

The Smuggling of Migrants. A Flourishing Activity of Transnational Organized Crime

INTRODUCTION

At the Beginning of October of 2005, the British police reported to have smashed the United Kingdom's biggest people smuggling racket. The two year operation *Bluesky* has involved police in Italy, France, The Netherlands, Belgium and Denmark. The illegal migrants, smuggled in from the Kurdish areas of Turkey, pay between £3,000 and £5,000 for journeys which often take months. The journey involved being passed on to gangs members in several European countries, staying at safe houses before being smuggled into the United Kingdom in cramped conditions. At the time of the British operation, there already had been prosecutions in several European countries in relation to the same network. There had been disruptions of the ring's activities at various stages of chain in other countries (BBC NEWS-Tuesday, 11 October 2005).

Clandestine migration and smuggling in human beings is a pathology of a much broader, positive, and needed phenomenon, that is migration; hence it has to be understood also in the context of globalization.

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People willing to migrate could turn to subjects that will facilitate the entrance into a country against its legal requirements. In the past this services were provided by few specialized persons able to cross a border illegally and to smuggle the migrant trough hidden paths in the mountains. Now this service is provided by organized crime groups with established contacts in the origins countries, as well as in the transits and most probably also in the destinations countries.

Exacerbated by transnational organized crime, the smuggling of human beings across the globe has grown rapidly. A minor trans-border activity affecting few neighbouring countries has become a multi-million dollar activity.

DIMENSION OF THE PHENOMENON

The year 2005 has been characterized by an incredible sequence of tragic episodes related to illegal migration. Hundreds of people from the Sub-Saharan African countries afflicted by famine and civil wars are surrounding the Spanish enclaves in the Moroccan costs of the Mediterranean, trying to cross the border into the European Union. Each year around 2,000 people drown in the Mediterranean on their way from Africa to Europe (*Decapitating the Snakeheads*).

The government of the United States has reported that during the year 2004 at September the 30th, 464 people died crossing from Mexico into North America, with an increase of 43% compared to the previous year. According to official estimation up to 350,000 illegal immigrants cross the United States

border from Mexico each year, and as many as 800,000 enter the European Union (*Ibid.*).

In this context organized crime groups have found an incredible source of profits, in an activity that for its proper nature its 'Transnational' According to the International Centre for Migration Policy Development (ICMPD), an intergovernmental think-tank, smugglers rake in around 4 billion Euros per year from the European Union alone (*Ibid.*).

Organized crime is not only profiting by the phenomenon of illegal migration, but its activity is also becoming a pushing factor. Several cases are reported of migrants recruited and convinced to migrate illegally.

The methods by which illegal migrants are smuggled vary. Different factors enters in the choice of the modus operandi, here it can be identified two, primarily the economic condition of the migrant, hence the price he is able to pay, and secondly their region of origin. There is a fair degree of consistency in the modus operandi of amongst the smugglers from the same region operating mainly with migrants of the same ethnic background.

The price to be smuggled changes drastically according to the services proposed by these illegal organizations that, in this sense, could be imagined as a sort of travel agencies. These organized crime rings are proposing alternative options at different price to arrive at the final destination.

The third class ticket is the typical case of migrants that are packed into airless crates of trans-oceanic containers ships, or in creepy vessels crossing the Mediterranean coasts from Africa to Europe. In this case, the immigrant would pay around few thousands Euros. The expensive solutions are safer and more

comfortable. The second class ticket could be fake marriage or the falsification of a resident permit for higher. The first class solution is the illegal issue of a legal document by bribing a the competent authority in the local consulate of the destination countries.

The modus operandi varies also according to the organized crime rings operating, and according to the ethnicity of the illegal migrant. For instance,

some groups are specialized in smuggling their immigrants by using legal 'student' visa issued to learn a language or an art. Once the supposed student arrives at destination, he will disappear entering in the ocean of the so called 'overstayers', those immigrants who had a legal and regular temporary

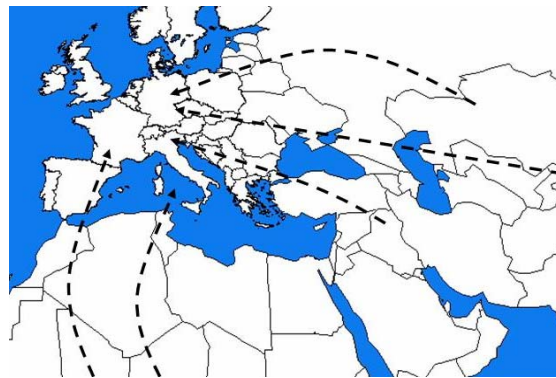


Figure 1. Main Routes of Smuggling into the European Union

visa or permit of residence, and illegally remaining in the country when such legal permits has terminated its validity¹.

The relationships between origins, transit and destinations and transportation systems are chosen by the people smugglers in order to best exploit the weaknesses in the existing immigration control regimes, and of course by natural geographical vicinity. These factors determines the routes.

¹ According to Europol the current areas of concern to the European Union in terms of origin of migrants are Iraq, Turkey and the Sub-Saharan countries, the Russian Federation, South Central Asia and China, whereas the main entry points in the EU are the Balkans, East Europe and North Africa "Organized Illegal Immigration into the European Union" January 2004, Europol.

The European police identified a handful of routes for smuggling of migrants into the European Union: the Mediterranean route (from East To West), the North Africa route (From South to North), the Balkan route (From South-East to North West), the West African Atlantic coast route (two sub-routes), the Central and Eastern European route, and the Baltic routes (*Ibid.*).

As concerns Smuggling into North America, according to Interpol this occurs mostly by putting the migrants on planes, for instance, from Europe or more recently by South Africa. Ships with migrants are mainly bound from the west coast into the United States or Canada. Smuggling networks seem to focus more and more on Central and South America where they



Figure 2. Main Routes of Smuggling into North America

maintain the necessary links to local organized criminals².

Interpol also reports that Australia is facing a growing number of illegal immigrants mostly from the Middle East and Southern Asia landing at its western coasts located relatively close to the Indonesian archipelago. Most of the migrants originated from the Near East first enter Malaysia, where they are taken to the South before making a short ferry crossing to Indonesia (*Ibid.*).

The phenomenon is expanding also towards new destinations and new routes. Interpol highlights that South Africa is becoming more and more a transit area for Asian migrants, particularly Chinese. Much of this migration

²<http://www.interpol.int/Public/THB/PeopleSmuggling/Default.asp>.

seems to be connected to South East Asia smuggling network. A large number of Chinese nationals are travelling to the country with fraudulent documents or via neighbouring countries such as Swaziland, Lesotho or Mozambique (*Ibid.*).

LEGAL FRAMEWORK: THE UNITED NATIONS TOC CONVENTION AND THE PROTOCOL ON SMUGGLING OF PERSON

The United Nations Convention against Transnational Organized Crime (TOC) is much more than an international treaty to promote cooperation to

prevent and combat transnational organized crime. Known as the 'Palermo' convention, it has the great benefit of defining the concept of organized crime, including and overcoming what the criminologists call the *Sicilian Model*. The convention defines "Organized criminal group" as a structured group composed by minimum three persons, acting in concert with the aim of committing one or more



Figure 3. Main Routes of Smuggling into Australia

serious crimes, aiming to obtain financial or material benefit³.

The Palermo convention is supplemented by three important protocols; one of these is the Protocol against the Smuggling of Migrants by Land, Sea

³The United Nations Convention against Transnational Organized Crime, and the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime is available at the website: http://www.unodc.org/unodc/en/crime_cicp_convention.html.

and Air. The protocol defines “Smuggling of migrants” as the procurement, in order to obtain financial benefits of the illegal entry of a person into a State of which the person is not a resident. This definition clearly links the criminal offence to the related profits. The smuggling of migrants as intended in the protocol supplementing the United Nations convention on transnational organized crime is not referring to smuggling for humanitarian or personal reasons. The smuggling of migrants as such is by definition operated by organized crime groups (*Ibid.*).

Article 2 of the protocol defines the statement of purpose, which is “*to prevent and combat the smuggling of migrants, as well as to promote cooperation among States Parties to that end, while protecting the rights of smuggled migrants*”. In addition, Article 5 of the protocol states clearly that “*Migrants shall not become liable to criminal prosecution under this Protocol for the fact of having been the object of conduct set forth in article 6 of this Protocol*”.

These points are extremely important, since most of the time destination countries see the immigrants as criminals, whereas it should not be forgotten that criminals are those who are making profits by smuggling the migrant illegally into the country. Furthermore, the idea behind these principles is, not only the basic defence of human rights, but also a further prevention against organized crime activity. A criminalization of the migrant will inevitably put the illegal migrant into the hands of other criminal organizations exploiting in the destination country its vulnerability to the national criminal law. The clandestine status will make the migrant prone to victimizations or to enter into the criminal organization.

Organized crime has been widely studied by sociologists and criminologists. For many years the *Sicilian Model* dominated the analysis. This is intended as an organization structured according an extremely hierarchical and vertical principle. The management of such a type of organization based its power among the members and in the territory through the threat of violence. Fear, secrecy, respect of the rules and violence dominates the organization, which could be involved in several type of legal, semi-legal and illegal activity aimed to maximize the profits of the management and of the members.

According to this view, the activities of the organization, especially those of illegal nature, are directed and administrated by the management of the organization. Orders and guidance were imposed to the structure and the profits were divided among the members of the structure. Family ties and solidarity dominate the relation among the members, at the point that the organization would take care of the family of a member who would be convicted or killed during its activity.

This idea of organized crime is heavily based on a sociological analysis of the criminals and of the criminal groups. The existence of such a type of criminal organization is out of question. The question is how this groups are involved in the commission of the crime, especially that of transational nature.

The rational choice theory of crime, within the framework of organized crime, invites to shift the focus of the analysis from the criminals and their structure to the crime and how it is committed. "*Organized crime may be better understood through the undertaking of crime specific studies into its constituent*

phenomena and the determinants of their successful undertaking" (Analysing Organized Crime, Cornish-Clarke, 2002). Committing a crime, involves a sequence of choices and decision made at each stage of the criminal act. In the case of organized crime this is particularly true and it involves the coordination of more people in the aim of achieving this final result. The organization of the crime necessarily adapts itself according to the specificity of the crime, whether this is smuggling of migrants or credit cards frauds.

By using this prospective, it is worth noticing that some type of organized crimes, such as smuggling of illegal goods and services cannot be carried out efficiently through a vertically integrated type of structure operating the entire organized crime.

A vertical rigid organization dominating the illegal market sometime would not be adapted to such type of activity, since it would be easier to be targeted by the law enforcements agencies and it would not be able to cover the need and the demand of the market. Studies of on the illegal drug market in the United States (Reuter, Hagga: 1989) and in the United Kingdom (Pearson, Hobbs: 2001) shows that recently in these two markets the subjects operating are often small groups and linkages among the different segments of the supply chain are very instable.

This does not mean that the vertically integrated organized crime group is not involved in the drug market, on the contrary they are heavily present in some specific areas, and they are probably operating in the most profitable parts of the market.

The Organization of the smuggling in human beings has points of

similarity but also major differences with the supply of illegal drugs. It is true that there is a greater availability of 'migrants' compared with the past years, but the organization of the travel is too much articulated to be administrated by occasional smugglers.

Clarke and Cornish have defined it a crime script as the 'put in act' of a crime according to the several steps that the criminal is operating (Clarke, Cornish: 2000). By applying this technique to the smuggling of migrants we can notice that even in the most simplified case there is the need for a solid organization. Let us take the example of the case reported by the BBC at the beginning of the article.

Kurds willing to migrate to escape the poverty or the political repression. These persons do not own the legal requirement to join a desired destination, United Kingdom, where he or she could find a job in the British Kurd community. The potential migrant in this phase has to have the possibility to contact the right person able to introduce him to the illegal migration process. Even, a recruiter could propose or solicit the illegal migration by presenting the prospective good economical conditions and possibility to legalize their position at their arrival. This contact person or recruiter could be either internal to the organization or an external paid for every potential migrant able to recruit.

The recruiter or contact person will than 'sell' or pass the migrants to the facilitator, the operative head of the group. According to the price the migrants will be able to pay, the facilitator will organize different illegal alternatives. Necessarily this person has to have the contacts with the other subjects

participating to the script.

The following phase is the preparation of the actual immigration. This is different according to the 'ticket' selected. The smuggling could involve the counterfeit of a document, or the bribing of officer to have a visa according to the complexity of the method used. All these alternatives need the services of specialized people who are unlikely organic to one single group.

As reported in the British case, the trip could take months, most of the times there is the need of a guide, such as drivers or crews. Trucks drivers are often involved in this type of activity, and also in this case not necessarily they are involved full time in such type of organization, and less likely this occurs for crews. All these subjects could participate to the smuggling time to time, when the business is profitable.

During the trip there is the need for accommodations in the several transit countries on the way to the final destination. These accommodation would also need guardians and support for the migrants. The BBC reported that, for the Turkish Kurds smuggling case, the journeys involve being passed on to gang members in several European countries. Is it sure that the we are considering here members of the same gang? Or rather different gangs, specialized in the segment of smuggling process according to the geographical area?

Technically, the smuggling is over at the arrival, but in reality the migrant at destination could have already established contacts with or trough the same organization, to be for instance addressed to a job.

This categorization is probably not exhaustive. Other professions are

involved in more complex cases of smuggling. the British police in a recent publication on the issue of smuggling of migrants into the United Kingdom, reported of the frequent establishment of fake language course aimed in reality to cover and facilitate the smuggling of migrants: “...serious organised criminals set up bogus colleges to provide illegal migrants with the documentation to obtain a visa”. (UK threat Assessment 2004/5 - 2005/6, National Criminal Intelligence Service).

The Australian Institute of Criminology identifies 10 categories of different agents working in a single smuggling episode. At the top of the organization the *Arrangers/Financers*, competent on how invest the profits of the activity and supervise the smuggling. The *Recruiters*, who are the middlemen between the migrant and the arrangers. The *Transporters*, those who carry the migrant from the airport, or seaport to the big city. *Corrupt public officials*, those providing legal documents, permits, or the customs officers. *Informers* are those who gather information on border surveillance, immigration regulations, asylum systems and law enforcement activity. *Guides and crew members*, those who move illegally the migrants fro one transit point to another and accompany the migrants throughout the journey. *Enforcers*, responsible for maintaining orders among the migrants during the trip. *Debt-collectors*, people in charge of collection of fees, often by using threats and violence. *Money Launderers*, as in other type of illegal activities providing huge amounts of profits, it is necessary to disguise or ‘clean’ these profits *Supporting personnel and specialists*, local people at embarkation and transit points in charge of harbouring and concealing the migrants (Schloenhardt: 2002

From the analysis of this crime script, we definitely could hypothesize that the degree of integration could vary according to of the groups operating, but in general it is reasonable to think that different groups specialized in different segments of the smuggling process are entertaining normal business relations with whoever can help them to make profits. This prospective of the crime script could explain why disruptions of the rings activities at various stages are not necessarily effective in curbing the crime. The subjects participating to the network could be linked one each other by business relations or by vertical hierarchy. Some could be just occasionally participant to their function in the smuggling such as the guide or the crew members, the transporters, the informers and the corrupt public officials, some are providing their skill for this type criminal ring as for other type of criminal activity.

Legally speaking, the 'Smuggling of Migrants' is a crime without victims. The illegal migrant is willing to be smuggled, and he is paying a fee in order to arrive at destination. The smugglers and the migrant are overcoming the administrative norms that are regulating the migrations. Both subjects are not victimizing any member of the society or affecting the proper function of the society itself, as for the case of tax evasion or corruption. In most of the case in the receiving country there are some interests on the presence of illegal migrants, as it could reduce the prices in the labour market.

In reality the picture of the illegal migrant that is happily arriving on the coastline of the dreamed country of destination ready to start a new life, remains very frequently just a dream. The illegal migrants, especially those who are paying the third class ticket, are frequently victimized either during

the trip or at destination. Great numbers of migrants smuggled in such way, die for the harshness of the travel conditions, or introduced to the illegal underworld of the informal economy or of the criminal activity in the destination. Frequently smuggling of human beings could turn in trafficking in human beings since the migrant could be enslaved to repay the debts contracted to pay its ticket. The 20th of July 1996, *La Prensa* a Nicaraguan newspaper has published the case of six Peruvians found on the Corn Island, off the coast of Nicaragua, having been abandoned by traffickers. They were supposed to arrive into Guatemala and on to Mexico. The police suspected that their final destination was the United States. The *Deutsche Presse* the same month have published the news that nine Chinese were hold hostages by their smugglers, since at their arrival in the United States of America, their were asked 20,000\$ more of the 15,000\$ paid at departure. The hostages and the smugglers were arrested after the hostages killed one of their smugglers/traffickers/abductors.

These episodes are extremely frequents, and in greatest part un-revealed. From a theoretical point of view, the immigrant and the smuggler are not in an 'equal' position in operating in the market of the smuggling service. The immigrant has a huge information asymmetry compared to the smuggler, and his only choice is to entrust his life to the smuggler. As a consequence, the migrant is easily victimized. This asymmetry is preset at any level of the smuggling activity, from the first class ticket to the third class ticket, and of course the status of 'illegal' do not allow the migrant to report to the police, at any stage of his trip.

The question raises about the knowledge that illegal migrant could have about the condition they will face at their arrival. How much are they aware of the risk of being repatriated? What it is promised by the recruiters and what are the condition of the deal? According to Sgt. Fisher a Canadian Coast Guard involved in patrolling the West Coast on maritime smuggling, the awareness of the boat people is extremely scarce, this what he reported to the media in the case of interception of a boat on the West coast of Canada in July 1999: *“Myths are circulating about the boats. People are told there are cinemas on board, but in facts these boats are fetid holes. Other rumours included the offer of a general amnesty to illegal immigrants to mark the year 2000, and promises of jobs at the Sydney’s Olympic Games. These are lies, but they encourage sales”* (Richards: 2001).

We do not have to forget that, as defined by the protocol on the smuggling of migrants supplementing the TOC convention, it is all driven by businesses. How will the businesses go if the customers knew they could be repatriated? The smugglers have all the interest to present the destination as the heaven for migrants.

CONCLUSIONS

The position of the receiving is often struggling between the need for cheap labour force of the economic operators, and the atavist fear of the stranger. In this schizophrenia illegal migration could be a terribly cynic easy solution. The illegal status allowed from one hand the exploitation of their work without the basic legal labour standards, and on the other hand a speed expulsion out of the country when fear of the invaders is circulating among the electorate

The intentions of the origin countries are not more crystal clear, since the will to contrast the activities of the organized criminal groups is contrasting with the evident economic interest behind the remittances of their emigrants of any sort.

To conclude, it appears that in the entire smuggling of migrants phenomenon, the migrant is the most fragile subject given his evident weak status in the hand of the criminal's networks. At the same time, for being in their hand, the migrant is the best resource that the law enforcement agencies have against the Transnational Organized Criminal Groups that are flourishing around the illegal migration.

Since the priority of the international community must remain to front the activity of such groups, measures to empower the migrant should be enforced, such as addressed awareness, raising campaigns to warn the potential migrants of the risks they can encounter with, what we called, the third class tickets. At the same time it is necessary to defend the migrants as witness, with appropriated protection programmes such those promoted in the United Nations against the Transnational Organized Crime and the supplementing protocols, which ratification remain, for us, the first step for a concrete national policy against the organized criminals.

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