Germany. These smugglers were later often praised for their heroic acts, for example in Hollywood films like Schindler's list. Parts of guest worker migration to Northern European countries in the 1960s also occurred outside the regulatory system (Berger & Mohr 1975). Additionally, the smuggling from East to West Germany over, under, across the Wall is also looked upon more heroically than current acts of smuggling. Refugees who had fled the communist regime were identified as being anti-communist, as being like 'us' in the West. This attitude changed when migrations started to occur increasingly from places with which the West identify less and/or knows little about.

The social context of human smuggling is very similar today in the sense that migrants still respond to war situations, demands of labour markets and state-initiated limitations to mobility (Langrognet 2015). Smugglers are nowadays however perceived much more as criminals than before.

5 Legal context around human smuggling

In Europe, it is since the mid-1990s, during the first refugee 'crisis' that human smuggling became increasingly associated with the profiteering and violent nature of smugglers, and linked to organised crime. Since then, the term 'smuggling' has been used in reference to 'illegal' forms of assistance, rather than helping migrants in need. Additionally, growing resources have been devoted to 'combat' the phenomenon of human smuggling since the 1990s.

In the European context, there was no explicit policy around human smuggling until the summer of 2000 when the French Presidency of the European Council drew up a legislative proposal for a 'Framework Decision on Strengthening the Penal Framework for Preventing the Facilitation of Unauthorized Entry and Residence'. The immediate cause for this was a high profile smuggling case that involved many European countries. On the 18 June 2000, customs officials at the British port of Dover found the dead bodies of 58 Chinese nationals in the back of a lorry. The Chinese migrants had suffocated, except for two survivors, in a sealed container filled with tomatoes. Politicians all over Europe were eager to share their views on this incident with the wider public. The Dover incident featured in almost all policy documents on human smuggling that appeared after 2000. Moreover, the Dover

case played a crucial role in discussions around penalising human smuggling in the EU context. In 2000, the UN Protocol against the Smuggling of Migrants by Land, Air and Sea also came into being, and migrant smuggling was now officially included in the definition of organised crime. This UN Protocol, also referred to as the Palermo Protocol, is part of the UN Convention Against Transnational Organized Crime which marked the framing of human smuggling as a global criminal business.

Our understanding of human smuggling very much follows the legal interpretation laid down in this protocol, but it also often mixes smuggling up with trafficking. The Protocol against the Smuggling of Migrants by Land, Sea and Air, part of the Palermo Protocol, defines human smuggling as 'the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident' (UNODC 2010, p. 1). This legal definition of smuggling which was accepted in 2003 comprises three important elements. First, it requires a smuggler or intermediary who undertakes the job of facilitating the cross-border movement. Second, it involves a payment to the smuggler by the migrant or someone paying on his/her behalf. Third, the migrant's choice to participate in the transaction is voluntary.

Article 3, paragraph (a) of the Protocol to Prevent, Suppress and Punish Trafficking in Persons defines trafficking in persons as 'the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation' (UNODC 2014). For trafficking, an international border does not necessarily need to be crossed, whereas in smuggling the emphasis is put on 'illegal' movements of people across international borders. Another important distinction is that in trafficking, migrants are victims whereas smuggling is considered a 'victimless crime' according to the Palermo Protocol. In practice, we see that smuggling may start as a victimless 'crime', but may very well have exploitative situations, or even death as a result. Reality is often more dynamic than the legal framework assumes.

6 Deaths at the border

There are a couple of databases recording deaths at European borders. *UNITED Against Racism* is probably the most well-known; a non-profit organisation whose network

comprises over 550 organisations across Europe. UNITED reports incidents with deaths at the border since 1993 and has documented 22 394 deaths up to now (<http://www.unitedagainstracism.org/campaigns/refugee-campaign/fortress-europe/>). *The Fortress Europe blog* has a similar approach as UNITED and has counted 21 439 migrant deaths at the borders of Europe since 1988. It is founded by the journalist Gabriele Del Grande who monitors the deaths and disappearances of migrants to Europe (<http://fortresseurope.blogspot.nl/p/la-strage.html>). More recently, a consortium of European journalists committed themselves to systematically assemble and analyse the data on the deaths in Europe by compiling rigorous datasets from various sources, including UNITED and the Fortress Europe blog. *The Migrant's Files* project is partially funded by the non-profit organisation Journalismfund.eu and uses data from Puls, a project run by the University of Helsinki, Finland and commissioned by the Joint Research Centre of the European Commission (<http://www.themigrantsfiles.com/>).

At the Free University (VU) in Amsterdam another database is under construction: *The Deaths at the Borders Database* (<http://www.borderdeaths.org/>). This is a collection of official, state-produced evidence on people who died while attempting to reach southern EU countries from the Balkans, the Middle East, and North and West Africa, and whose bodies were found in, or brought to Europe. In total 3 188 migrants are documented by local authorities in Italy, Malta, Spain, Gibraltar and Greece from 1/1/1990 to 31/12/2013. The numbers of the Deaths at the Borders Database are smaller than UNITED, Fortress Europe and the Migrant Files, because a death is only recorded when the body is found by the authorities and the focus is not on incidents but on individuals whose bodies are discovered. The difference between the files based on media reports and the Deaths at the Border Database show that almost two thirds of the people recorded have *not* been identified by the local authorities charged with investigating their deaths.

Despite the differences, all databases show that there has been an overall increase in migrant deaths in the 2000s compared to the 1990s. Many observers have pointed out that the steady increase of border deaths since 1990 coincides with the harmonisation of European migration policies which, as part of harmonisation, have become much stricter.

Incidental sharp increases in the number of border deaths are also noticeable. For example, in 2013 in all databases a peak is seen due to the dramatic shipwreck of the 3

October 2013 very close to Lampedusa, Italy, which triggered a massive operation to recover bodies from the water. The close proximity to the island and the national and international attention played an important role. Such large-scale operations are not very common with regard to incidents involving migrants at sea. The majority of the persons recorded in the database are male and the most common known, or assumed region of origin is Sub-Saharan Africa (which includes the Horn of Africa). But in 40% of the cases the region is unknown. Border deaths occur most often among young adults between 20–40 years of age and the cause of death of the majority of people is drowning, in the Mediterranean as well as the Evros river (bordering Turkey and Greece).

7 Europe's response to migrant deaths

The tragic boat accidents in the Mediterranean are putting European politicians under pressure to do something. The most common reaction so far has been to 'fight' against smuggling. We have seen increased maritime border patrolling over recent years. In 2006 and 2007, Frontex launched a coordinated operation called *Hera* (part I, II and III) that diverted migrants back to their points of departure at ports of the West African coast, in order to prevent them risking their lives on the dangerous journey towards Europe. Experts from Germany, Italy, Luxembourg and Portugal were deployed in the Canary Islands and worked together with Spanish authorities on gathering intelligence related information. Joint patrols by aerial and naval means of several nation states between West Africa and the Canary Islands were also part of this mission. In 2010, operation *RABIT* was launched to help Greece guard their borders. In 2011, responding to the violent situation in North Africa and in view of potential migratory flows from Libya, Frontex extended the operational area of its ongoing Joint Operation *Poseidon Sea* to the Greek Islands in the Aegean Sea, including Crete.

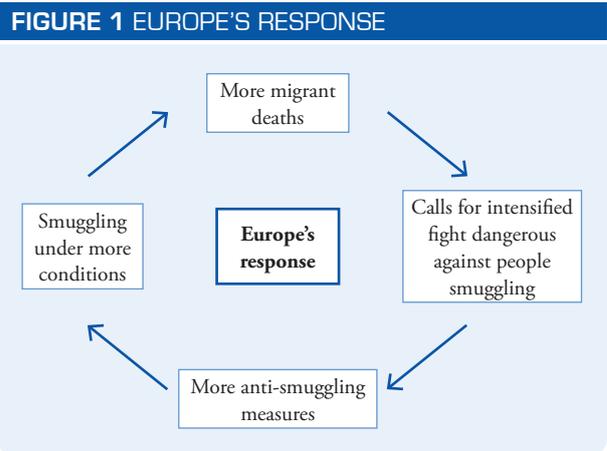
In October 2013 *Mare Nostrum* was launched by Italy, a one year-long military-humanitarian operation coordinated by the Italian navy. The operation aimed at identifying boats in distress, rescuing migrants, and apprehending human traffickers. The operation rescued about 177 000 people. Between October 2014 and June 2015 *Triton* was in force: a border control operation run by Frontex, European's border control agency, prioritising border enforcement over search-and-rescue. The military approach seems to have taken the upper-hand. As a consequence of the April 2015 Libya migrant shipwrecks, the EU launched its first official *military* operation of migration management, targeting the smuggling and trafficking of people from Libya to the

EU. The operation was called *EUNAVFOR Med* (European Union Naval Force Mediterranean), and was recently renamed *Sophia*, after a baby that was born on board a ship. This operation was issued at the peak of the migration crisis. In June 2015, more than 100 000 people had crossed the Mediterranean seeking refuge in Europe since the beginning of the year. Its aim is to neutralise established refugee smuggling routes in the Mediterranean and to undertake systematic efforts to identify, capture and dispose of vessels, as well as enabling assets used or suspected of being used by migrant smugglers.

Further criminalising and penalising smuggling rather than protecting migrants for whom smuggling is often the only option to find security seems the way forward.

When the EU Framework Decision that penalises smuggling was discussed (in October 2000) the Brussels bureau of the United Nations High Commissioner for Refugees (UNHCR) intervened in the decision-making process by declaring that: ‘It is regrettable that, as a result of States’ increasingly restrictive immigration policies, resorting to the services of human smugglers has been the only viable option for many genuine asylum seekers who seek sanctuary in the European Union (Aus 2007, 32). The UNHCR called upon the EU to insert a ‘general savings clause’ for the protection of smuggled refugees and asylum seekers into the Draft Framework Decision. The definition of ‘help’ in the Council Directive does not specify doing so for ‘financial gain’, meaning that anyone helping migrants to cross a border could fall into the classification of human smuggling, regardless of their motivations. What followed were discussions around the definition of human smuggling, carriers’ responsibility, and who should count as a smuggler. It turned out that the European Council’s delegations all had very different views on what constitutes humanitarian grounds for the smuggling of asylum seekers. Not all states agreed with the interpretation of ‘help’. The Austrian, Danish, Dutch, Finnish, and Swedish delegations decided to leave ‘financial gain’ in their national definition of human smuggling in order not to affect work done by humanitarian organisations for refugees (ECRE 2001). In most European countries the profit-making element has however been removed from the definition and smuggling for humanitarian reasons is now punishable. All over Europe we see that those who advocate for undocumented migrants and failed asylum seekers now often find themselves subject to criminalisation.

If we look at state responses towards human smuggling, it becomes evident that the EU has been caught up in a vicious



Source: Carling (2015).

circle in which an increasing number of border deaths has resulted in calls to combat or fight smuggling and increase border patrolling, which forces refugees and other migrants to use even more dangerous and longer routes, which means more people get injured or die while crossing borders, leading to public outrage and calls for even more stringent border controls. Jorgen Carling, a Norwegian migration researcher, has produced a very useful graph to illustrate this dilemma.

8 Shifting smuggling routes

‘The cat and mouse game’ (Andreas 2000) played at the European border has resulted in smugglers taking more dangerous routes and using riskier methods. A clear geographical shift in border deaths has been noticeable from the Western Mediterranean route to the Canary Islands (Atlantic route) around 2004, and subsequently to the Strait of Sicily (Central Mediterranean route) in 2010–2011. It is around that time that Spain and Morocco (as well other African countries) increasingly started to cooperate in border control. Frontex operation Hera, and the development of the SIVE surveillance system (the Spanish predecessor of Eurosur) may also have contributed to this shift. A comparable and often mentioned shift is the shift between the Greek/Turkish land border and the North Aegean in 2011, which is possibly related to Frontex operation Poseidon and the construction of a fence at the Greek border. These shifts push migrants to riskier travel routes and often result in increasing deaths.

At the moment of writing this policy paper, there are four main routes migrants take to cross into the EU: 1) The Central Mediterranean, 2) Eastern Mediterranean, 3) Western Balkan, and 4) Western Mediterranean routes

(Kuschminder et al. 2015). The Western Mediterranean route goes through the Spanish enclaves Ceuta and Melilla or through the Strait of Gibraltar. This route was traditionally used by Sub-Saharan migrants, but due to tighter border controls this route has now become less accessible. In recent months, the Eastern Mediterranean and Western Balkan routes have gained importance with relatively large numbers of people starting to leave or transit via Turkey. This route is mainly used by asylum seekers from Syria, Iraq and Afghanistan, but also by people leaving the Western Balkan territories themselves. The Central Mediterranean route, which leads to Italy, also continued to be heavily used. Boats continue to land in Italy. There is however a shift in the nationality of people arriving by boats or rescued from the sea near Libya and brought to Italy. Africans continue to use this route, but many Syrians now use other channels given the danger of this route. Moreover, Egypt and Algeria have introduced a visa obligation for Syrians making it harder to reach Libya.

9 Academic research on human smuggling

Contrary to the portrayal of human smuggling as a distinct form of 'organised crime', most academic research indicates that the market for human smuggling services is hardly ever dominated by overarching mafia like criminal structures that have monopolised all smuggling activities from the source to the destination country (Neske 2006; Schloenhardt 2003; Soudijn 2006; Staring et al. 2005). Now who are the ordinary majority of men and women behind the journeys of irregular migrants? How and why do they enter the smuggling market? How are they organised? Zhang and Chin (2002) interviewed 129 individuals working in the human smuggling business in New York, Los Angeles, and Fuzhou. They found that most smugglers were involved in all sorts of small-scale smuggling and that the smuggling industry was an opportunity to earn something extra. Similar results were found by Spener (2009a) who interviewed smugglers at the Mexican–US border. According to his study nearly all smugglers were working class Mexicans, sometimes former migrants who helped relatives, friends, or acquaintances to leave the country.

In most regions of the world there exists a complex market for highly differentiated smuggling services offered by a multitude of providers that potential migrants can choose from (Bilger et al. 2006, 64). Guiding and/or transporting someone across a land or sea border, providing forged documents, offering shelter, or bribing officials, is all part of the smuggling industry (Icduygu & Toktas 2002; Zhang & Chin 2002). Recent work at the border between Mexico and the United States shows that tasking within the

smuggling industry is highly gendered, with the activities most commonly identified with smuggling like desert treks, driving, security enforcement being performed by men and being paid at a much higher rate than the tasks performed by women. Women's roles in smuggling tend not to be as visible and have a tendency to be performed primarily indoors and locally, they are however central to the success of every migrants' journey, as they involve recruitment, coordination, the provision of room and board and the execution of financial transactions (Sanchez 2015).

There are only few smuggling cases where organised crime is proven to be involved. Although there are indicators that the smuggling industry is becoming more expensive and more violent, especially at the fringes of Europe, where opportunities to make profits arise for smugglers now that so many migrants are waiting in transit and desperately want to make the final crossing into the territory of the EU. Van Liempt (2007) explained in her work based on interviews with smuggled migrants that the relationship between the smuggler and the smuggled migrants becomes more anonymous the closer to Europe one gets, which increases the likelihood of being exploited. Close to home smugglers depend more on stories of their successes to keep the business going.

The very visible boat arrivals and the tragic accidents in the Mediterranean Sea are central to the general rhetoric around human smuggling (van Liempt & Sersli 2013). The examples of organised crime in the smuggling industry are intensively picked up by the media and feature widely in policy reports that feed into a distorted image of human smuggling. Human smuggling facilitators, often described as unscrupulous members of transnational organised criminal organisations who take advantage of migrants and prey upon their vulnerability, are often blamed for the tragedies of irregular migrants trying to reach destinations in the global north. It is common to come across scholarly pieces on migration that recirculate the popular depiction of smuggling facilitators as greedy, violent and inhumane (Sanchez 2015). A lack of diversity within the image of smuggling portrays the business in an incorrect way. It also creates problems for migrants who use smugglers.

10 Loathsome activities

Discursive associations between smugglers and crime are continually made, most of all to justify the need for combating human smuggling (see also Andreas 2000; Collyer 2007; Mountz 2010). Very little attention is paid to the societal context of human smuggling. Smugglers are often seen as those who have created migration possibilities

for immigrants whom receiving countries have classified as ‘aliens’ rather than ‘guests’ (Sassen 1999). Stories concerning recent boat arrivals in Europe often use metaphors of ‘waves’, or ‘exodus’ of ‘desperate people’ fleeing poverty at home, in small shipwrecked boats, in search of the European ‘El Dorado’ (De Haas 2007; Pastore et al. 2006). In this logic smugglers’ activities undermine the nation states’ power. Smugglers have become the literal embodiment of a failing border regime, as they bring in migrant bodies that states have classified as ‘unwanted’ and as ‘illegal’. The redefinition of migration as a threat also reflects a growing tendency to channel diffuse socioeconomic and cultural concerns into the migration problem. In the recent refugee crisis, fear and worries are for example ventilated around potential terrorists who can cross borders with help from smugglers.

In addition to the ‘waves’ and ‘invasion’ metaphors typically associated with boat arrivals, other disturbing insinuations exist. Often a direct link is made between paying a lot of money to smugglers and not being a genuine or deserving refugee (van Liempt & Sersli 2013). Asylum seekers who arrive spontaneously are perceived unlikely to be legitimate refugees because they had to enlist the help of costly human smugglers. It is often assumed that people who can afford to pay large amounts for their journeys are not eligible for refugee protection. By emphasising the amount of money people pay, an entrenched perception that wealthy refugees are not real refugees is reinforced. One’s level of financial welfare does not say anything about one’s need for refugee protection, just as the way someone has entered a country does not define them as a real or bogus asylum seeker. Recently there are connections made between owning a mobile phone and being perceived as ineligible for refugee status, which underlies a similar problematic line of reasoning (O’Malley 2015). Smuggled migrants often perceive their smuggler as providers of significant, if not the only, layer of protection (Ahmad 2011; Zhang 2007; Spener 2009b; Hagan 2008; van Liempt 2007).

11 Impact of criminalisation of human smuggling for asylum seekers

Blaming the smuggler is an easy answer to a situation where ‘full security’ is not achieved. If we look at what the process of blaming the smuggler means for migrants involved, there are a couple of issues at stake. First of all, there has been a remarkable shift in asylum interviews in Europe from *reasons* to flight to *how* and *where* people have crossed the border (Crepeau & Jimenez 2004). In recent years, the public dialogue has shifted from the criminal regimes asylum seekers were escaping to the criminals who

assisted their escape. Eligibility screening interviews at ports of entry are becoming longer and more detailed and a lot of emphasis is put on what migrants know about their smuggler. Smuggled migrants are thus increasingly used as information sources for purposes of intelligence gathering data (van Liempt & Sersli 2013).

These policies of blaming smugglers, divert attention away from the fact that smuggling is first of all a reaction to the militarisation of border controls, not the cause of irregular migration. Ironically, policies that want to fight, combat or blame smugglers are bound to fail because they are among the very causes of the phenomenon they claim to tackle. It diverts attention away from the structural causes of the phenomenon, and the government’s responsibility in creating conditions under which smuggling can thrive in the first place.

Certainly smugglers can be ruthless and regularly deceive migrants, but it should not be forgotten that smugglers deliver a service asylum seekers and migrants are willing to pay for. Without smugglers it is likely that many more people would have died crossing borders. Smugglers can be seen as a ‘necessary evil’ (van Liempt 2007). By investing even more money in border control and by creating more fences, the EU is ironically enough creating a space for the smuggling business to expand, professionalise and flourish. Border control has become a huge industry, an industry that makes the public believe that we are confronted with a ‘crisis’ that is not solved in ways other than fighting smugglers. Migrants are not helped with this rhetoric. As long as violent conflicts persist in countries like Syria, people will keep on coming, in one way or another. National politicians who argue that border controls can stop that are selling illusions.

12 Conclusions

Although many academic studies show that the smuggling industry includes a diverse range of actors, many of whom have no connection with organised crime, the discourse that is created around human smuggling since the 1990s leaves little room for understanding the diversity that exists within the smuggling industry and the social context in which smuggling occurs. The mere mention of a human smuggler generates an immediate series of frightful images of men who abandon their victims in the desert, throw children overboard and have no mercy. These morally loaded representations of smuggling not only reinscribe notions of smugglers as violent and of refugees from the global south in need of salvation, they are also very effective in categorising the human smuggler as being responsible for

the thousands of deaths at the border of Europe (Weber & Pickering 2011).

At a time when travel is increasingly monitored, and identities are continuously tracked, smuggled migrants represent an unpredictable and unidentifiable category which poses a 'threat' to nation states. Migrants increasingly come in higher numbers and from diverse countries making it more difficult for states to predict and manage this type of mobility. The idea of smugglers as a threat feeds into the comforting illusion that irregular migration can be stopped. Smuggling is often seen as something that needs to be combated because it violates the law. Despite, or maybe because of the fight against illegal migration, the involvement of human smugglers has only recently been on the increase.

International border control cooperation can be very effective in tackling irregular migration and human smuggling. It is more effective than the isolated stepping up of the border controls of a state. The question however

is whether 'fighting' against smugglers is the best solution. Blaming the smugglers takes attention away from the root causes and could potentially lead to thousands of people being trapped in warzones without any means of escaping conflict and serious human rights violations. Policies aimed at controlling human smuggling are often based on inadequate understanding of migrant's motives and the mechanisms underlying human smuggling. For some, migrant smuggling can be the only means to enjoy fundamental rights; to live in union with one's family, to escape violence, to make a living. Policymakers however often miss the complexities at work to force people to travel with a smuggler.

Policies that effectively aim at reducing human smuggling must be comprehensive, consistent and they have to be embedded in a wider common EU immigration policy that recognises and addresses the push and pull factors for migration. When designing such policies upholding human rights and protecting the safety and lives of migrants must be pivotal.

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