



Mapping the Landscape of the Smuggling of Migrants: An Overview of Key Concepts, Trends, Challenges and Areas for Action

I. Purpose

In the Progress Declaration of the first International Migration Review Forum in May 2022, Member States committed to intensifying joint efforts, including through international cooperation between countries of origin, transit, and destination, to prevent and counter the smuggling of migrants, in full respect for human rights. The United Nations Network on Migration established a workstream “[Ensuring migrant protection through strengthened responses to migrant smuggling and increased coordination on its linkages with trafficking in person](#)” to support Member States implement the related Objectives of the Global Compact for Safe, Orderly and Regular Migration (GCM).

The aim of this policy brief is to provide an overview of the state of understanding and options for action to counter the smuggling of migrants.¹ It also seeks to identify some of the gaps, grey areas, and opportunities in existing responses. While the paper serves as a catalyst for further knowledge and dialogue, it does not exhaustively encapsulate the complexity and nuance of the subject matter.

II. Terminology and Definitions

The Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime (“the Smuggling of Migrants Protocol”), defines the “smuggling of migrants” 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*”.²

This concept should be distinguished from that of “trafficking in persons”, which is defined in the Protocol to Prevent and Suppress and Punish Trafficking in Persons, Especially Women and Children, (“the TIP Protocol”)³, as the “*recruitment, transportation, transfer, harboring 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*

¹ The New York Declaration for Refugees and Migrants recognizes that while their treatment is governed by separate legal frameworks (para. 6), refugees and migrants are equally affected by smuggling (paras. 9) and contains a number of commitments applicable to both in this area (paras. 23 and 34). This note focuses on the smuggling of migrants but it is understood that a comprehensive response to this phenomenon requires a complementary implementation of the Global Compact for Migration and the Global Compact on Refugees.

² Art. 3 (a) of the Protocol Against the Smuggling of Migrants by Land, Sea and Air, supplementing the Convention against Transnational Organized Crime.

³ In practice, however, both phenomenon’s overlap regularly, see <https://mixedmigration.org/articles/questions-of-intent-mixed-migration-human-trafficking/> [last accessed 28 February 2023].



person having control over another person, for the purpose of exploitation”.⁴ The main differences between the smuggling of migrants and trafficking in persons can be summarized as follows:

	Smuggling of Migrants (SoM)	Trafficking in Persons (TiP)
Action	SoM consists of facilitating the illegal entry, transit or stay of a person across international borders.	TiP consists of recruiting, transporting, transferring, harboring, or receiving persons.
Means	There is no distortion of the free will of the person being smuggled.	The means used are deception, force, fraud, abuse of position of vulnerability, abuse of power and coercion. Trafficked victims have either never consented, or their consent has been rendered meaningless by the trafficker’s exploitative conduct. <i>*A child’s consent is to be considered legally irrelevant under all circumstances</i>
Purpose	Financial or material benefit, originated from the fee associated with the smuggling act.	Exploitation of the victim.
Relationship	The relationship between the smuggler and the smuggled migrant generally stops once the fee is paid and illegal entry is achieved.	The relationship between the trafficker and the victim is continuous and does not end without the risk of serious consequences for the victim.
Transnationality	Migrant smuggling is, by definition, a cross-border, transnational crime.	Human trafficking can be either domestic or transnational.
Victimization	Smuggled migrants are not addressed as “victims” in the SoM Protocol as migrant smuggling is not, in principle, a crime against an individual; they can, however, be victims of other crimes, or victims of aggravated smuggling where their lives and safety are put at risk, or they are treated in an inhumane or degrading manner.	Persons who are trafficked are considered “victims” under the TiP Protocol. They may also be victims of other crimes committed during the trafficking process.
Protected Legal Interest	In a SoM context, the primary protected legal interest is the sovereignty and security of the state. However, rights violations against the smuggled person are likely to take place.	In a TiP context, the primary protected legal interest is the individual rights of the victim, including the right to be free from slavery, servitude, forced labor, and exploitation. However, the sovereignty and security of the State are also undermined and jeopardized.

⁴ Art. 3 (a) of the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.



The concept of smuggling of migrants must also be distinguished from that of "irregular migration." The International Organization for Migration (IOM) defines the latter as the "movement of persons that takes place outside the laws, regulations, or international agreements governing the entry into or exit from the State of origin, transit or destination"⁵. Under its umbrella, irregular migration also covers the autonomous procurement of one's irregular entry, transit or stay in another country – an arrangement that is outside of the scope of the smuggling of migrants.

III. State of Play

1. *The International Law on the Smuggling of Migrants*

The Smuggling of Migrants Protocol is the international instrument that specifically targets the smuggling of migrants and has been ratified, or acceded to, by 151 States Parties (as of February 2023). Its Article 6 binds States Parties to adopt legislative and other measures as may be necessary to establish the act of migrant smuggling as a criminal offence at national level. Thus, the Protocol highlights the need to duly criminalize the act, ensuring, on one side, that smugglers are held accountable for their actions under national law, while on the other providing that migrants shall not become liable to criminal prosecution for the mere fact of having been the object of smuggling. Objective 9 of the GCM complements the Smuggling of Migrants Protocol by setting out dedicated measures to strengthen the transnational response to smuggling of migrants.

It should be underlined that the Smuggling of Migrants Protocol serves as a criminal justice tool, rather than a migration management one. Therefore, its primary aim is not to penalize migration or the facilitation of unauthorized entry, residence, or transit in a foreign country where there is no financial or material gain for the facilitator.⁶ Additionally, the Protocol does not intend to obstruct the ability of protected groups to access their rights fairly and effectively. The Protocol contains a saving clause (Art.19), designed to ensure that measures to address migrant smuggling do not affect States obligations under international law, including international humanitarian law and international human rights law, the 1951 Convention and the 1967 Protocol relating to the Status of Refugees, in particular in relation to the principle of non-refoulement.

Besides the Smuggling of Migrants Protocol, other areas of international law have relevance. For instance, international human rights law serves as a crucial framework for ensuring migrants' rights and dignity including during attempts to cross borders through smuggling operations. International refugee law sets out guidelines for the treatment of refugees, including those who have been smuggled, including the right to seek asylum and protection

⁵ International Organization for Migration, *Glossary on Migration*. Unlike in the cases of "migrant smuggling" and "human trafficking", a legal definition does not exist.

⁶ UNODC Teaching Module Series: Trafficking in Persons & Smuggling of Migrants

<https://sherloc.unodc.org/cld/en/education/tertiary/tip-and-som/module-1/key-issues/migrant-smuggling-v-irregular-migration.html> [Last accessed: 23 May 2023].



from persecution. Additionally, the Law of the Sea, as codified in the United Nations Convention on the Law of the Sea (UNCLOS), is relevant to the smuggling of migrants.

UNCLOS addresses issues related to the treatment of individuals on board vessels, including the safety and security of those vessels and those on board. Finally, national laws and regulations also play a key role in addressing the issue of smuggling of migrants, including measures to protect the rights of migrants who have been smuggled and criminal penalties for those who perpetrate smuggling acts.

2. Implementing and Complying with the Protocol: Challenges and Pitfalls

Although significant strides have been made to implement and enforce the Protocol, challenges with acceding to the Protocol, as well as achieving compliance with its provisions, remain. Some countries face legal and institutional capacity constraints, hindering them from effectively enforcing the Protocol. In addition, there may be inconsistencies in laws and policies related to migration in some countries resulting, at times, in incomplete or inadequate criminalization of the smugglers, and the criminalization of actors who are not smugglers according to international law. For example, some countries may omit the requirement for financial or other material benefit to be a constituent element of the offense, which could result in improper criminalization and non-compliance with the spirit and provisions of the Protocol itself.

Actions taken in response to migrant smuggling often diverge greatly from the internationally recognized definition and the Protocol. This can be due to the challenges of implementing measures that specifically target smugglers, which may be more difficult than those aimed at addressing other forms of irregular migration. When such actions are publicly labeled as responses to migrant smuggling, they can contribute to confusion, misinterpretation, and potentially breach migrants' rights.

While efforts to implement provisions on the smuggling of migrants are important, it is crucial to be aware of potential unintended consequences, including increased risks for smuggled migrants and violations of their rights. Counter-migrant smuggling policies may be based on limited empirical data and influenced by several misconceptions, and as such they might focus on cracking down on migrant smuggling by prioritizing policing and criminal sanctions, with little attention paid to the potential harm such measures themselves might cause⁷ and the underlying drivers of migrant smuggling.⁸

The danger of looking at migrant smuggling only from this perspective may also risk neglecting the root causes of why people decide to turn to migrant smugglers – notably, the lack of opportunities for many to move and cross borders regularly. As a consequence, several of these policies may end up harming migrant communities.

⁷ See PICUM, *Migrant Smuggling – Why We Need a Paradigm Shift* (2022) (including recommendations).

⁸ See UNODC Observatory on Smuggling of Migrants: www.unodc.org/res/som.



Instead, more nuanced approaches that do not rely solely on criminalization or law enforcement measures, but consider the complexity of the issue comprehensively, involving the participation of migrants and civil society organizations and ensuring that efforts to address smuggling do not result in unintended harm (making irregular travel across borders more unsafe, or creating hostile environments that discourages solidarity with migrants), are often underutilized.⁹

3. Widespread Confusion, Misinformation and Politicization

There appears to be a growing trend of departing from the internationally recognized definition of the “smuggling of migrants” particularly by removing the requirement of financial benefit.¹⁰ This raises concerns about how to reconcile the terminological discrepancies that have arisen. While it can be necessary for effective implementation to acknowledge different terminology, deviating from the established definition can lead to problematic misunderstandings. This can cause other migration-related phenomena to be wrongly perceived as transnational crimes, leading to confusion among various relevant actors and practitioners, violation of migrants' rights, and hindrance in effective criminal prosecution.

In certain cases, States have “declared war on human smuggling”¹¹, which can lead to “militarized” and overly securitized policies and practices, and, in turn, negligence on and violations of migrants' rights. Furthermore, this trend may lead to confusion in public discourse over the use of terminology, triggering anti-migrant sentiments within a state's society.

4. Increasing prevalence of aggravated smuggling and its intersections with trafficking in persons, including in conflict settings

Where the situation is compounded by a range of other criminal activities, such as abduction, extortion, physical abuse, selling of migrants from one syndicate to another, this can create an ever more dangerous environment for smuggled migrants on the move. As a result, what may begin as migrant smuggling can easily evolve into trafficking in persons, with complex overlaps between the two offences¹². In conflict settings, there is an increased risk of exposure to this type of vulnerability, resulting in situations where the lines between migrant smuggling and trafficking in persons are blurred.

⁹ PICUM, *Migrant Smuggling – Why We Need a Paradigm Shift* (2022).

¹⁰ See, in the legal context, for example, the broader notion in the European Union's Council Directive 2002/90/EC of 28 November 2002.

¹¹ Horwood, *The War of Words in the Politicisation of Human Smuggling*, Frouws, B. and Forin, R. (Eds.), *Mixed Migration Review 2022*, p144. *Highlights. Interviews. Essays. Data*. Geneva, Mixed Migration Centre.

¹² This further illustrates how, while a separate consideration of facts from the perspective of each legal regime is necessary, on the factual level, cases of mixed migration often involve overlaps between different legal frameworks. It is important to address this complexity and ensure that the rights and protections afforded by each legal regime are upheld for those seeking asylum or migrating for other reasons.



IV. Current Gaps

1. Qualitative Knowledge

Efforts to combat the smuggling of migrants are often hindered by gaps in critical information - both evidentiary facts and data analysis. While international organizations and researchers have documented qualitative evidence-based knowledge used at the policy and operational level on migrant smugglers' *modus operandi*, demographic information of smuggled migrants and movement patterns prior to interception, a lot of it is concentrated on specific routes (e.g. the Mediterranean route). Research and data-gathering ought to be expanded across other migrant smuggling routes across the world and shared in order to identify vulnerabilities and develop predictable modelling responses to prevent and tackle the smuggling of migrants.

The gaps in qualitative data can be attributed to various factors, such as competing demands for attention, resource constraints, and political priorities. Furthermore, the transnational nature of smuggling requires cooperation and information-sharing between countries, which can be stalled due to concerns about sensitive information that may expose gaps in national systems.

2. Quantitative Data

Due to its clandestine nature, quantitative data on migrant smuggling are scarce: there is no annual global report on migrant smuggling trends, and, while there are measurements of irregular migration around the world, no data exist to determine the extent of migrant smuggling globally. Furthermore, the little data that exist are retrieved mainly from arrivals numbers, such as those across the Mediterranean, or are based on the number of migrants apprehended at a border. Due to these limitations migrant smuggling is often either not identified or misidentified; and as a result, assessing the scale of the problem remains a major challenge.

Similarly challenging are attempts to quantify losses of life in the context of migrant smuggling. The IOM¹³ reports that between 2014 and 2022 more than 50,000 people have lost their lives during migratory movements, more than half of whom (29,126) died or went missing on routes to and within Europe. More recently, a study by UNODC highlighted how, in 2023, on the Canary Islands, a disparity between numbers of people leaving and arriving was observed, leaving an open question on what happened to those who were not intercepted at destination.¹⁴

However, these numbers and information represent only a fraction of the true total, and do not give us a sense of how many perish while being smuggled specifically. This limitation is

¹³ IOM, 50,000 Lives Lost During Migration: Analysis of Missing Migrants Project Data 2014–2022 (2022) <https://missingmigrants.iom.int/sites/g/files/tmzbd1601/files/publication/file/2022%2050k%20deaths.pdf>

¹⁴ https://www.unodc.org/unodc/en/frontpage/2022/August/boat-drivers-and-smuggling-networks_-new-unodc-research-questions-assumptions-about-smuggling-of-migrants-by-sea.html [last accessed 28 February 2023].



further exacerbated by the fact that many migrants do not report criminal offences, injuries or deaths suffered during their journey. Overall, the availability of accurate statistics on the number of people involved in smuggling activities, and the number of casualties, remains problematic.

3. Awareness on the victimology of the smuggling of migrants

The Smuggling of Migrants Protocol does not refer to smuggled migrants as victims, but rather as “objects” of the offence of migrant smuggling, since smuggled migrants consent to being smuggled. However, the reality is that many individuals who are smuggled across borders often face abuse and other criminal offenses such as rape, kidnapping, extortion, trafficking in persons or assault and are victims of these crimes. Even where these abuses are not factored into national legislation on migrant smuggling, they are criminalized under almost all national laws as standalone offences and could be prosecuted as such.¹⁵ However, prosecution of migrant smugglers for offences committed against migrants does not often happen in practice.

However, the “*victimology*” (understood as “the relationship between an injured party and an offender by examining the causes and the nature of the consequent suffering [...]”)¹⁶ of the smuggling of migrants remains largely understudied. In this case the victimology concerns the relationship between the individual subjected to abuses and rights violations during the smuggling experience and the smuggler engaged in abusive conduct.

This lack of understanding presents a significant challenge because it makes it difficult to identify effective ways to prevent migrant smuggling and the harms associated with it. Furthermore, without a thorough understanding of the victims' experiences and needs, it is challenging to develop ways to address their needs and ways to protect their rights including access to justice, reparations and compensation for the harm they may have suffered.

4. Understanding of the role and impact of individual characteristics of smuggled migrants and their intersectionality

The impact of identity in the context of the smuggling of migrants - be it defined by gender, age, ethnicity, socio-economic status (including class or caste), or other social factors – remains an underexplored area, with most analyses on policy efforts fail to consider how these factors shape the experiences of smuggled migrants. However, an expanding body of literature emphasizes the importance of examining how inequalities derived from racism, classism and sexism can provide new insights into the realities of smuggled migrants on the ground.

¹⁵ UNODC, *Abused and Neglected: A Gender Perspective on Aggravated Migrant Smuggling Offences and Response*, 2022, p59-62. https://www.unodc.org/documents/human-trafficking/2021/Aggravated_SOM_and_Gender.pdf [last accessed: [23 May 2023].

¹⁶ Penn State University “Victimology vs Criminology” in B. Johnson “*Civic Issues*”, 2018. <https://sites.psu.edu/breqlynecivicissues/2018/02/23/victimology-vs-criminology/>



Different characteristics can affect an individual's access to resources, opportunities, and social support, influencing their choices and strategies. Additionally, certain characteristics can make individuals more susceptible to exploitation, abuse, violence, and other forms of harm in the context of migrant smuggling. For example, patriarchal systems prevalent in some countries create an environment where women are marginalized and denied access to regular migration pathways. This exclusion stems from societal norms and structures that restrict women's freedom of movement and decision-making power. Furthermore, at times discriminatory migration policies established by governments contribute to the vulnerability of certain groups. These policies may be gender biased, and impose unjust restrictions on women's migration, such as allowing only specific age groups to migrate or mandating family reports or consent. Such requirements limit women's autonomy and agency, making them more susceptible to exploitation and harm.

In addition to gender-based discrimination, other marginalized groups also face greater challenges when attempting to migrate regularly. LGBTIQ+ migrants often encounter prejudice and discrimination, which can hinder their access to safe migration routes. Migrants with disabilities and individuals with medical conditions are also at a disadvantage due to discriminatory practices that neglect their specific needs and rights during the migration process.

Although there has been growing interest in exploring the intersectionality between an individual's characteristics, their decision to embark on a journey facilitated by migrant smugglers, and the impact of that decision on their physical and emotional health, this area of study is still in its early stages.

5. Cognizance on the nature and scale of "Money and Other Material Benefit"

There is a significant gap in understanding the complex financial and economic dynamics involved in the smuggling of migrants. While it is known that some migrant smugglers are able to generate substantial profits, there is little research on how these profits are distributed, who the networks and actors involved are, and what the broader economic and social impacts of this criminal market are¹⁷. The limited understanding of the economic dynamics of migrant smuggling and its socio-economic implications presents a significant challenge in developing effective policies to tackle this phenomenon, and is reflected in limited prosecution of the criminal networks that smuggle migrants and profit from the crime. For example, in some court cases, where migrants have no financial means to pay for their smuggling and instead pay in kind, e.g. through driving the boat, or where they steer the boat to save their lives or those of others, this type of conduct has been considered

¹⁷Mixed Migration Centre, "Taking root. The complex economics of the global smuggling economy", in Horwood, C., Forin, R. & Frouws, B. (Eds.), *Mixed Migration Review 2018*, p. 104. *Highlights. Interviews. Essays. Data*. But see also the already existing knowledge in this regard, in the following publication series on e.g., financing, corruption, contacts between smugglers and migrants, including data from hundreds of interviews with smugglers themselves: <https://mixedmigration.org/resources/page/2/?keyword&action=search&topic=81&type®ion&year&country&language> [last accessed: 23 March 2023].



“material benefit” for the sake of proving the crime of migrant smuggling. Yet these are often situations in which this kind of benefit is hardly tangible or quantifiable and the conduct usually is motivated by saving their life and those of family members and others aboard.

V. Recommended Actions

In May 2022, Member States committed to combatting the smuggling of migrants in the Progress Declaration of the first global review of GCM implementation. The Network’s workstream suggests the following actions to support GCM implementation, particularly its Objective 9 on strengthening the transnational response to smuggling of migrants.

1. *Enhancement of Legislative and Policy Frameworks*

Effective policies and legislation are essential for addressing migrant smuggling. This can include measures such as criminalizing the act of smuggling of migrants, providing legal protection for smuggled migrants, and ensuring that law enforcement agencies have the human and financial resources as well as necessary training capacities, including knowledge and skills they need to effectively track smugglers. However, effective policy and legislation also requires a sound knowledge. Therefore, continuous monitoring and reviewing of policies and legislation is important as is considering empirical research on smuggling of migrants more generally. Regarding the latter, for example, a more nuanced understanding of smugglers beyond extreme portrayals of them as either “*malicious criminals or benign travel agents*”, can influence what is regarded as the applicable law and the appropriate sentence.¹⁸

2. *Strengthening of criminal justice responses*

Criminal justice responses are also an important tool for addressing migrant smuggling in a comprehensive and sustainable way. This can include measures such as investigating and prosecuting smugglers, disrupting smuggling networks and seizing the assets of smugglers. Holding smugglers accountable for their actions, can ultimately help to deter others from engaging in this activity. The cooperation of smuggled migrants¹⁹ as witnesses is crucial for detection, investigation, and prosecution of migrant smugglers. Often, smuggled migrants are the only witnesses to the entire migrant smuggling process and can reliably provide evidence on the different role players. To promote their participation in the justice process, some countries have issued temporary visas or residence permits. Where smuggled migrants have been subjected to abuses, some countries have extended victim protection mechanisms including time for reflection and recovery before making a decision to cooperate with law enforcement in the investigation.

¹⁸ Mixed Migration Centre, *Smuggling and Mixed Migration Insights and Key Messages Drawn from a Decade of MMC Research and 4Mi Data Collection*, p. 4.

¹⁹ UNODC *Model Law Against the Smuggling of Migrants*, 2010, p. 61.

https://www.unodc.org/documents/human-trafficking/Model_Law_Smuggling_of_Migrants_10-52715_Ebook.pdf [last accessed: 6 June 2023].



3. *Establishment of durable system of laws and procedures, in line with international human rights standards, to undermine organized crime*

The prevention and disruption of migrant smuggling networks is a critical global issue. To address this challenge, supporting global capacities to establish durable systems of laws and procedures, in line with international human rights standards, is fundamental. Such systems should incorporate effective border controls, intelligence sharing, and inter-agency cooperation, along with enhanced monitoring of financial transactions and the use of technology to identify and disrupt smuggling operations while safeguarding other relevant international law obligations. Additionally, community engagement and outreach programs are necessary to empower people by alerting them to the risks of abuse during smuggling, providing them information about risks, their rights, their options, where to seek protection in case of abuse, where to safely report abuses. These efforts should be supported by international cooperation and collaboration, to ensure a coordinated and effective response to the transnational nature of the phenomenon.

4. *Private Sector Engagement*

The collaboration between private sector actors and law enforcement agencies represents a useful framework for tackling smuggling networks. Private sector actors, such as shipping companies, transportation providers, and financial institutions, have access to valuable information that can serve law enforcement agencies in identifying criminal networks involved in smuggling activities, and could help identifying patterns and connections between different actors within said networks.

Of equal importance is establishing clear guidelines and procedures for the sharing and handling of sensitive information, ensuring that personal data of individuals is protected, and that its use is limited to the purposes described. Additionally, adequate safeguards should be put in place to prevent unauthorized access or use of the information, and accountability mechanisms should be implemented to ensure that data protection breaches are addressed.

5. *Addressing Corruption in Migrant Smuggling*

The need to strengthen measures against corruption in the context of migrant smuggling is critical, considering the significant role corruption plays in facilitating the smuggling of migrants. Studies at regional level have shown that corruption is most visible in the recruitment of migrants, the production and procurement of fraudulent documents, in the process of crossing borders and in hindering investigation of cases of migrant smuggling.²⁰ Regional surveys of both smuggled migrants and smugglers have revealed the prevalence

²⁰ Regional Support Office: The Bali Process & UNODC *Corruption as a Facilitator of Smuggling of Migrants and Trafficking in Persons in the Bali Process Region, with a focus on Southeast Asia, 2021*.
https://www.unodc.org/roseap/uploads/archive/documents/Publications/2021/Corruption_of_SoM_and_TiP_with_focus_on_Southeast_Asia_Mar2021.pdf [last accessed; 7 June 2023].



of contact with public officials to facilitate migrant smuggling.²¹ In addition to strengthening investigation and prosecution of corruption in migrant smuggling, there is a need to more closely align anti-corruption with anti-migrant smuggling measures and to create and strengthen whistleblower mechanisms, with close cooperation between smuggled migrants and authorities.

6. Safe and Regular Pathways as a Prevention Strategy

Bearing in mind that this is not a simple universal formula without complexities,²² evidence shows that providing migrants with access to entry and/or residence through regular channels reduces their need to move in unsafe, irregular circumstances. Regular pathways contribute to reducing the risk of migrants becoming vulnerable to sexual and gender-based violence, abuse, exploitation and exclusion. They also ensure the protection of migrants' human rights, including social protection and access to services while facilitating integration into the community of the destination country. Pathways for regular migration also benefit all countries, supporting the rule of law by curbing migrant smuggling across their borders²³. In its Guidance Note on Regular Pathways for Admission and Stay for Migrants in Situations of Vulnerability,²⁴ the UN Network on Migration highlighted that regular pathways not only help prevent the smuggling of migrants, but also provide a solution to address the vulnerability of migrants subjected to aggravated forms of smuggling.

The Guidance Note²⁵ furthermore suggests avenues for regular migration pathways, including visas and residence and work permits. A prerequisite for obtaining a visa or a permit is usually a passport or travel document. In many countries bureaucracy and red tape make it difficult to access core citizenship documents, such as birth certificates and identification documents which are required to apply for a passport. This is especially the case for vulnerable groups such as orphans and for people rendered stateless, for example in countries that have gone through conflict or political turmoil. Thus, without facilitating access to citizenship documents at source countries, migrants with certain vulnerabilities may still have to resort to migrant smuggling for travel across borders.

Overall, effective human rights frameworks, including safe and regular pathways, are enablers of more just and inclusive societies, that in turn are less susceptible to migrant smuggling and related crimes and the risks they pose. When individual rights are better

²¹ MMC & UNODC Observatory on Migrant Smuggling "Corruption and the role of state officials in human smuggling", 2021. <https://mixedmigration.org/resource/4mi-snapshot-corruption-and-the-role-of-state-officials-in-human-smuggling/> [last accessed: 7 June 2023].

²² Crisp, *Unpicking the Notion of Safe and Legal Routes*, in Horwood, C., Frouws, B. and Forin, R. (Eds.), *Mixed Migration Review 2022. Highlights. Interviews. Essays. Data*, Mixed Migration Centre, p.190.

²³ UNNM "Guidance Note: Regular Pathways for Admission and Stay of Migrants in Situations of Vulnerability" 2021. https://migrationnetwork.un.org/sites/g/files/tmzbd1416/files/resources_files/guidance_note-regular_pathways_for_admission_and_stay_for_migrants_in_situations_of_vulnerability_final.pdf [last accessed: 13 June 2023].

²⁴ UNNM "Guidance Note: Regular Pathways for Admission and Stay of Migrants in Situations of Vulnerability" 2021.

²⁵ UNNM "Guidance Note: Regular Pathways for Admission and Stay of Migrants in Situations of Vulnerability", p8.



safeguarded and regular pathways available, societies are safer and less exposed to the occurrence of crimes related to mobility.

7. Assistance to migrants in vulnerable situations, and particularly smuggled migrants who are victims of abuse and other crimes

One key strategy for mitigating the harm that occurs in the context of the smuggling of migrants is to provide assistance to migrants in vulnerable situations who have experienced violence, exploitation, and abuse at the hands of smugglers. This would ensure that migrants are able to access justice and protection from further harm. Moreover, it can help to inform law enforcement and other actors about the *modus operandi* of criminal actors and improve overall responses, although care must be taken that assistance is not made conditional on cooperation of smuggled migrants with investigations and court cases. This is particularly important given the lack of understanding around the victimology of smuggled migrants, which was previously discussed. Any assistance provided must be on a non-discriminatory basis, and must be based on individual needs and rights, taking into account the lived experiences of those who have been smuggled and may be coping with trauma in relation to such experience.

8. Support by the Network's workstream: "Ensuring migrant protection through strengthened responses to migrant smuggling and increased coordination on its linkages with trafficking in person"

This workstream has the overall objective of supporting implementation of countermeasures against the smuggling of migrants. This will be achieved through providing policy guidance, facilitating information sharing, exchange of good practices and promoting and facilitating joint initiatives against SOM. In addition, it will facilitate coordination with existing platforms, including those working on trafficking in persons where there are intersections between the two issues, in order to optimize available resources and foster a comprehensive, coordinated approach.

This guidance was produced by the Network's workstream "[Ensuring migrant protection through strengthened responses to migrant smuggling and increased coordination on its linkages with trafficking in person](#)" co-led by UNODC and IOM. Members of the Workstream include UNHCR, MMC, PICUM, Our Journey, Malaysia and MYCP.