

New developments in international
cooperation against smuggling
A critical approach

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- Criminalizing smuggling: some questions
- Confronting migrant smuggling
- International cooperation: a comprehensive approach and a response to vulnerabilities

- United Nations Convention against Transnational Organized Crime (2000)
- Protocol to prevent, suppress and punish trafficking in persons, especially woman and children
- Protocol against the smuggling of migrants by land, sea and air.

- Smuggling/Traffico dei migranti/Auxílio à imigração ilegal
- Trafficking/Tratta deli esseri umani/Tráfico de seres humanos

- «The Protocol should not require States to criminalize the activities ... against groups that smuggle migrants for charitable or altruistic reasons, as sometimes occurs with the smuggling of asylum seekers»

- (Legislative Guides for the implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto)

- The concept «financial or other material benefit» in the smuggling of Migrants Protocol
 - (Issue Paper: UNODC, 2017, Anne Gallagher)

- Addressing *mixed migrations* is high on the European Union's political agenda

(Clingendael Report – Netherlands Institute of International Relations, September 2018)

- Convention relating to the status of refugees (1951)
- Protocol related to the status of refugees (1967)
- «people fleeing a well-founded fear of persecution» (1951 Refugee Convention definition of «refugee»)

- Jorgen Carling

(Border Criminologies Blog, September 23, 2015,
«Refugees are also migrants. All migrants matter»)

Guilty Victims

- «(smuggled) migrants (are) victims and should therefore not be criminalized»

(Travaux préparatoires of the negotiations for the elaboration of the United Nations Convention against Transnational Organized Crime and the Protocols thereto)

Savings Clause

Survival migrants

Alexander Betts, «The normative terrain of the global
refugee regime»
(ethicsandinternationalaffairs.org/2015)

- Basic liberty
- Basic security
- Basic subsistence

(Henry Shue, *Basic rights: subsistence, affluence, and U.S. Foreign Policy*, Princetown University Press, 1980)

Safe, Orderly and Regular Migration

- 2030 Agenda for Sustainable Development (September 2015)
 - 17 Sustainable Developments Goals
- New York Declaration for Refugees and Migrants (2016)
- Global Compact for Safe, Orderly and Regular Migration (2018)
- 2019 EU Report on Policy Coherence for Development (2019)

- European Agenda on Migration (2015)
- European Agenda on Migration (2018)
- EU Action Plan against Migrant Smuggling (2018) – Enhancing the responses to migrant smuggling net works: a comprehensive and operational set of measures.

- Enhancing the flows of relevant information
- Strengthening the operational tools to effectively disrupt migrant smuggling networks
- Disrupting smuggling networks' online communications
- Maximizing synergies with external action of the Union in priority third countries and regions

- Reducing illegal immigration
- Preventing unfounded asylum claims
- Minimizing protection obligations
- Expanding regular migration
- Averting exploitation suffering and loss of live
- Obstructing funding streams
- Preventing terrorists infiltration
- Showing political resolve
- Securing resources or bargaining power

Migration is a humanitarian issue

- Addressing the root causes of migration and forced displacement
- Enhancing cooperation on legal migration
- Reinforcing protection of asylum seekers
- Fighting irregular migration, migrant smuggling and trafficking in human beings
- Improving cooperation on return, readmission and reintegration

(Valletta Action Plan, 2015)

Counter-smuggling measures have to be implemented in a comprehensive migration management approach

Cooperation: a classic preventative approach
(responding root causes)

Cooperation as a response to vulnerabilities

Thank you!