Towards a better understanding of human smuggling

Heckmann, Friedrich

Veröffentlichungsversion / Published Version
Kurzbericht / abridged report

Zur Verfügung gestellt in Kooperation mit / provided in cooperation with:
SSG Sozialwissenschaften, USB Köln

gesis
Leibniz-Institut
für Sozialwissenschaften

Mitglied der
Leibniz-Gemeinschaft

Towards a Better Understanding of Human Smuggling

IMISCOE Policy Brief

Friedrich Heckmann

What is Human Smuggling?

International migration happens as both legal and illegal migration. Illegal or Irregular migration can be autonomously organized by the international migrants, but most often human smuggling plays a central role in facilitating irregular migration. As a clandestine activity it does not easily lend itself to scientific inquiry. IMISCOE migration researchers have recently made new efforts to better understand the phenomenon. The present policy brief will report on some key results of a study which was done from 2001 onwards by five research institutes in the context of the European Science Foundation's Collaborative Research Project "Human Smuggling and Trafficking in Migrants. Types, Origins and Dynamics in a Comparative and Interdisciplinary Perspective". The researchers continue to cooperate within the IMISCOE Network.[1]

Both in the legal–political and social scientific communities the following **definition of human smuggling** finds wide acceptance: "smuggling of migrants is 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." It is differentiated from **trafficking of humans** as "the recruitment, transportation, transfer, harbouring or receipt of persons... for the purpose of exploitation."[2] Trafficking means the exploitation of migrants in the receiving country, be it through prostitution or through forms of exploitative work.

How can we know about human smuggling?

▶ The following data sources may be used: interviews with smuggled people, expert interviews, reports of police investigations and court records. Interviews with smuggled people are difficult to obtain, but are possible. Smuggled people tend to cooperate in **interviews** under one or a combination of the following conditions[3]:

▶ when anonymity is guaranteed

▶ when the interviewer is a person that comes from the same community than the smuggled person and preferably has been smuggled as well and now has a safe status

▶ when the irregular migrants expect help or are lonely

▶ because of frustration with the smugglers

▶ after having achieved a safe status

▶ for political reasons.

---

[1] The partners in this collaborative research project were: the european forum for migrations studies (efms) at the University of Bamberg; Institute for Migration and Ethnic Studies (IMES), University of Amsterdam, International Centre for Migration Policy Development, Wien; Swiss Forum for Migration Studies (SFM) Neuchatel and the Centro Studi di Politica Internazionale (Cespi), Rome. The individual national project parts were funded by the respective national research funding organizations. A concluding workshop was held at the efms on July 5/6, 2007. The following group took part in the workshop and/or provided input: Baumeister, Sebastian, United Nations Office on Drugs and Crime (Vienna); Bilger, Veronika ICMPD (Vienna), D'Amato, Gianni, SFM (Neuchatel); Doomernik, Jeroen, IMES (Amsterdam); Heckmann, Friedrich, efms (Bamberg); Jandl, Michael, ICMPD (Vienna); Neske, Matthias, Bundesamt für Migration und Flüchtlinge (Nürnberg); Pastore, Ferruccio, CESPI (Rome); v.Liempt, Ilse, IMES (Amsterdam); Zürcher, Gottfried, ICMPD (Vienna). Major publications of the project are listed in the references below.

[2] UN (2000)

[3] Cf. Bilger, Hofmann and Jandl (2006) and v. Liempt and Doomernik (2006)

Police, asylum and border authorities, social workers and supporting health services are among the main **expert groups** who have detailed knowledge on irregular migration and on human smuggling. Interviews with police investigators have proven to be very informative as well as with lawyers who defend illegal migrants.

Court records are the best source of information for reconstructing the smuggling process as a whole. They can be analyzed for scientific purposes. The court proceedings share a central cognitive aim with the researchers: To reconstruct the organization of the smuggling ring by focussing on the internal system of relationships and on the strategies used … " (Pastore, Monzini and Sciortino 2006,99). Not only court proceedings, but records of the complete investigation process are documented in the court records and provide an extremely rich material, often comprising several thousands of pages.[4]

Whereas the above data sources provide information on the analysis of smuggling processes **societal trends in human smuggling** may be estimated on the basis of apprehension and other statistics. Measuring irregular migrations in general and human smuggling in particular is per se problematic as it concerns (mainly) undocumented and unobservable events. Statements about the quantitative extent of such phenomena tend to draw on statistics of observed events that are usually collected for administrative purposes (e.g. by the police and border guards) and are necessarily incomplete. Existing estimates are based on the extrapolation of data coming from other sources like border apprehension figures, asylum applications and data on regularisations. This leads to another problem - the lacking comparability of migration-related data. States have different methods and ways of counting. Though they cannot give an accurate picture of irregular migration and human smuggling in quantitative terms, they are the only usable indicators for changing trends and developments (Heckmann 2004; Jandl 2007).

Human smuggling as a migration phenomenon

Human smuggling is a central element of illegal or irregular migration. Illegal migration arises from the dramatic mismatch between global migration intentions and opportunities for legal immigration. Illegal immigration takes on many different forms that depend much on existing legal regulations, policing, border regimes, reactions of smugglers and migrants toward these conditions, existing transnational networks among migrants and physical characteristics of the border areas. There are, however, three basic forms of illegal migration that will have many subtypes and variations depending upon the conditions mentioned: 1) illegal crossing of a border, 2) crossing of a border in a seemingly legal way, using falsified documents, or using documents one is not entitled to, and 3) staying after expiration of legal status (overstaying). Human smuggling is essential both for the illegal crossing of a border and for the seemingly legal way of crossing a border.

---

[4] For a detailed account cf. Neske (2006)

As to the **motives of smuggled persons** they 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, Hofmann and Jandl 2006; v. Liempt and Doomernik 2006). There is a dependency relation between smuggler and smuggled person, but there are different kinds and degrees of autonomy and/or dependency in the relations. Among others, they are relevant for the **destination of the migration process**. According to v. Liempt and Doomernik (2006) there are three basic cases determining the destination: In the first case migrants choose the destination and the smuggler simply acts as facilitator. In the second case it is the smuggler who is the decision maker and the one determining the final destination. The implication is that **migrants get stranded** in countries where they did never plan to go to and find it even difficult to return to their home countries. In the third case negotiations between smuggler and client determine the destination. Not much is known as yet about under what conditions the different cases will occur.

It is often claimed that smugglers are not only involved in human smuggling, but in the smuggling of drugs and weapons as well. No empirical evidence has been established in the ESF projects to support that assumption.

Human smuggling as a business

Human smuggling can be conceptualized as an illegal business activity, even if there are few cases where illegal entry is helped by family and friends. "Contrary to the portrayal of human smuggling as a distinct form of 'organized crime' in most media reports our research indicates that the **market for human smuggling services** is in most cases not dominated by overarching mafia – like criminal structures that have monopolized all smuggling activities from the source to the destination country. Rather, in many regions there exists a complex market for highly differentiated smuggling services offered by a multitude of providers that potential migrants can choose from" (Bilger, Hofmann and Jandl 2006,64).

It is, however, a market with imperfect information. It puts a high premium on a good reputation of smugglers. But this reputation comes at a risk for the smugglers, since in an illegal activity they have to hide their identity from the police. Thus there is a need to contact possible clients via middlemen who are themselves only partly informed about the whole smuggling operation. Offering "guaranteed smuggling services" is one way of dealing with the possible customer's risk assessment, building a reputation and trust is another. Due to the illegal nature of the activity, building of a reputation and trust is possible only through ear – to – ear propaganda among the migrants (cf. ibidem).

The social organizing of human smuggling

The public perception of human smuggling conveys the notion that pyramid like, hierarchical organisations of a Mafia type are dominating the smuggling process. "… human trafficking and even smuggling are often visualised as global business involving well organised criminal Mafia – type formations involving countries of origin, of transit and of destination world wide…" (Icduygu and Toktas 2002,29). No research evidence in any of the projects was found to support this notion of a mafia organisation. Neske (2006) instead

found three basic types of the social organizing of human smuggling in the analysis of 51 court cases:

- ▶ **Type 1: partial smuggling**
- ▶ **Type 2: visa smuggling**
- ▶ **Type 3: organized stage to stage smuggling.**

Partial smuggling is illegal migration largely self organized, but using smuggling services for overcoming an obstacle, like a border. The short time smuggling services are bought on a local smugglers' market involving a high risk for the migrants of being cheated. For **visa smuggling** the necessary organisation consists of a coordinator in the country of origin – individual person, small group, small network or travel agency – and a similar structure in the country of destination. This is a rather **simple network**, not an organisation with fixed positions and rules, levels of organisation and a formal hierarchy. Through different kinds of illegal practices the smugglers make available invitations for private visits, make up business invitations and through fraud and deception get hold of hotel reservations and other documents that seemingly will be used for touristic travel.

Type 3 **organised stage to stage smuggling** is a complex network. "A chain of stage coordinators organize step-by-step the migration process often by outsourcing certain smuggling actions like guiding across a green border or driving smuggled migrants to local smugglers… the stage coordinators are respectively only responsible for a designated part of the smuggling process, for a certain stage, a certain smuggling method, or a certain transit country" (Neske 2006, 155/156). In this type of smuggling there is organizing, but not an organization. Type 3 is a network. A network consists of units and their relations. There is a unit of an initiating and organising individual or of a small group of individuals who are the "entrepreneurial" part of the network. The other units are locally and internationally spread out local stage organizers who engage certain "helpers" to do the local smuggling job. Central and local organizers are often connected through a common ethnicity which eases communication and the development of trust. Trust is the cohesive force in a network.

Like Neske Pastore et al. (2006,114) have studied court cases to analyse forms of smuggling operations. The study of the Italian court cases comes to the same conclusion, even when using the term "organisation": "…smuggling organisations are often little more than loose networks linking largely independent clusters of practical competences. The coordination among such networks is often the result of a nexus of contracts and business promises rather than the result of a structured chain of command". Chains of command are found in hierarchical organisations.

The notion of smuggling as a crime being organised in the form of a network is not in contradiction to the definition of organised criminal group in the **United Nations Convention against Transnational Organized Crime** where it says: "'Organised criminal group' shall mean a structured group of three or more persons, existing for a period of time and acting in concert with the aim of committing one or more serious crimes or offences established in accordance with this Convention, in order to obtain, directly or indirectly, a financial or other material benefit".

Fighting against human smuggling

The preceding analyses have some implications for policies against illegal migration and human smuggling which we are going to discuss now.

Human smuggling 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. At the same time the abilities of states to control immigration are limited and migration policies often fail to achieve their intended objectives (Castles 2004).

Experts agree that the process of human smuggling is under constant pressure to adapt. The dynamism in the social organisation of human smuggling evolves from the relationship between law enforcement and smugglers' networks. The basic pattern is an **interaction process**: the action of one actor provokes a reaction from the other, which in turn leads to another action. The **state's and law enforcement's actions** and measures generally include: an increase in financial means and personnel for border control; an increase in material and technological resources; changes in legislation and administrative rules; and cooperation with other states and training of their personnel.

The **smugglers' response** and arsenal of reactions include changes of routes; increase in technological sophistication; professionalisation and specialisation; increase in juridical sophistication, development of marketing and corruption strategies. The whole process takes on the form of a kind of arms' race between smugglers and law enforcement. As the demand for smuggling services and the risks of illegal migration grow the prices for smuggling increase. This will on the one hand make the smugglers more wealthy, but will at the same time curb the demand of some, financially weaker groups for illegal migration services.

International cooperation and particularly international police cooperation can be very effective in tackling irregular migration and smuggling. It is more effective than the isolated stepping up of border controls of a state. The changing geography of smuggling routes and migration by sea in the Mediterenean in the last decade is a convincing case for the support of this argument (Pastore, Monzini and Sciortino 2006). What is critical about this strategy is that it involves an externalisaton of costs of illegal migration onto another country. The burden of illegal migration and human smuggling are put on someone else' shoulder. Cooperation under such conditions can be expected only if the "external" country will be compensated either by money or other means, like legal immigration quotas.

The Swiss study (D'Amato, Gerber and Kamm 2005) confirms the importance of international **police cooperation** in order to combat efficiently human smuggling. Tactical agreements with Germany, Austria and Italy have had an immediate impact on declining illegal entries since the beginning of the 2000s with a decline in detected illegal entries, indicating the effectiveness of these cooperation. On the other side, where tactical cooperation with foreign police corps were inefficient (as this is the case at the French border), illegal entries of smuggled persons are increasing. Although its borders are not *strictu sensu* Schengen borders, the costs to enter these parts of Switzerland were becoming too high for smugglers and illegal migrants. So far, Switzerland profited from the enlarged

Schengen protection area as "internal" EU borders, even if the insular perspective of some decision makers would suggest that successes were due to their own efforts alone. In the future, the need for cooperation and the approaching of the Schengen institutions will force the control bodies of the administration to break up their isolation and try to converge their operations in security and human rights issues towards EU standards.

Another important conclusion has to be drawn from the findings of the research project: the **need for consistent policies**[5]. Restrictive immigration laws, the tightening of asylum policies as well as reinforced border control measures have not resulted in a significant reduction of illegal migration into the EU. This can be partially explained with the lack of consistency of such policies with other factors that shape migration such as regularization campaigns of irregular migrants, the limited efforts to effectively clamp down on those who illegally employ irregular migrants, and the lack of legal channels to meet the demand of cheap labour in the EU.

With regard to law enforcement, the findings show that in response to improved border control measures, the share of irregular migrants who resort to services provided by profit-seeking smugglers has significantly increased, which in turn has fostered the "networkisation" and professionalisation of migrant smugglers while driving driven up prices and profits allowing for more sophisticated operations such as "visa-smuggling" completely bypassing border controls. Yet, the same developments have also contributed to establishing a low-cost segment of migrant smuggling where smugglers knowingly offer services that are more risky and often seriously endanger the health and lives of the smuggled migrants. As a result of this, the **death toll** has dramatically increased over the last years.

Furthermore, the examples of the effective reduction of smuggling from Albania and Morocco towards Italy and Spain respectively illustrate well that geographically limited cooperation in reinforcing border controls simply lead to a displacement of migratory and smuggling routes.

Against this backdrop, it becomes clear that policies that aim effectively reducing illegal migration and the smuggling of migrants must be at least regional in scope. They must be comprehensive, consistent and anticipatory in order to be effective. That is - from an EU perspective – law enforcement policies have to be embedded in a wider common EU immigration policy that sends an unequivocal message to potential migrants and recognizes and addresses the push and pull factors for migration. In addition to focusing on borders, law enforcement policies themselves must also address the demand for illegal labour in the countries of destination and aim at dismantling the networks that profit from people smuggling in the countries of transit and origin. When designing such policies upholding human rights and protecting the safety and lives of migrants must be pivotal.

---

[5] The following analysis is a contribution of Sebastian Baumeister to the discussion in the Bamberg workshop.

References

Bilger, Veronika; Hofmann, Martin and Jandl, Michael 2006:

Human Smuggling as a Transnational Service Industry. Evidence from Austria. In: International Migration 44 (2006), 4, 59-92

Castles, Stephen 2004:

The Factors that Make and Unmake Migration Policies. In: International Migration Review 38 (2004), 852-884

D'Amato, Gianni, Gerber, Brigitta und Kamm, Martina 2005:

Menschenschmuggel und irreguläre Migration in der Schweiz. SFM Forschungsbericht 37, Neuchatel

Heckmann, Friedrich 2004:

Illegal Migration: What Can We Know and What Can We Explain? In: International Migration Review 38(2004), 3, 1103-1125

Icduygu, Ahmet and Toktas, Sule 2002:

How do Smuggling and Trafficking Operate via Illegal Border Crossings in the Middle East? Evidence from Field Work in Turkey. In: International Migration 40 (2002), 6, 25-54

Jandl, Michael 2007:

Irregular Migration. Human Smuggling and the Eastern Enlargement of the European Union. In: International Migration Review 41 (2007), 2, 291-315

Pastore, Ferruccio; Monzini, Paola and Sciortino, Giuseppe 2006:

Schengen's Soft Underbelly? Irregular Migration and Human Smuggling Across Land and Sea and Sea Borders to Italy. In: International Migration 44 (2006), 4, 94-118

United Nations 2000a:

Protocol against the Smuggling of Migrants by Land, Air and Sea, supplementing the United Nations Convention against Transnational Organized Crime. United Nations Publications, New York

United Nations 2000b:

Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, adopted by the United Nations General Assembly Resolution 55/25 of 14 November 2000, supplementing the UN Convention against Transnational Organized Crime

Van Liempt, Ilse and Doomernik, Jeroen 2006:

Migrants' Agency in the Smuggling Process: The Perspectives of Smuggled Migrants in the Netherlands. In: International Migration 44 (2006), 4, 164-189