

In Pursuit of the Southern Dream: Victims of Necessity

Assessment of the irregular movement of men from East Africa and
the Horn to South Africa

April 2009



IOM International Organization for Migration

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In Pursuit of the Southern Dream: Victims of Necessity

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by

Christopher Horwood



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Annexes

The full text of the Protocol Against the Smuggling of Migrants by Land, Sea and Air, adopted by General Assembly Resolution 55/25, entered into force on 28 January 2004.

Copies of Semi Structured Interview report sheets used for three categories of interviewee: irregular migrant (smuggled or trafficked person); smuggler and trafficker; and third-party expert.

The research, analysis and writing of this publication were conducted by Christopher Horwood as an independent consultant to the International Organization for Migration. The opinions expressed in this document are those of the author and do not necessarily reflect the views of IOM.

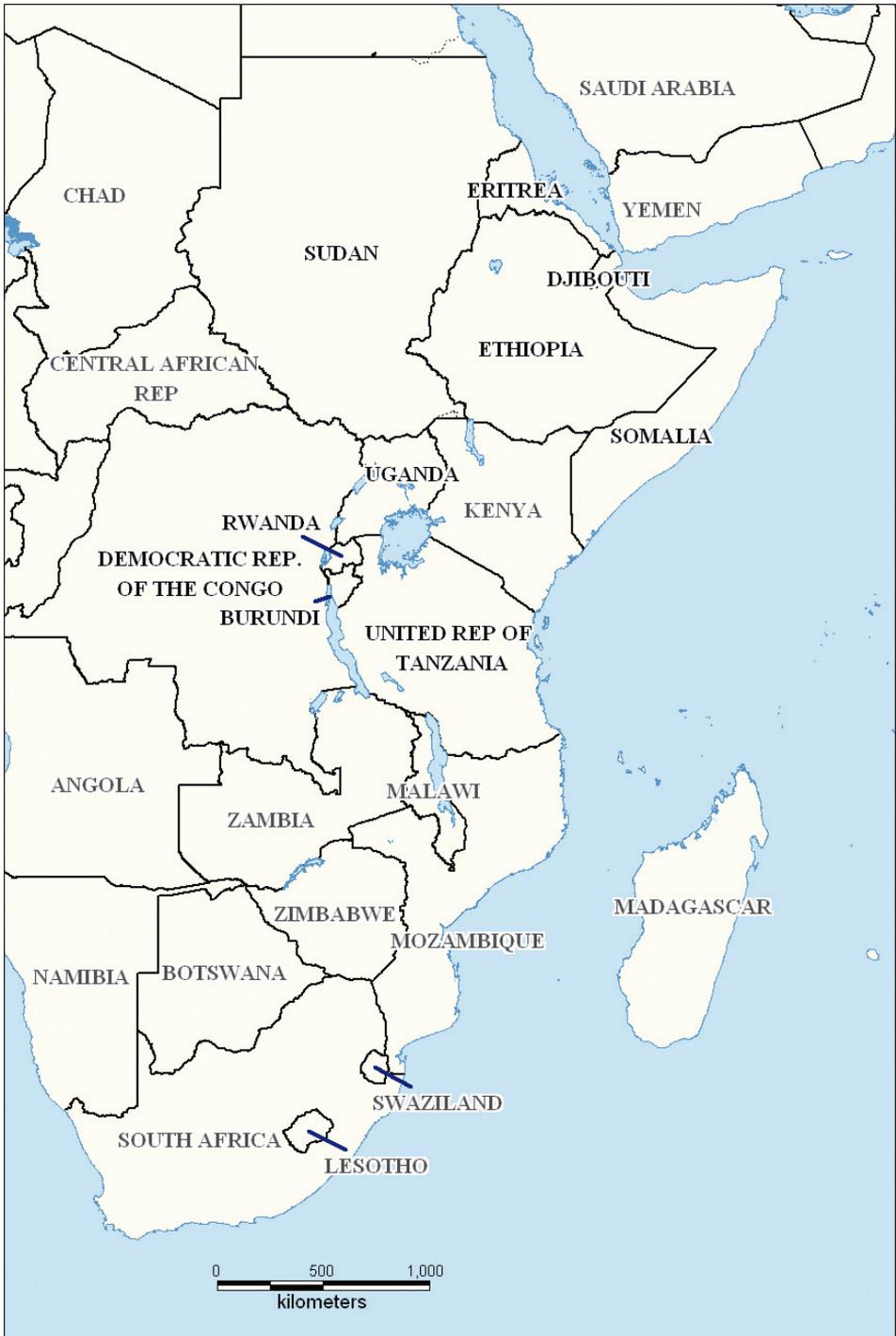
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List of Acronyms

ILO	International Labour Organization
IOM	International Organization for Migration
MMTF	Mixed Migration Task Force
RSA	Republic of South Africa
UNHCR	United Nations High Commission for Refugees
UNICEF	United Nations Children Fund
UNODC	United Nations Office for Drugs & Crime
UN	United Nations
US	United States



1. Executive summary

This executive summary summarizes the research and findings of a project investigating the irregular movement of men from East Africa and the Horn of Africa to the Republic of South Africa (RSA). The key findings elaborated in this assessment concern the logistics, economics, causal factors and trends in the smuggling of migrants south through the eastern corridor of the African continent. It also emphasizes the dynamics of the abuse and exploitation of these irregular migrants during their multi-country journey.

The research was originally commissioned as an investigation of whether men were being trafficked from East Africa and the Horn to South Africa. As such, the objective of the study was primarily to examine to what extent, if any, human trafficking was taking place. The secondary objective of the study was to document the reasons, methods and characteristics of an already noted large-scale movement of men from East Africa and the Horn towards South Africa. While no trafficking was identified, the research did reveal the large-scale smuggling of men, as well as allegations of severe human rights violations, abuse and exploitation.

No evidence of trafficking per se

The research underpinning this report found no significant evidence of trafficking of males from East Africa or the Horn of Africa towards South Africa. After questioning almost 800 relevant people in the region¹ – most with their own substantial networks or communities – not one case of trafficking of men as defined by the UN Trafficking Protocol² from Kenya, Somalia or Ethiopia to RSA was identified. However, as certain sections of this report and direct quotes from respondents illustrate, smuggling and trafficking share many of the same abusive characteristics and there is often a fine line between activities that are defined as smuggling and those defined as trafficking.

The specific interest in the movement of men was due to the recognition of a gap in data collection and analysis: most research on trafficking focuses on women.

It is worth mentioning that there is, indeed, evidence of women and children being trafficked from East Africa and the Horn to RSA; however, this is not within the scope of this research.

1 By “relevant people”, the author is referring to actual migrants, members of source communities, representatives of agencies and offices that are directly concerned with trafficking and other human right issues, smugglers, border control and law enforcement officials and people well-positioned to know or hear about possible cases of trafficking. See the Methodology section in the main report for more details.

2 UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the UN Convention Against Organized Crime, 2000.

There were other examples of cross-border trafficking and of internal trafficking in many of the countries studied that also included women and children, but these cases, again, fell outside the scope of this study and are already the focus of other research and interventions by various agencies, including IOM and some governments.

Therefore, this research illuminates, for the first time, the scope and nature of irregular migration and human smuggling of men from East Africa and the Horn towards South Africa. As mentioned, the research exposes a range of issues that are elaborated upon in the full report, including problems of protection and human rights abuses, corruption and complicity of public officials, broader border management dilemmas as well as migration in today's global context.

Explanation of methodology

The research methodology used for this multi-country enquiry into the irregular migration of men was deliberately designed to offer utmost flexibility to the researchers, while obtaining maximum relevant information on a subject many were reluctant to discuss. Researchers focused primarily on migrant communities in RSA, people in transit and those directly facilitating them. Encounters with Ethiopian, Somali and Kenyan migrants were predominantly informal, casual and serendipitous, and 'convenience' and 'snowball' methods guided researchers in their sampling approach. In addition, researchers gathered information from third-party experts, agencies, officials and organizations.

The geographical scope of the research included seven countries and multiple locations within each country. One or more researchers from the team visited the following countries: Ethiopia (as a source country), Kenya (source and transit), Malawi (transit), Mozambique (transit), RSA (destination, transit), Tanzania (transit) and Zambia (transit). Locations included urban centres, border crossings, major mobilization or transport arteries and refugee camps. In many cases, local transport (taxis, buses, trucks and boats) and similar routes (national roads and cross-country routes) were used by researchers in order to understand the physical journeys taken by potential victims of trafficking or migrants and interview relevant people along the way. In total, almost 800 consultations were conducted during the course of the research and 625 written interview statements were gathered. These comprise the core resource for the findings and conclusions of this report.

Estimated scale

The rapid growth of smuggling globally has been documented by numerous analysts, growing as it has from small-scale cross-border activities affecting a few countries to a multi-million dollar international enterprise that increasingly involves heavy-weight, transnational

crime networks. This growth, also reflected in the cases from Ethiopia and Somalia, is better understood in the context of migration trends and modern forces of globalization that create the push / pull conditions that inform migrants' decisions.

According to the US Department of State, between 600,000 and 800,000 people are trafficked across international borders each year. This figure is an estimate at best. The number of people who are smuggled is unknown, and the very nature of this clandestine and illegal activity precludes the establishment of reliable data. However, experiences of agencies working with smuggled migrants and victims of trafficking suggest that the number of people smuggled is far higher than the number of people trafficked, possibly standing in the millions.

An elusive but critical area of knowledge when examining the movement of Ethiopians and Somalis to RSA is that of scale. How many people actually pay brokers and smugglers to take them southwards? An estimation of the size of the business allows us to understand its economic power (and therefore resilience) and to understand migration trends. It is more than likely that no one knows how many Ethiopians, Somalis and Kenyans journey to RSA through irregular means each year. Like that of other irregular, illicit and clandestine activities, information on smuggling is not collated. Equally, smugglers have only a vague idea of what numbers their 'competitors' are handling. Nevertheless, this study has attempted to establish a realistic estimation of the number of irregular migrants being handled by smugglers based on a variety of evidence, some of which is solid and some of which is fragmentary. The estimation proposed by this study is of 17,000 to 20,000 male, irregular migrants per year. Not all of these men will successfully enter RSA, but all will make part or the entire journey south. Such an estimate is made possible only because a large number of the irregular migrants (almost 60% of the Ethiopian and 80% of the Somali migrants) pass through a camp while en route through Malawi where registration is disaggregated by nationality. Based on the number of Somalis and Ethiopians registered per year, and the estimate of how many of them pass through Malawi, it is possible to estimate the number of Somalis and Ethiopians travelling from their home countries towards South Africa.

Estimated growth

Respondents offered clear and consistent information concerning the fees they had paid smugglers to take them south. On the basis of this data, and by referring to the estimates developed concerning the magnitude of irregular migrants involved (above), this author can extrapolate that at the time of publication of this report the immediate value (to smugglers) of the business of taking Ethiopians and Somalis into RSA ranged from US \$34 million to \$40

million.³ No attempt has been made to calculate the additional value of the extra payments by the smuggled migrants or the material assets stolen from them along the way: Many of the migrants interviewed said additional payments to cover bribes, unforeseen smuggling costs and official fines were demanded of them.

Deception issues

All of the men smuggled to RSA (or part of the way) desired to reach a destination and to improve their lives. To achieve this purpose, they accepted to enter into a financial arrangement with their smugglers. Few were prepared or warned of the treatment they would face during the journey, which on average lasted seven to eight weeks for Ethiopians and Somalis and one week for Kenyans. According to testimonies, some men never reached their final destination, instead serving time in various prisons and eventually being deported to Kenya or Ethiopia. In some extreme cases, the journey concludes prematurely with the death of the traveller, according to various testimonies collected during this research.

A critical element of the trafficking definition – deception – also appears to be a key tool brokers / smugglers employ, as they lead their ‘clients’ to expect incident-free and protected processes of mobilization. Despite the fact that smugglers and their agents fail to adequately inform, or misinform or actively deceive their clients, their engagement with the irregular migrants remains one as smugglers and not traffickers, as they do not transfer their clients with the ultimate intention of keeping them in a state of exploitation once arrived at their destination.

The evidence strongly suggests that in severe cases smugglers are directly complicit in the abuse and robbery of their clients. In so far as smuggling enterprises from Mogadishu, Kismayo, Addis Ababa or Nairobi consist of a head of a chain of people accountable to a boss, these chief smugglers must bear responsibility for misleading the people they smuggle and to some degree, for the sexual abuse, violence, hunger, extortion, abandonment and death some victims face. Though often well-known to relevant authorities, smugglers tend to remain virtually untouchable, often due to the lack of an appropriate legislative framework. Where they are not well-known to local, national or regional authorities, as this study can reveal, their identities would be easy to obtain from the thousands of migrants arriving in RSA every year.

3 Depending on whether the smuggled migrant paid \$1,750 or \$2,000 for the journey and whether the low estimate of 17,000 men per year or 20,000 men per year is used. The estimated of number of migrants as calculated by the author is based on interviews conducted during the study and on other data available for 2008, as explained in Chapter 11 of this report.

Protection issues

As the research indicates, men from Somalia and Ethiopia travelling south to RSA are pushed by factors such as poverty, political instability and lack of opportunity.

The concept of ‘exploitation’, when used in the context of trafficking of persons, specifically refers to coercion and force or abuse of authority in relation to sexual exploitation, forced labour, debt bondage and forced marriage, etc. In this report, the concept of exploitation is discussed in relation to those smuggled into RSA, who endure serious human rights violations at the hands of their smugglers, local criminals and, allegedly, some national officials along the way. Irregular migrants are afforded minimal protection and report that they are frequently abused by their supposed protectors – official and/or non-official. As certain nations attempt to stem the increasing flow of migrants through their territory, the spirit of international conventions on refugees, and migrants, is often breached. This report, therefore, is also a chronicle of the experiences of those smuggled – retold from the relative safety of RSA. These stories, however, also highlight protection dilemmas with regard to abused people who despite their hardships also have a resolute objective of not being rescued, saved or repatriated during their journey. Indeed, any intervention during their journey could result in personal setbacks that may only increase their hardship, financial burden and exposure to abuse.

Complicity issues

Alleged corruption and complicity of national officials appears to be one of the forces driving this regional international smuggling business, without which it would not be able to function as it does today. What may appear to be a situation of win-win-win (for the smuggled person who gets taken to RSA, for the smuggler who makes his/her profit and for the state official who gains something on the side) in fact encourages and exacerbates a climate where public officials abuse their position for private gain. This impunity corrodes the integrity and effectiveness of democratic government and ultimately undermines its authority, neutrality and the rule of law.

The allegations made by a large proportion of those interviewed suggest that many of the officials involved in complicity and corruption are not chance opportunists succumbing to occasional bribes. Rather, the extent of their collusion with smugglers implies that they should be considered part of the overall illegal and abusive enterprise. Cupidity appears to be the foremost and only visible motivation for this complicity.

Legal impunity

Regional regulations and national laws concerning both smugglers and those smuggled are either absent or stagnated in a state of considerable disharmony,⁴ thereby effectively affording the exploiters and perpetrators of abuse impunity, or at best only derisory punishment. While most countries have strict laws concerning illegal and irregular migrants, this study has revealed that those who organize and profit from arranging smuggling operations have little to fear from the law, let alone its enforcers.

Of the countries relevant to this study, Ethiopia, Somalia, Tanzania and Zimbabwe have not signed the UN Protocol Against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention Against Transnational Organized Crime, also known as the Smuggling Protocol. Kenya, Malawi and Zambia acceded to, or ratified, the protocol in 2005, while Mozambique ratified it in 2006. RSA signed the protocol in December 2000 and ratified the same in 2004.⁵ However, there is a need to reflect the protocol in national legislation and implement this protocol for it to be effective.

Pursuing dreams

For most men smuggled into RSA, the relief upon arrival and the abounding hope and optimism with which they face the future often dull the memory of their painful journey. Many of them are economic migrants, although many also claim to be fleeing conflict and insecurity. Applying for refugee status in RSA is an option for those who choose to (and most do).⁶ This status affords migrants legal status in a country that since 1994 has prided itself on having officially welcoming arms for all migrants, irrespective of the apparent prejudices of sub-populations of its people, as illustrated during the 2008 violence dubbed the ‘xenophobic riots’. For some migrants, arrival in RSA is the start of a long-cherished dream; for many more, it is a step in a process that they hope will result in admittance to Europe or North America via similar means. Exposure to considerable criminal violence and prejudice in RSA appears to be the price many accept to pay for new lives of opportunity in RSA or, if their ultimate dreams are realized, in a third country in the West. In this regard, voluntary smuggled migrants have similar mindsets as victims of trafficking: They are often ignorant of their human rights and in the grim calculus of their alternatives come to accept, at some level, violence and abuse as part of their lives.

4 In so far as different countries treat irregular migrants and refugees differently.

5 Signatories to the CTOC Smuggling Protocol can be found on the UNODC site: <http://www.unodc.org/unodc/en/treaties/CTOC/countrylist-migrantsmugglingprotocol.html>.

6 The majority of migrants in RSA actually have papers identifying them as asylum seekers, which in theory afford them the right to work and study. However, this status does not give them the same degree of acceptance and rights as refugee status.

The globalized context

Smugglers, law enforcement officials and others interviewed for this report all indicated that the number of Somalis and Ethiopians moving south as irregular migrants has increased in recent years and is currently as high as it has ever been in their own memories. Clearly, there is an absence of recorded data on trends in the clandestine movement of males, a subject that has not benefited from previous analysis and research. This apparent, current increase in smuggling needs to be understood in a wider context. As described in a UN briefing paper:

We are living in an era of dramatic change and transition, in a world that is being transformed by complex financial systems and revolutionary information technologies into a vast global marketplace. Globalization is creating new patterns of interaction among people and States, promising unprecedented opportunities for material progress in larger freedom, but also threatening to compound many existing challenges before the international community while deepening the economic marginalization of those most vulnerable.⁷

In this complex and demanding scenario, much of the discussion of trafficking, smuggling and the wider issue of irregular migration have taken place in what has been called a human rights vacuum.

The human rights vacuum

The full research report concludes with a commitment to the notion that smuggled people, like trafficked persons, cannot and must not be regarded as “disposable people”,⁸ in so far that their legal and human rights need not be protected or upheld. Some governments regard irregular migrants as criminals and deserving of any harsh treatment they may encounter. The prevailing view, generally, is that migrants have little priority in terms of deserving protection from the state they have entered illegally. Instead of being seen as people outside the law and rich pickings for those who would extort, abuse and rob them, smuggled people should be protected by international law and the national legislation of each country through which they pass, albeit illegally.

This analysis of irregular migration from East Africa and the Horn to RSA echoes conclusions suggested by other analysts in the sector, who point to a lack of human security and disparities of prosperity and equality (within and between countries) as the main reasons why people make dangerous decisions with regard to migration. Ultimately, unless genuine efforts to deal

7 Introduction from “Human Rights Today: A UN priority” (UN briefing paper), UN Dept of Public Information, <http://www.un.org/rights/HRToday/intro.htm>.

8 Term is in reference to the title of Kevin Bales’ seminal book on global trafficking in persons: *Disposable People: New Slavery in the Global Economy*, Kevin Bales. Published by University of California Press, 2000, ISBN 0520224639, 9780520224636.

with the root causes of irregular migration are made, few credible, effective and coordinated solutions can be developed.

Recommendations

Finally, this report recommends responses to the current and expected phenomenon of continued smuggling of persons, particularly men, from the Horn and East Africa to RSA. It suggests that a multilateral regional coordinated response addressing issues of migrants' rights and protection as well state security and border management is required to reduce the magnitude of the problem. Further reviews of legislation and policies should be conducted to assist in creating a regional harmonized response. The report suggests several ways in which countries can enhance their multilateral and bilateral cooperation.

This report also emphasizes that irregular migrants should no longer be perceived as perpetrators of criminal acts. Instead, they should be provided proper protection in line with international law, and the penal focus should be on those who smuggle and abuse migrants. The corruption and complicity associated with these irregular movements result in great profit to smugglers, and allegations of official corruption must be addressed more seriously.

Additional measures for effective border control are also recommended.

Ultimately, the root causes that drive individuals to migrate in search of economic relief or refuge from political unrest must also be addressed.

2. Introduction and definitions

The original research for this study was premised on experience in other regions: that where extensive smuggling exists there, too, shall exist human trafficking. Where the push factors (poverty and conflict) are overwhelming, it is likely that the ground for different aspects of exploitation, including trafficking, would be fertile. In 2004, the UN Economic Council for Europe estimated the value of the illicit human trafficking trade was between \$5 billion and \$9 billion,⁹ while in 2006 the Council of Europe stated that “[p]eople trafficking has reached epidemic proportions over the past decade, with a global annual market of about \$42.5 billion.”¹⁰ According to a recent (2008) US State Department report on trafficking in persons, “recent estimates of this illegal global trade are as high as \$32 billion, if both the sale of the individuals and the value of exploited labour or services are taken into account.”¹¹ The increases reflect the global rise of the trade as well as methods to evaluate and quantify the business.

Although the data on the true extent of trafficking is contested by academics and practitioners, in terms of global trafficking, the UN Office on Drugs and Crime (UNODC) stated in 2008 that “some 2.5 million people throughout the world are at any given time recruited, entrapped, transported and exploited.”¹² In addition, the International Labour Organization’s (ILO) 2008 report on the regional distribution of trafficked forced labour estimated that 130,000 people in sub-Saharan Africa are being coerced in a form of modern slavery, and that 44 per cent of the global economic exploitation of trafficked people is male.¹³

Based on these estimates, it was plausible to presume that a proportion of this global criminal enterprise is occurring along the eastern seaboard of Africa between the Horn and East Africa to RSA, taking people from areas of strife and deprivation to the perceived wealth and stability of RSA. In addition, the lure of the 2010 World Cup in RSA and the construction and non-formal work associated with its preparations were considered a significant attraction for would-be migrants and smuggler agents. This issue is discussed in more detail later in this report.

9 UNECE Fact Sheet One. “Economic Roots of Trafficking in the UNECE Region”, UNECE, Geneva, 15 December 2004, http://www.unece.org/press/pr2004/04gen_n03e.htm.

10 “Council of Europe says human trafficking has reached ‘epidemic proportions’”, The Associated Press, *International Herald Tribune*, 5 December 2006. Also quoted on Channel 4 news at the time, but no original statement was available from the Council, http://www.ihf.com/articles/ap/2006/12/05/europe/EU_GEN_Greece_Trafficking.php.

11 US Department of State Trafficking in Persons Report 2008, June 2008, p.34, www.state.gov/g/tip.

12 UNODC *Perspectives* Publication 2008, also quoted in op. cit.

13 ILO estimates quoted by Anti Slavery International in Trafficking and Slavery at http://www.antislavery.org.au/resources/pdf/Slavery_Trafficking.pdf It is interesting to note that ILO estimated that men comprise only 2 per cent of those in forced commercial sexual exploitation.

Although global statistics indicate that more women are trafficked than men and that more men are smuggled than women, the research methodology for this work was based on an assumption that trafficking of men between the defined geographical regions existed. The direct consequence of this assumption is that the training of researchers and development of reporting instruments, as well as the entire methodological approach, was geared towards identifying trafficked men as well as those involved in the trafficking business.

While human smuggling and human trafficking are two distinct phenomena, they can be closely linked with each other. Many trafficked persons, men as well as women, begin their journey as smuggled migrants but end up exploited and trafficked. In a classic migrant-smuggling situation, the relationship between migrant and smuggler is voluntary and ends upon the migrant's arrival in the destination country. Any intent on the side of the smuggler to turn a migrant into a trafficked person often will not manifest itself until after the 'movement' phase is over. This phenomenon was understood and acknowledged by the researchers in this study. Nevertheless, no evidence was found to suggest this happened to male migrants moving south from the Horn and East Africa. Again, there was no evidence that men from Ethiopia, Somalia or Kenya were exploited upon arrival at their destination or that the original intention of the smugglers was to eventually exploit them.

Therefore, the research in this study did not establish the trafficking of males from Ethiopia, Somalia and Kenya to RSA. What transpired instead is the gathering of evidence of ongoing violence, threats, abuse and exploitation of irregular migrants, affecting and involving many people but confined within what is defined as 'smuggling operations' rather than 'trafficking'.

The definitions

The definitions of smuggling and trafficking, therefore, are important to this study, as they characterize the terms of discussion. In addition, these definitions also illustrate that what appears to be occurring in these regions is something that is not adequately captured in the smuggling definition¹⁴ or addressed in the Smuggling Protocol (full references given below in the following two footnotes).

Trafficking in persons is 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

¹⁴ All definitions from *Glossary on Migration: International Migration Law*. ISSN 1813-2278. © 2004 International Organization for Migration (IOM). Definitions are taken from Article 3a of the UN Protocol Against the Smuggling of Migrants by Land, Sea and Air, http://www.iom.int/jahia/webdav/site/myjahiasite/shared/shared/mainsite/published_docs/serial_publications/Glossary_eng.pdf.

another person, for the purpose of exploitation (Art. 3(a), UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the UN Convention Against Organized Crime, 2000).¹⁵

Smuggling 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 (Art. 3(a), UN Protocol Against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention Against Transnational Organized Crime, 2000).¹⁶

Formally then, smuggling, contrary to trafficking, does not require an element of exploitation, coercion or violation of human rights. The two critical elements of the smuggling definition are receipt of a material benefit by the smuggler and illegal border crossing by the smuggled person. However, the question raised by the findings of this research is whether a more nuanced and realistic appreciation of the range of experiences that can occur in smuggling is necessary to highlight the need to provide more protection for smuggled people.

An **irregular migrant** is someone who, owing to illegal entry or the expiry of his or her visa, lacks legal status in a transit or host country. The term applies to migrants who infringe a country's admission rules and any other person not authorized to remain in the host country.¹⁷

Irregular migration, then, is movement that takes place outside the regulatory norms of the sending, transit and receiving countries.¹⁸ There is no clear or universally accepted definition of irregular migration. From the perspective of destination countries, irregular migration is illegal entry, stay or work in a country, meaning that the migrant does not have the necessary authorization or documents required under immigration regulations to enter, reside in or work in a given country. From the perspective of the source country, the irregularity is seen, for example, in cases in which a person crosses an international boundary without a valid passport or travel document or does not fulfil the administrative requirements for leaving the country. The term 'illegal migration' is commonly used to refer to cases of irregular migrants as well as smuggled migrants, but in RSA, where most migrants apply for and obtain asylum seeker / refugee papers, they can no longer be referred to as illegal migrants.

15 Full text available from:
www.uncjin.org/Documents/Conventions/dcatoc/final_documents_2/convention_smug_eng.pdf.

16 Full text available from:
www.uncjin.org/Documents/Conventions/dcatoc/final_documents_2/convention_%20traff_eng.pdf.

17 IOM *Glossary on Migration*. Op. cit.

18 IOM *Glossary on Migration*. Op. cit.

The law enforcement imperative

Despite the extensive human rights concerns associated with human smuggling and trafficking, analysts say it is the law enforcement imperative — the ‘wars’ against terrorism, narcotics and irregular migration — that has given the issue high prominence on the international policy agenda.

Millions of people being transported annually across national boundaries under false pretences, or, allegedly, by corrupt government officials, has obvious implications with regard to border security and creates dysfunctional organs of the state as well. Additionally, some argue that the unregulated movement of large groups of people poses possible threats to human health, through the spread of sexually transmitted and other diseases.

Since the September 11 terrorist attacks in the US in 2001, migration restrictions and concern about threats to border integrity have increased, as fears of international terrorism have risen. The US State Department’s Human Smuggling and Trafficking Centre has identified human rights and rule of law concerns (recognizing that laws are broken and officials are corrupted in the process) but also emphasized that smuggling, trafficking and clandestine terrorist movement are transnational issues that threaten national security: “Concern is growing that terrorist organizations have tapped or will tap into this global criminal infrastructure. Alien smugglers and fraudulent document providers use their skills to facilitate the movement of terrorists across international borders.”¹⁹ This view was echoed by various immigration officials and other national officers interviewed for this study.

Marginalizing human rights

Soon after the creation of what are known as the UN Smuggling Protocol and the UN Trafficking Protocol (Palermo Protocol), the former trafficking adviser to the UN Office of the High Commissioner for Human Rights (UNHCHR) warned that there was a risk of human rights being marginalized.²⁰ The reasoning was that these protocols (which are supplements to the UN Convention Against Transnational Organized Crime²¹ and the second attempts to address trafficking in persons) were not developed as human rights tools, but in response to a growing international concern to curb trafficking and smuggling crimes. This concern, not surprisingly, was felt most urgently by destination countries, where a “growing intolerance of all forms of irregular migration” was increasing, making it progressively more difficult to give priority to individuals and their rights in the debate.²²

19 US Department of State: Human Smuggling and Trafficking Center (HSTC) Charter and Amendments. Released by the Bureau of International Narcotics and Law Enforcement Affairs. Updated 2007, <http://www.state.gov/p/inl/41444.htm>.

20 “Trafficking, smuggling and human rights: tricks and treaties”, Anne Gallagher (*Forced Migration Review* Number 12, January 2002).

21 The Trafficking and Smuggling Protocols, known as the Palermo Protocols, were drafted in 2000 but came into force on 23 December 2003 and 28 January 2004, respectively. The references for the full texts of each protocol are indicated in footnotes 16 and 17.

22 Anne Gallagher 2002. Op. cit.

“The failure of the two Protocols to include mandatory protections provides a strong indication that, for many governments, trafficking and smuggling are issues of crime and border control, not human rights. In countries of destination, people trying to move across their borders illegally are widely considered to be law-breakers, undeserving of compassion or support.”²³

In fact, the findings of this study indicate that Ethiopian and Somali irregular migrants are considered fair game for exploitation, abuse, extortion and robbery, not only by civilian thieves or smuggler networks, but also allegedly by some of the national officials they encounter.

Although those smuggled appear to be primarily economic migrants, there are also political refugees and those fleeing conflict, violence and lethal persecution. Many Somali and Ethiopian migrants in this study claimed to have been motivated by a combination of these reasons; all of those interviewed (including Kenyan migrants) said they were seeking better lives and were willing to go to considerable lengths to secure this dream.

Unmanageable borders

The indicators are that the current trend of rising levels of irregular migration is set to continue, and movement will become easier as transportation and other technology evolves. At the same time, most borders will remain porous and unmanageable due to size, geography and resources and, as this study will illustrate, due to the failure of structures and controls to manage borders effectively.

Behind the statistics estimating the extent of global and/or regional smuggling are individual stories of hardship, exploitation and even death. What we have learned about smuggling has been fragmentary and based on journalists’ reports rather than on legal testimony or documented research. The increasing flow of news reports tell stories of bodies on beaches, deaths in boats adrift, suffocation in overcrowded containers, abandonment in forests or mountains, sexual abuse and robbery or lengthy incarceration in foreign prisons with no legal representation. However, beyond particular cases of tragedy or drama, media, public and police interest is limited. The irregular migrant and the illegal smuggling trade behind him effectively disappear from view.

Lethal abuse

A recent multi-agency Mixed Migration Task Force (MMTF) report on the exodus of Somali migrants from the Horn to Yemen found:

Every year, tens of thousands of migrants and refugees make the hazardous journey from their place of origin through the North-East region of Somalia, ‘Puntland’, and onwards across the Gulf of Aden. Many die during the journey, while others are

²³ Ibid.

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subjected to abuse and injury at the hands of unscrupulous smugglers. Despite the inherent dangers, the number of persons attempting the crossing from Puntland to Yemen has increased recently. In 2006, 22,000 were reported to have crossed to Yemen. In 2007, figures from United Nations High Commission for Refugees (UNHCR) Yemen indicate that approximately 29,000 persons attempted the crossing, of which more than a thousand perished.²⁴

Although the research in this study does not include precise data on the number of migrants smuggled to RSA, it has uncovered the same degree of abuse and negligence.

Human rights academic Jacqueline Bhabha wrote in 2005: "... opportunities to immigrate legally are severely limited. Migrants, including asylum seekers, have increasingly resorted to illegal entry and unauthorized stays, and ever-larger numbers use the services of smugglers to evade the system, compounding their vulnerability to exploitation and ill treatment."²⁵ In East and Southern Africa, the situation is no different, with smugglers enjoying rising, lucrative profits in a context where lack of border control capacity, the complicity of some officials and disharmonious legal regimes create beneficial conditions for the smugglers.

While the smuggling business remains shrouded in some obscurity, this research report, on behalf of the tens of thousands of irregular migrants, will offer a testimony to their experiences and a catalogue of the personal price they paid (usually with no choice) to realize their objective of a new life in RSA, or beyond. The report also documents the comments of two dozen smugglers and numerous experts and officials who are involved in the issue in some way. Finally, the report also comments on the conditions and experiences these irregular migrants find in RSA and what they do with their new lives.

24 The Mixed Migration Task Force report "Addressing Mixed Migration across the Gulf of Aden: A Strategy Paper", March 2008. (Authored by IOM / UNHCR).

25 "Trafficking, smuggling, and human rights", an online article for Migration Policy Institute. Jacqueline Bhabha of Harvard University, 1 March 2005, <http://www.migrationinformation.org/Feature/display.cfm?ID=294>.

3. Methodology

Explanation of methodology

The research methodology used for this multi-country enquiry into the irregular migration of males was deliberately designed to offer utmost flexibility to the researchers, allowing them to obtain maximum relevant information on a subject many are reluctant to discuss. The research focused primarily on the migrant communities themselves, people in transit and those directly facilitating them. In addition, researchers gathered information from third-party experts, agencies, officials and organizations. A comprehensive literature review (see bibliography) of books, articles and reference works relating to the geographical area covered with regard to irregular population movement, trafficking, smuggling and other social phenomena, as well as appropriate research approaches associated with these, was conducted by the senior researcher. In terms of investigating the irregular movement of Ethiopians, Somalis and Kenyans to RSA, an enquiry into trafficking and the exposure of the level of smuggling this report is breaking new ground. Therefore, limited information from previous studies or literature was available.

The data-gathering approach

Appreciating that gathering information from a wide range of people who would naturally be suspicious of close examination of their presence in RSA and other countries, semi-structure interview (SSI) pro-formas were developed at the design phase of the project. These documents were an important part of the researchers' training in so far as they emphasized the range of questions and enquiry that should be attempted with all respondents encountered during the research. The SSI forms were filled out during or immediately subsequent to encounters, allowing the researchers to create a much more natural, informal environment with their primary informants. These three forms – one for trafficked or smuggled men, one for smugglers / traffickers and one for third-party representatives or agencies – were the core data-gathering instruments used for the study (see Annex 2).

The encounters with Ethiopian, Somali and Kenyan migrants were predominantly informal, casual and serendipitous. In most cases, 'convenience' and 'snowball' methods guided researchers in their sampling approach.²⁶ Convenience sampling, as the name suggests, is based on selecting populations and samples that are most convenient and, in this case, that seemed most relevant. In most locations, Ethiopians, Somalis or Kenyans cluster or concentrate

²⁶ Discussed in the context of other non-probability sampling approaches in Alan Bryman's *Social Research Methods*, 2004. Oxford University Press. ISBN 091-926446-5.

in particular areas of habitation and frequent particular communal locations (churches, mosques, coffee shops, workplaces, etc.). They were identifiable, and therefore ‘purposeful’ sampling, or targeting by the researchers, was also chosen as an obvious approach. Snowball sampling (also called ‘respondent-driven’ sampling) relies on referral by informants to other relevant people and sources of information and was used extensively as the researchers searched for evidence of trafficking and smuggling amongst the target populations.²⁷

Sampling issues

The considerable difficulties of drawing a representative sample of traffickers and trafficking victims have been well-documented.²⁸ At the start of this study, in a context with no concrete evidence of trafficking between the Horn and East Africa and RSA, it was thought that the key informants would be the migrants themselves as well as a wide range of agencies and institutions that would be well-placed to have encountered the victims or perpetrators of trafficking in their work. Source and destination communities were the obvious key populations amongst which the researchers would find relevant information concerning mixed migration and trafficking.

In terms of what was feasible with the available time and resources, the absolute number of informants used for this research assessment is considered high, comprised of 511 core in-depth interviews and encounters with a further 300 people (approximately) during data-gathering activities (see below for the breakdown and explanation). The geographical and sector range used to select those to be interviewed was deliberately wide and offered a broad range of expertise, knowledge and experience to draw from, without neglecting special focus on specialized agencies that deal with irregular migration *per se*.

Research ethics and protecting sources

Undertaking research on clandestine and illegal activities, such as smuggling, carries with it inherent risks for both the researchers and the research subjects who participated as informants and respondents. Therefore, the team took measures to balance personal safety and protection issues during the project’s main data-collection activities. Transparency was the dominant approach in all encounters with migrants and third-party interlocutors. When conducting third-party interviews, particularly with nongovernmental organizations, specialized agencies and government officials, researchers fully disclosed their identities and the purpose of the research.

27 Both approaches have been used extensively in social research, including, for example, the recent IOM publication, *Human Trafficking in Eastern Africa: Research Assessment and Baseline Information in Tanzania, Kenya, Uganda, and Burundi*, 2008. ISBN 978-92-9068-443-5.

28 A useful discussion can be found in Denise Brennan’s “Methodological Challenges in Research with Trafficked Persons: Tales from the Field” or in Guri Tyldum and Annette Brunovski’s “Describing the Unobserved: Methodological Challenges in Empirical Studies on Human Trafficking”. Both articles are chapters in the IOM publication *Data and Research on Human Trafficking: A Global Survey*, 2005. ISBN 978 92 9068 240 X.

However, appropriate measures were taken to avoid personal identification when interviewing smugglers (about two dozen) because full disclosure of the research intentions and the identity of the researcher would have jeopardized the safety of those involved in the research.

The collection and processing of personal data were necessary components of the research project, and data protection formed an integral part of the research methodology.²⁹ The research findings and analysis do not reveal the identity of the research subjects or the source of the information. Due to the sensitive nature of the research findings, any details that may reveal the identity of informants and respondents were restricted in this report. To maximize the power and authenticity of the findings, but in keeping with the strict confidentiality policy that guided this research, all names have been removed from testimonies and direct quotes. Only the nationality, age of the respondent and location of the interview are provided in order to protect the identity of those who participated in the study. Occasionally, the official position of a respondent is included.

All personal data were collected, used, transferred and stored securely in accordance with the IOM data protection principles.³⁰

The range of the enquiry

The geographical scope of the research included seven countries and multiple locations within each country. One or more researchers from the team visited the following countries: Ethiopia (as a source country for irregular migrants), Kenya (source and transit), Malawi (transit), Mozambique (transit), Republic of South Africa (destination, transit), Tanzania (transit) and Zambia (transit). In the case of RSA, three junior researchers were based full-time in the country for a six-month period, conducting interviews and gathering data from a wide variety of towns and cities at all points of the compass.³¹ These locations included urban centres, border crossings, major mobilization or transport arteries and refugee camps. In many cases, local transport (taxis, buses, trucks and boats) and similar routes (national roads and cross-country routes) were used by researchers in order to understand the physical journeys taken by potential victims of trafficking and interview relevant people along the way. The senior researcher was based in Nairobi, Kenya, from where he followed the commonly used smuggling routes with public transport, visited source communities, observed and passed through border points and smuggling hubs as well as interviewed numerous migrants, smugglers and third-party informers. The senior researcher visited and collected evidence from Ethiopia, Kenya, Malawi, Mozambique, RSA, Tanzania (including Zanzibar) and Zambia.

²⁹ IOM maintains strict confidentiality with regard to personal data and respects the anonymity of data subjects.

³⁰ IOM developed its own guidelines for data protection, entitled "IOM Data Protection Principles and Guidelines", in August 2008.

³¹ Annex 2 lists all locations visited by one or more researchers in the course of the study.

The research team and the scale of information gathered

The research team consisted of a senior researcher³² based in Kenya leading a team of three junior researchers in RSA. These junior researchers were from the region and members of the migrant communities in RSA. They spoke the relevant languages of the smuggled migrants and had high levels of access to their own migrant communities in RSA. The RSA researchers were managed by the senior researcher and the IOM office in Pretoria under the general supervision of IOM Nairobi. Most of the country visits were conducted by the senior researcher himself, but the RSA junior researchers joined him on country visits to Malawi and Mozambique. Otherwise, the junior researchers remained in RSA, concentrating on data collection there.

Almost 800 people participated, in different ways, in the information-gathering process for this study. In total, 511 in-depth interviews were conducted, of which 293 were with migrants from Ethiopia (148), Somalia (120) and Kenya (25) who were either in transit to RSA or residing in RSA. An additional 196 interviews were conducted with third-party agencies or individuals, and 21 smugglers of humans were interviewed. The feedback from interviews with a further 114 Kenyan migrants is included in the qualitative analysis but not in the quantitative analysis due to issues of data incompatibility. Furthermore, at least 150 Ethiopian men met with the lead researcher during two visits to southern Ethiopia and eight focus group meetings in rural areas. Other focus group meetings involving small groups of Ethiopian and Somali irregular migrants were also conducted in Malawi. In total, approximately 170 men were questioned through the focus group events.

Interview summaries / information gathering

Total number of Kenyan (25), Somali (120), Ethiopian (148) irregular migrants individually interviewed (and included in quantitative analysis)	293
Total number of third-party experts individually interviewed (informants, organizations, government officials, agencies and individuals)	196
Total number of smugglers individually interviewed (chief smugglers, smuggling managers and agents / foot soldiers)	21
Additional individual interview reports generated but not used for statistical analysis (Kenyan migrants)	114
Total number of interview reports generated	624
Somalis and Ethiopians (mainly) interviewed through focus groups meetings (figure is approximate)	170
Total number of interview events conducted	794

32 Christopher Horwood, senior researcher, reporting to the head of the Programme Development and Implementation Unit of IOM, Nairobi Mission with Regional Functions (MRF).

A rich variety of experiences

Due to the methodology of conducting interviews with irregular migrants in RSA at a wide variety of locations, there were few examples in which different interviewees shared the same smuggling experience or were part of the same smuggled group.³³ Therefore, it is likely that the study captured information from more than 250 smuggling trips.

Positive confirmation of the methodology

At the early stages of the research from March 2008, and throughout the subsequent seven months, the indicators confirmed that the semi-structured and purposeful sampling approaches yielded a rich and entirely consistent body of intelligence. Initially, the methodological tools were piloted in Gauteng Province in RSA and Nairobi in Kenya and found to be effective instruments to gather the relevant data. After the first three weeks of research and a review of the results, it was decided to continue with the existing tools. Although it became clear from an early stage that trafficking, if it existed, was far less common than smuggled migration (into RSA), the data gathering effort continued to search for evidence of trafficking while collecting large amounts of data on smuggling from the irregular migrants as well as other informants. The consistency of the findings and information was reinforced from a wide multiplicity of sources; therefore, there was no reason to adapt the methodological approach.

The following (randomly ordered) list illustrates the range of people, positions, offices and agencies targeted during the interviews. The study was conducted in seven countries, with the highest concentration of interviews in Kenya and RSA. The reason for these necessary concentrations was due to the importance of RSA as the destination where thousands of potential smuggled migrants could be interviewed, and of Kenya as the launching location and major smuggling hub for both Ethiopian and Somali migrants.

Smugglers and the smuggled:

- numerous smuggled people from Ethiopia, Kenya and Somalia in RSA, Malawi, Mozambique and Kenya;
- verbal access to the preliminary data from more than 1,000 detained Ethiopian and Somali migrants in Tanzanian prisons, as reported during interviews of members of the Tanzanian Task Force on Irregular Migration;
- smugglers and people working for smugglers in Malawi, Mozambique, RSA, Kenya and Tanzania.

33 In the case of interviews in Dzaleka and Karonga, in Malawi, the research team interviewed people who were in transit (or who had been deported) and had similar experiences. Typically, the interviews recorded entirely separate experiences, with remarkable levels of similarity in terms of abuse and neglect.

State officials interlocutors:

- ministries of Labour, Foreign Affairs, Justice, Information, Children and Home Affairs;
- ministerial departments dealing with refugees and migration;
- specialized agencies working with refugees and trafficked persons;
- senior and low-ranking immigration officers;
- prosecution sections within immigration departments;
- special anti-trafficking crime units;
- police officers;
- prison officers;
- crime bureaus;
- border/customs officials at sea, land and airport entry points;
- National anti-trafficking task force members;
- US, Kenyan, Ethiopian embassy staff (in Kenya and RSA);
- US Department of Homeland Security;
- hospital staff (state).

Community representatives, civil society interlocutors and international actors:

- religious leaders;
- women's groups;
- UN agencies such as UNHCR, UNICEF, ILO, UNODC (UN Office on Drugs and Crime);
- human rights lawyers;
- the Red Cross movement;
- community social workers;
- community leaders, elders and chiefs;
- refugee camp staff;
- rural development associations;
- refugee affairs agencies, refugee shelters and reception centres;
- county council members;
- political advisors;
- Islamic organizations;
- migration researchers;
- interfaith organizations;
- national and international NGOs;
- national Community Based Organizations (CBO);
- specialized labour and anti-exploitation organizations;
- specialist NGOs dealing with trafficking and immigration.

Private sector interlocutors:

- foreign employment recruitment agencies;
- owners of local businesses, shop owners and kiosk traders;
- university lecturers, professors;

- money-changers at border crossings;
- hospital staff (private);
- boat captains;
- hotel workers;
- taxi drivers;
- bus drivers, truck drivers and turn-boys;
- male prostitutes;
- research institutes and think tanks;
- private security operators;
- journalists;
- specialist TV documentary makers;
- commercial farmers;
- rural villagers.

Regrets

As with most research projects, one is wiser after the event than at the outset. In the special case of this study, the team was fully prepared to uncover and explore cases and trends with regard to human trafficking. In fact, no evidence of trafficking was found, and early on the study's focus broadened to include other forms of irregular migration, particularly smuggling and its accompanying vices.

Every project has its limitations and constraints. One of the constraints of this project was the impossibility of working in Somalia due to insecurity. Working in Zimbabwe also presented problems at a time when election issues and associated violence would have made the enquiries difficult. Although access to these countries would have yielded more information and completed the necessary country visits, the researchers are confident it would not have changed the findings. They were able to interview significant numbers of irregular migrants who began their journey inside Somalia and others from Ethiopia and Somalia who transited Zimbabwe. These sources provided corroborating information to the data gatherers. In addition to these constraints, more than one month of research was lost due to the attacks on foreigners in RSA in the spring of 2008, when the research team ('foreigners' themselves) felt it was unsafe to conduct interviews in public.

No part of this report is designed to provide a legal review or to fully examine the domestic policy and law with regard to irregular migration in countries used by those smuggled from the East Africa and the Horn to RSA. This exercise would require a different methodology and a different level of cooperation and engagement with the relevant countries. However, this report does raise some policy and legal issues with regard to some countries, to irregular migrants and to the international trafficking and smuggling protocols.

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4. Trafficking trade: No evidence along the horn to south corridor

As explained, this study, despite casting a wide net in terms of data gathering, found no information that suggested Ethiopian, Somali (or Kenyan) men were deceived, forced or otherwise coerced into travelling to RSA as victims of trafficking. Neither could any of the many migrants, smugglers and agencies interviewed in all the countries surveyed offer an example of a male Ethiopian, Somali or Kenyan working in an exploitative, abusive situation that was directly related to his transport and movement into RSA from Ethiopia, Somalia or Kenya. Government officials, including various ministries, police, immigration, social security and welfare departments and specific task force groups looking into trafficking, also reported that they had no evidence of trafficking of Ethiopian, Somali or Kenyan males. The researchers of this study are confident that given the number of people questioned (almost 800) and the geographical scope of the research, any significant degree of trafficking would have come to light during the research. Migrants working freely in RSA and talking informally with a researcher from their own community would have no reason to hide any information about trafficking, just as they would have no reason to fabricate stories of hardship.³⁴

The global estimates of trafficking and the gender divisions within these statistics would make it unsurprising to find trafficking of Ethiopians, Somalis and Kenyans into RSA. Evidence from other parts of the world indicates that smuggling and trafficking can thrive together in situations where there are labour market vacuums to be filled (even in the informal sector) and a high demand to be smuggled by populations who are keen to move.

The following hypotheses (accumulated and synthesized from data-gathering interviews) can help us understand why this study concludes that trafficking of Ethiopians, Somalis and Kenyans, if it exists at all, is neither common nor systematic, nor the activity of any known, large criminal organization in the region.

One reason Ethiopians and especially Somalis are not trafficked is that their movement is normally organized by a chief smuggler or **agent who is known to the smuggled person** or

³⁴ As described in the methodology section, most information gathered in RSA was collected by researchers from the same community as the respondents, who gathered the information in an informal manner.

the people financing or approving the smuggling.³⁵ The clan, tribal and /or ethnic affiliations and the communicative nature of Ethiopians and Somalis, who enjoy a relatively tight social community, mitigate against the deception (originally) and exploitation (finally) that defines trafficking as opposed to smuggling. Interestingly, the same facts do not protect them from exploitation during their passage.

It is also possible, in the harsh economics of the world, that Ethiopian and Somali males are rarely found to be trafficked because they are **not be valued as a commodity in terms of forced labour or sexual exploitation** (the two main trafficking outcomes). Generally, these groups are not regarded as optimal physical labourers (i.e., in mines and / or farms) or amenable to coercion. Indeed, Somalis themselves are not interested in these work options, possibly reducing the likelihood of being exploited in such a way. “Somalis are not tame-able and are very sharp [clever],” claimed one Somali journalist who, like other Somalis interviewed, **absolutely refuted the idea that Somalis could be trafficked**. Like many others interviewed, he argued that Somalis protect each other fiercely once outside their own country and anyone attempting to traffic Somalis would be making a serious error. Such ardent refutation that Somalis, in particular, could be victims of trafficking was quite common during the research. How Somalis could be invulnerable to trafficking but victims of abuse during their smuggled passage south was unclear.

Additionally, trafficking normally meets a **market demand** (or at least a potential appetite) for cheap labour in specific sectors, which was not apparent in RSA according to the findings of this study. The need for cheap male farm workers and mine workers has readily and historically been met by migrant labourers from Mozambique and Zimbabwe. Cheap labour from within RSA, where there is already a high unemployment rate, is readily available to meet the demand in the construction industry. There is **a definite but limited market for male sex workers**, but this demand is met by small numbers of individuals from a range of African countries, some of whom would probably be classified as trafficked. Even if an Ethiopian, Kenyan or Somali is found working in suspect conditions in a private gay establishment, it may not be a result of trafficking (which has discrete conditions), and a few isolated cases would not raise alarms that they represented a trend or systematic process.³⁶

In addition to these factors, it could be said that the smuggling networks are operating well, and with the current increased flow of Ethiopian and Somali men to RSA there is **little need to ‘diversify’ into the potentially problematic area of trafficking**. (This is problematic, because trafficking would attract far more disapproval and attention than smuggling currently does).

³⁵ There is a certain symmetry here with trafficking cases, where victims of trafficking often knew, and initially trusted, their trafficker.

³⁶ Researchers established contact with African male prostitutes (including one Kenyan) working in (labour) exploitative conditions within RSA. Although conditions of deception and sexual exploitation resembled conditions also found in cases of trafficking, the men had not been trafficked into RSA. They had arrived in RSA as irregular migrants and were not held by force or subjected to violence in the activities they were engaged in.

With smuggling, the money is good, the clients are ‘satisfied’ with the service (despite the near ubiquitous hardship they suffer en route to RSA) and there appears to be an undaunted flow of future clients.

Ethiopians, and even more Somalis, are often sponsored by relatives and frequently are received by relatives in RSA who may have been in communication with them (or the smugglers) during the journey. For people **to suddenly disappear without causing alarm is unlikely.**

“The traditional social structures of the Somali clan system has remained vital for the survival, protection and cultural identity of the Somalis in recent decades.” Anthropologists argue that “today it is increasingly recognized that traditional structures are often more legitimate than the modern state”³⁷ in relation to Somali society. Born out of necessity and duplicated in the Somali communities in RSA, this **extraordinary, ready-made community structure** welcomes new Somali arrivals in RSA and facilitates communication between Somalis and RSA. Clearly, this is not a conducive context for trafficking.

Tangential information concerning trafficking

In the course of the research specifically searching for evidence of trafficking of Ethiopian, Somali and Kenyan males into RSA, some tangential information on trafficking, *per se*, came to light during interviews. The information is tangential only in so far as it falls beyond the scope of this study, and it is worth noting briefly. According to research for this study:

- Ethiopia has a significant problem of internal trafficking of girls as domestic helpers and sex workers and boys, especially for the growing weaving industry in Addis Ababa.
- Ethiopia also has a problem (which it is addressing) of bogus employment firms taking women and girls (mainly, but also some men) to the Middle East, where they are exploited at their locations of employment and the conditions resemble trafficking.³⁸
- IOM has unveiled some information regarding the trafficking of Somali and Ethiopian women and girls in different parts of Somalia.
- Kenya has a significant problem of (internal) trafficking of girls (mainly, with a few cases of boys) from rural areas to the main urban centres for domestic work (especially Nairobi) as well as to coastal tourist areas, where underage prostitution (boys and girls) thrives.³⁹
- Bogus employment agencies are a problem in Kenya as well. Naïve individuals, mainly women, agree to foreign employment only to find themselves trapped and exploited.⁴⁰

37 Both quotes from “The role of traditional structures in security, rights, law and development in Somalia”, Joakim Gundel, November 2006 for Novib-Oxfam / Danish Refugee Council.

http://www.logcluster.org/som/infrastructure-communication-various/Gundel_The%20role%20of%20traditional%20structures.pdf

38 Both issues were openly discussed and elaborated upon in interviews with IOM officials, local government officials and NGOs in Ethiopia.

39 Extensively researched and exposed by IOM, international NGOs and UN agencies and openly discussed by different agencies, including national government officials, during this study.

40 IOM Counter Trafficking Initiative in Kenya addresses this issue as well as other forms of trafficking in Kenya.

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- Tanzania has a significant problem of internal trafficking of boys and girls from rural areas to urban centres, particularly to Dar es Salaam and to Zanzibar to work as domestic workers or in forced prostitution.⁴¹
- Mozambique is uncovering cases that resemble internal trafficking of boys and girls for work in the sex industry in Mozambique or abroad.
- Girls and women in Mozambique are being trafficked into RSA to be sex workers.
- As in RSA, Mozambique may also have problems of ‘trafficking’ of body parts. Stories with regard to body parts from aborted babies and severed heads of children have circulated in some areas; it is suspected to be for use in voodoo and witchcraft.⁴²
- There were reports of Zimbabwean girls and women being brought into RSA and exploited for sex, but it was unclear whether this was active trafficking or economic desperation.⁴³
- A particular case of male trafficking between Malawi and Tanzania, in which fishermen were trapped and exploited on remote lake islands, was discovered during this research. However, it is outside the geographical remit of this study.⁴⁴ RSA appears to have different issues of internal trafficking for employment exploitation and sexual purposes, as well as significant problems of international trafficking of women being brought into RSA for forced prostitution from South East Asia, West Africa and the Great Lakes.⁴⁵

In all countries mentioned and all cases identified, various civil society groups, international organizations, NGOs and in some cases government agencies are following up and seeking intervention to combat different manifestations of trafficking as noted above, and more. To date, these efforts have not been fully successful. To reiterate, the objective of this sub-section is to show that there are, indeed, significant issues of trafficking throughout the regions of East Africa and southern Africa, but there is no evidence (uncovered during this research, at least) of Ethiopian, Somali or Kenyan men being trafficked to RSA.

41 As elaborated during the study through interviews with specialized NGOs (local and international) as well as by members of the government.

42 Technically not trafficking, as the victim dies before transportation of the organ(s). All three issues have been openly reported on by the media, revealed and researched by specialist NGOs and more recently acknowledged and starting to be addressed by the local government.

43 Evidence from NGOs and IOM research in RSA illustrates the continuation of these trafficking manifestations.

44 The details of the case were referred to IOM Tanzania for action, but the case was established during this study.

45 As described to the study team in meetings with various governmental and nongovernmental agencies in RSA.

5. Abandoning ship: Why the growing exodus to the Republic of South Africa

According to one Harvard expert on migration, the UN trafficking and smuggling protocols (Palermo Protocols) are framed around a central dichotomy between coerced and consensual irregular migrants, which she finds disingenuous and unhelpful in understanding the realities facing people desperate to travel to better their lives: “Whereas people who are trafficked are assumed not to have given their consent and are considered to be ‘victims’ or ‘survivors’, people who are smuggled are considered to have willingly engaged in a criminal enterprise.”⁴⁶ In fact, the findings from this research suggest that people not only accept and seek out the services of those who will take them to RSA, but will repeatedly re-try if their initial attempts fail, in spite of the fact that many find themselves deceived in terms of the conditions of their passage. Like those Somalis exposing themselves to the notorious risks of crossing the sea to Yemen with smugglers from Puntland, migrants willingly engage smugglers to take them south. This section will examine the push and pull factors influencing people’s decisions as well as the background of migration between the Horn and RSA.

The Ethiopian demographic

The flow of Ethiopians to RSA became noticeable beginning in 1991 (but particularly in the mid-1990s) after the government of Mengistu fell. Although the Tigrinya Liberation Front was on the front line, Mengistu’s government was toppled due to the efforts of the Ethiopian People’s Liberation Front (EPRDF) alliance. In the early 1990s in RSA, the change in government and the end of apartheid increased its appeal. Although Ethiopians used to migrate in small numbers to RSA during Megistu’s regime (when it was illegal to leave) large numbers of Ethiopians began arriving in RSA after 1991. Up to a million Ethiopians are estimated to have left the country during the 1990s and currently make up the Ethiopian diaspora. Now, all Ethiopians are free to obtain national passports and enjoy free international movement. Some of the neighbouring transit countries through which increasing numbers of Ethiopian irregular migrants pass wonder why the Ethiopian government does not attempt to discourage or limit the flows that infringe on their borders.

46 “Trafficking, Smuggling, and Human Rights”, an online article for Migration Policy Institute, Jacqueline Bhabha of Harvard University, 1 March 2005 <http://www.migrationinformation.org/Feature/display.cfm?ID=294>

The Ethiopian Embassy in RSA estimated that approximately 45,000 to 50,000 of their countrymen make their home in RSA. These numbers are increasing every week due to the influx of new arrivals, primarily from large-scale, successful smuggling operations from Ethiopia. Ninety-five per cent or more of these Ethiopian arrivals enter RSA through irregular means and regularize their situations rapidly through its asylum policies. This figure provides some indication of the size of the business of smuggling Ethiopians alone (and in one geographical direction) in the last two decades.

Significant migration from Ethiopia to countries beyond the Horn of Africa began after the 1974 revolution. The first mass exodus to Somalia began in 1977, when the conflict in the Ogaden region of Ethiopia broke out. By 1981, it was estimated that around 20 per cent to 40 per cent of Somalia's population was made up of Ethiopian Ogadenis. This outflow of Ethiopians continued into the mid-1990s, during which time ethnic Oromo Ethiopians also began to arrive in Somalia and Kenya.⁴⁷

Therefore, the flow of Ethiopians to RSA (and other countries) started in earnest from 1991, but in recent years that flow has increased. Overwhelmingly, the demographic of the smuggled migrants is that of young men. The age range is typically 18 to 35. The vast majority of smuggled Ethiopians are men who wait years before bringing their families to RSA. When they do bring them, they normally fly them into Mozambique or Zimbabwe and arrange for them to be smuggled the short distance into RSA, thereby sparing their female relatives or wives the pains and hazards of the overland journey.

Ethiopia is made up of more than 80 tribes, but the majority of those encountered in RSA for this research were from the Kembata and Gurage communities, from the southern part of the country.

Interestingly, the research revealed very different smuggling experiences amongst the southern concentrations of Ethiopians. Running south from Addis Ababa, the capital, there are ten Rift Valley lakes that end with Lake Turkana (Ruddolf), which Ethiopia shares with Kenya. On the western side of these lakes, there are high numbers of people in several urban and rural centres. Along this route, and especially around Hosaina, knowledge and personal experience of smuggling, smugglers, external travel and the opportunities RSA can afford are widespread. Everybody seemed to know someone who had tried to leave or succeeded in reaching RSA, and everyone seemed to want to go.

By contrast, on the eastern side of the lakes, in the villages and towns along the road that ends at Moyale on the Kenyan border, there was widespread ignorance of the same issues. Interviews with more than 100 young men in different villages on this eastern side found that

⁴⁷ MMTF report, op.cit.

respondents had neither heard of RSA nor heard of someone leaving the area to work abroad, let alone in RSA. They knew of no brokers and had no smuggling stories.

When asked if they would be interested in paying to be taken to another country if a broker moved into their area, they responded positively, suggesting expansion potential in the smuggling business in Ethiopia. It also suggests that the business could be supply-driven in terms of where brokers / smugglers set up their offices, as they have done in Addis Ababa and on the western side of the lakes. The striking difference between the two research areas also indicates the limits of communication and 'bush telegraph' in a multi-ethnic, multi-lingual, predominantly agricultural society.

The Oromo people in the south and south-east of the country, in particular, have allegedly felt the unwelcome winds of political oppression and economic marginalization and have been making their way out of the country. In Eastleigh, Nairobi, the *lingua franca* is Oromo and not Amharic or any other Ethiopian tongue, illustrating the preponderance (some thousands) of Oromo there. Many are refugees, and all (refugees or not) speak of fleeing political oppression. Avoidance of army recruitment and desertion are also reasons for young men to leave. Generally, however, in the south, economic desperation compounded by evidence of neighbours with family members who are prospering abroad has created a strong interest in leaving Ethiopia.

The Somali demographic

Limited numbers of Somalis began arriving in RSA in the 1940s. In the 1970s up to the late 1980s, the flow increased due to those fleeing regime-instigated political persecution (under the government of President Siad Barre). By 1992, civil war and famine had claimed the lives of more than a quarter-million Somalis, while another million had become displaced. Families with money and/or external support moved to Europe, the US, Australia and Canada, "while poorer families moved to the neighbouring countries, such as Ethiopia (180,900), Kenya (141,100) and Yemen (55,200), or remained internally displaced within Somalia."⁴⁸

The first significant number of migrants, however, arrived in RSA only after 1991, as the government of Siad Barre disintegrated into the internecine clan warfare that has prevailed over the last 17 years and characterized the political status of the country. The first wave of migrants arrived in 1993. A second, larger wave of Somalis arrived in 1995, as a result of the US-supported UN mission pulling out of Somalia. A much larger, third wave arrived from late 2006 to early 2007. Since the demise of the Islamic Courts in 2006, the intervention of the Ethiopian army from December 2006 and the resurgence of warlord-ism and civil war, the flow of Somalis leaving the area as refugees and as irregular migrants has increased

48 MMTF report 2008, op. cit.

markedly. This number keeps increasing, providing smugglers an expanding and lucrative business opportunity.

Current estimates of up to 5,000 people fleeing Somalia by foot and truck into eastern Kenya and the swollen numbers in Dadaab and Kakuma refugee camps are testimony to the insecurity inside Somalia. Reports of the humanitarian situation on the Somali side of the Kenya/Somali border (at Doble) indicate that many thousands wait in limbo while the border remains officially closed. As the prospect of living in a refugee camp is hardly attractive, it is little surprise that smugglers offering young men more attractive options enjoy a brisk trade.⁴⁹ Since 2006, more than a million people have been displaced by the current conflict, which shows little sign of ending soon. More than 14 separate peace initiatives or attempts to reach a governing consensus in Somalia since 1991 have failed. Civil conflict, endemic poverty and the vagaries of climatic catastrophe (swinging between flooding and droughts) conspire to make many Somalis consider a new life overseas.

According to a founding member of the Somali Association in RSA, approximately 25,000 Somalis were living in RSA as of August 2008. Ninety-five per cent or more were believed to have entered through irregular means through organized smuggling agents but to have regularized their situation with the RSA authorities almost immediately after entering the country (by applying for and accepting asylum / refugee status). As with the Ethiopian demographic, these figures also indicate the size of the smuggling business over the last two decades with regard to Somalis. Furthermore, it is estimated that in June 2006, the same number of Somalis were living in RSA, suggesting a significant departure rate from RSA to further destinations, predominantly Europe and North America., according to numerous sources in RSA and Kenya. If these estimates are accurate, the onward departure rate approximately equals the rate of new arrivals, which are numerous and regular. This phenomenon is also observed in Yemen, where migrants arrive after crossing the waters between Bossaso, Djibouti and Yemen. According to one report, "Although thousands of Somalis arrive in Yemen every year, the population at the refugee camp at Al Kharaz, near Aden, remains static. Only those without better prospects, mostly women and children, remain at the camp."⁵⁰ Some discussion of the current number of Somalis and Ethiopians making the journey to RSA can be found in Chapter 11 of this report.

Additionally, a significant number of Somali migrants return 'home' to Kenya after some years in RSA. Many Somalis consider Kenya their home. Some Somalis living and running businesses in RSA grow disaffected by crime and return to Kenya to launch new businesses, with a view to leaving RSA for good.

49 UNHCR Arrival Trends report, 15 September 2008. Issued by sub-office Dadaab, Kenya.

50 MMTF report 2008, op. cit.

Perhaps surprisingly, the so-called xenophobic violence in May 2008 has not significantly decreased the flow of smuggled migrants into RSA. Indeed, Somalis have a history of being victims of violence in RSA, as many of the respondents related in interviews (see Chapter 8 of this report).

As previously mentioned, the flow of Somali migrants into RSA increased between 2007 and 2008, with the age of smuggled migrants falling. Some migrants as young as 13 years of age travelled into RSA with older relatives.⁵¹ Typically, however, the age range of smuggled Somalis is 16 to 40 years of age, and most are male.⁵² The first wave of Somalis (1991) included professionals, such as doctors. They were few in number, and some are still working in the public hospitals of RSA, while others migrated further to Australia and New Zealand.

Probably less than 2 per cent of all smuggled Somalis to RSA are female. The experiences of some of the women who attempt to be smuggled overland explain why their male relatives prefer they stay in Somalia (or Kenya). The overwhelming majority of smuggled Somalis are men who wait years before bringing their families to RSA or have the chance of finding a Somali wife from the relatively low number of Somali women that are brought into RSA - often specifically for that purpose. Normally, the women are flown into RSA in order to protect them from the hazardous land journey.

All Somali tribes are represented in RSA. The largest is arguably the Darod community. From late 2006 to 2008, however, the arrivals were mainly from the Hawiye community and from the southern part of the country. Most of those coming to RSA enjoy strong support from their own clansmen upon arrival.

There are also a significant number of Somali Kenyans and Somalis from Ogaden in RSA as irregular migrants. An outsider will struggle to recognize a difference between those from Kenya, Ogaden or Somalia proper, a fact that Somali migrants are not hesitant to exploit when contemplating international travel in a context where many countries are reluctant to allow entry to Somalis. Many Somalis in Kenya, for example, find means to illegally obtain Kenyan national IDs and passports and pass themselves off as Kenyan Somalis. The opposite can also be true, as some Kenyan Somalis have benefited from refugee entitlements by claiming to be Somali refugees, according to specific information from various informants.

51 Information also from a founding member of the Somali Association of RSA.

52 Established through this study's data gathering and corroborated by other informants.

The Kenyan demographic

During the xenophobic violence in RSA in May 2008, the Kenyan High Commission estimated that there were 20,000 Kenyans in RSA. They calculated that 10,000 were students, 5,000 were professionals and another 5,000 were working in small-scale businesses (including the informal sector).⁵³ The real figure is likely to be higher due to the steady stream of Kenyans moving to RSA as irregular migrants, who are undetected by official 'radar' and do not register for asylum, as do Ethiopians and Somalis.

All Kenyans interviewed spoke of the attraction of RSA in terms of opportunities and 'greener pastures'. Some recent arrivals (2008) commented on the post-election violence in Kenya at the beginning of 2008 as a causal factor, but the majority were young, energetic and enterprising men who simply wanted to have better opportunities. According to interviews, many Kenyans that do make it to RSA frequently visit Kenya and rarely intend to stay in RSA permanently, or to migrate beyond RSA. Nevertheless, many Kenyans also migrate legally and illegally to many other destinations, such as the UK and other destinations in Europe, the US, the Gulf states and neighbouring countries.

The big push

Ethiopians and Somalis share some similar reasons for wanting to leave their homeland. They also share similar feelings of attraction towards RSA. These 'push' and 'pull' factors are quite different in the case of Kenyans, but overall men from these three countries are experiencing a global phenomenon that one writer described in the following way:

... the pressure to migrate is more intense and its effects more geographically widespread than even before. Better information about opportunities elsewhere and cheaper, more frequent communication with friends and relatives abroad open many eyes and spur the motivation to try one's luck somewhere else. Cheaper communications and travel also make migration much less absolute and final, lowering the psychological barrier to departure.⁵⁴

Fifty-two per cent of the Ethiopian respondents in this study claimed they left their homeland for reasons of **unemployment and lack of opportunity**, while 36 per cent claimed they were driven to seek greener pastures due to poverty. Thirty-nine per cent cited insecurity / war as one of the main reasons for their departure.⁵⁵

53 Kenya High Commission Office of Public Communication statement. <http://www.communication.go.ke/media.asp?id=590>

54 *Illicit: How smugglers, traffickers and copycats are hijacking the global economy*, (p.90), Moises Naim, 2005. Arrow Books. ISBN 9780099484240.

55 Respondents were allowed to choose more than one reason for departure, which explains why the percentages add up to more than 100 per cent.

Ninety-five per cent of Somalis interviewed in RSA claimed that **war and insecurity** was the key reason for their exodus. Twenty-nine per cent said unemployment was a factor, and 26 per cent cited poverty.⁵⁶

A state minister in Ethiopia said that “poverty in Ethiopia is not just drought but a product of globalization with the rise in the price of oil and foodstuffs. Increasing populations also add to the problems.” In addition, most farmers now have to survive on a single harvest, rather than the three harvests that used to characterize Ethiopian farming.

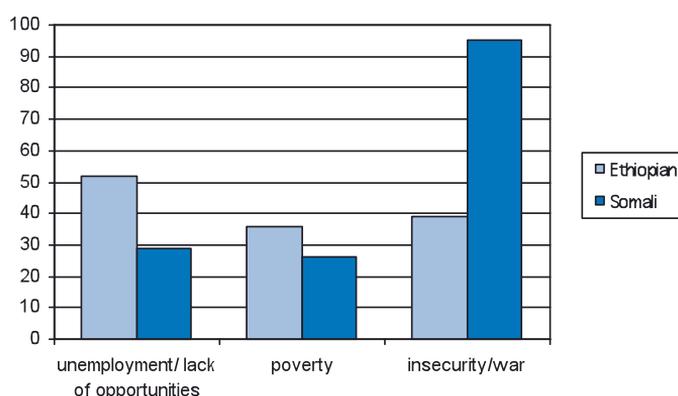


Chart 1: Reasons for the decision to migrate

As mentioned earlier, an important push factor for a significant proportion of Ethiopians is a sense of **political victimization and physical insecurity**. Most of the people who said they feared for their safety were young men who were involved in activities with the opposition during the last elections. Poverty and an absence of alternatives to subsistence farming and economic opportunities are also the primary push factor for Ethiopians.

The primary push factor for Somalis, however, is physical insecurity caused by the **continual fighting and criminality** that has characterized Somali society since the fall of the central government in 1991 and the accompanying economic collapse of what was always a fragile economy with millions struggling to survive on the margin of society. Hopelessness and an absence of opportunity to survive, prosper and develop makes exodus from their homeland not only highly attractive to thousands of young men but also a necessity.

Additional push factors for Ethiopians, and particularly for Somalis, are the adaptation of a

⁵⁶ According to interviews by the Tanzanian Ministerial Task Force (op. cit.) with 1,110 detained migrants, 80 per cent of Ethiopian detainees cited poverty as the major push factor, while 20 per cent identified insecurity. Eighty per cent of the Somali detainees cited political persecution and insecurity.

traditional expectation for sons to provide for their families and the opportunities that the outside world can afford them. Both nationalities have a reputation for adapting well to different contexts and developing retail outlets and other small, family-centred businesses. Somalis especially are recognized for their tenacity and ability to thrive in the informal sector, out of which many of their formal businesses grow. Indeed, in RSA many Somalis succeed in operating small businesses and kiosks, despite the resentment of certain South Africans. The Somali nomadic pastoralist tradition may also have helped to ease their movement and quicken the adaptation process for newly arrived migrants.

The strong, cohesive social structure that characterizes both cultures (but arguably is strongest amongst Somalis) could therefore be said to have adapted well to the opportunities globalization offers, where sons or husbands are sent off, financed by the sale of home assets (livestock, the land lease), with the expectation and burden to succeed and send money home. The significant differences in how Somalis and Ethiopians finance the journey to RSA are discussed in Chapter 9 of this report.

The **rapidly expanding global phenomenon of remittances** is becoming a critical survival and investment strategy for communities in the developing world and in struggling economies. It is nowhere more true than in Somalia. Remittances are also extremely important in Ethiopia. A significant level of construction in urban centres, as well as in rural areas, is being funded by the Ethiopian diaspora. Estimates suggest that up to 40 per cent of the income of urban households in Somalia (representing 50% of the population) derive from remittances, and the role of remittances as a social safety net or means of survival is huge in Somalia.⁵⁷

The big pull

Although RSA offers a major lure to Ethiopians and Somalis, as ‘the America of Africa’, most of those interviewed had the **ultimate objective of reaching Europe (mainly the UK), North America or Australia** (less of a priority). RSA has a reputation (as does Kenya to a lesser extent) for solving problems of documentation and visas and is a far more reliable departure point (using aircraft). Highly skilled forgers and well-connected intermediaries are ready to render every service needed by the irregular migrant with aspirations and the right amount of money.

“My specific expertise and connections in the smuggling business is in the manufacture of [false] documents and manipulation of air travel options for migrants.”

[Ethiopian smuggler based in Cape Town, RSA]

57 Social Development Paper Number 39 / November 2006. “Remittances and Economic Development in Somalia: An Overview”, edited by Samuel Munzele Maimbo. Conflict Prevention and Reconstruction. The World Bank.
http://siteresources.worldbank.org/EXTCPR/Resources/WP38_web.pdf?resourceurlname=WP38_web.pdf

Those interviewed, including smugglers, confirmed that globally immigration officers are far less suspicious of RSA-origin documentation and passengers arriving from Johannesburg rather than from Addis Ababa or Dar es Salaam. Thus, a major pull factor is the appeal of RSA as a transit stop.

Another attractive pull factor is that the **refugee and migration policy** of RSA is in line with international obligations, offering all irregular migrants the chance to seek asylum once they are inside the country.⁵⁸ Irregular migrants are aware of the asylum regime in RSA from the considerable information flowing between those who have already made it to RSA and those planning to come. Becoming an asylum seeker allows someone to stay in the country and work or study until their case is sorted out. Not only are other countries in the region less interesting from the point of view of opportunities, but many of them also have more restrictive policies with regard to asylum seekers and refugees.

Ethiopia itself offers the vast majority of subsistence farmers minimal employment opportunities, while the cities are already burdened by an informal workforce foraging for survival in a low-growth economy, where informal slums characterize most major centres. Meanwhile, **RSA appears to have unending opportunities** to those who are willing to grasp them. Somalia also offers minimal employment opportunities, and most irregular migrants interviewed spoke of their **exhaustion and frustration with the cycles of civil war** that dominate everyone's life in Somalia.

According to one expert, "Economists and sociologists have concluded that what drives migration is not absolute deprivation, or poverty, but relative deprivation – the sense that one would be better off in some other place."⁵⁹ This may also account for the fact that those who engage smugglers to take them south are rarely the absolute poor. An Ethiopian state minister interviewed for this report said that the government did "not want to legislate against free movement and what people wanted to realize for themselves." The minister further said that "absolute poverty was not the main motivation for leaving Ethiopia," but instead it was those "following dreams" that left for the south. They may struggle to raise the money to finance their departure (selling family assets and borrowing from family and community members), but they at least have the capacity to raise money. Many have relatives in RSA or elsewhere who directly fund the journey. On the other hand, the better educated and more cosmopolitan men from the cities (especially Addis Ababa) are attracted by the range of opportunity RSA appears to offer, the excitement of a new start, as well as that ever-shining hope that **RSA will be the stepping stone to Europe or North America.**

58 However, some migrants claim this generosity is limited in so far as the asylum-seeking process takes many years and access to employment in the formal sector is almost impossible.

59 Naim, 2005, (p.107), op. cit.

ABANDONING SHIP: WHY THE GROWING EXODUS TO THE REPUBLIC OF SOUTH AFRICA

Working some months or years in RSA is seen as the necessary first step towards getting out of Africa entirely to join the diaspora and continue the current trend of earning funds to support poor families at home as well as sponsor the next generation of migrants (younger brothers, cousins or offspring). Some may return home to start businesses or to farm after saving money in RSA.

Despite their initial desire to move on beyond RSA, a significant number of Ethiopian and Somali irregular migrants (there may be more than 75,000 currently in RSA, according to the previously cited information collected for this research) end up **permanently staying in RSA** after establishing themselves as business people. Somalis, in particular, then tend to invest in East Africa, mainly Kenya, and support their families while continuing to work in RSA. Migration from all places of origin, smuggled or otherwise, should ultimately be perceived as a livelihood coping strategy, diversifying household income sources to include remittances as well as re-enacting the event by later bringing friends and relatives out to the new life.

6. Choices of passage: Smuggling routes from the Horn and East Africa to RSA

The irregular migrants looking to be taken to RSA from Ethiopia and Somalia have a number of choices in terms of mode of travel, depending primarily on their economic status but also on the choices offered by smugglers at any particular time. The 'deluxe', and most direct, entry into RSA involves flying. The necessary paperwork, including obtaining a passport, visas as well as the ticket itself, makes this a costly option for most aspiring migrants.

The alternatives to direct air travel are: a combination of limited air travel with additional road travel, a combination of boat and road travel, or the most common choice, which is overland travel the entire way. In many cases, migrants must walk certain stretches of the smuggled journey – in some cases for many days at a time.

The impression gained during the study was of a scenario in which the smugglers were continually assessing the success and viability of these four modes of travel (air, boat, vehicle and foot). Because of the flexibility of the network, the mode of transport and the routes used can be altered on short notice, depending on circumstances. Roads may be flooded or seas too rough. Police controls may be too vigilant in certain places, or the particular staffing of roadblocks or immigration posts at a given time may not be conducive to 'facilitating' passage (i.e., the smugglers' contacts are not on duty or have been rotated or removed, etc.). A new police chief or other law enforcement officer may be less open to bribes than his / her predecessor, forcing smugglers to rethink their approach through a certain area.

What this study also found is that **the ultimate expendable item is the migrant himself**, who could be abandoned, handed over to the police or left waiting in so-called safe houses, forests or on beaches for days or weeks at a time. Migrants are frequently abandoned in prisons or left to fester until the smuggler, in his time, organizes bribes for their release or pays the official fine issued from the court. On average, it takes eight weeks for Ethiopian and Somali migrants to reach RSA, but some travel much faster and others take many months. Others never arrive but spend time in various prisons until they are deported to Kenya or Ethiopia, having failed to reach their objective. Their smugglers shrug their apologies. In certain documented cases, smugglers tipped off or guided police to the migrants to arrest them. It is difficult to imagine that the police and smuggler do not each directly benefit from these situations, which seem too coincidental and frequent to not have been orchestrated.

In addition to treating their clients as expendable and flexible commodities, the smugglers also know that almost every situation can be saved through the negotiation of payments to certain people. These extra-budgetary payments (bribes) by the smuggler may eat into their profits and therefore are undesirable and preferably avoided, even if the client may be induced to repay the smuggler for his outlays.

The mobilization of irregular migrants (their abuse, expendability and the extent of bribery en route) are discussed in more detail in Chapters 9 and 10.

The role of air travel

Some of the 293 irregular migrants from Kenya, Ethiopia and Somalia who participated in in-depth interviews for this study flew directly to RSA (Johannesburg) from Addis Ababa or Nairobi. However, they are a minority, comprising only 5 per cent of Ethiopians interviewed and 3 per cent of Somalis interviewed. A higher proportion of Kenyans who obtained visas (legally or illegally) used air travel between Kenya and RSA. Armed with a Kenyan passport, irregular migrants can acquire South African visas for between \$400 and \$600 through facilitators in Nairobi.⁶⁰

Those Ethiopians and Somalis that do fly have somehow obtained documentation to access RSA without a problem or have been assisted by airline staff or immigration officials (in RSA) to enter RSA as irregular migrants. Information was received concerning the bribability of airline staff and immigration in Kenya, Mozambique as well as RSA. It may be assumed that officials benefited materially from their efforts as their part of the smuggling process. As most Somalis do not have valid passports at present, all Somalis who use air transport must obtain a passport of another nationality or special travel papers (with or without their old Somali passport). Somali passports are no longer accepted by most countries, and new Somali passports are rare and only issued in Mogadishu. According to various sources interviewed,⁶¹ Kenyan passports are allegedly available to non-Kenyans for a price, normally on the basis of purchased back-up documentation, such as identity cards and birth certificates. In some cases, stolen passports can be matched to potential Somali purchasers.

There are many more irregular migrants who use air transport for part of the journey to RSA. Thirty-nine per cent of Ethiopians interviewed and 10 per cent of Somalis interviewed used air transport for part of their journey. In some cases, this would be (for Ethiopians) flying from Addis Ababa to Nairobi, but in most cases it was flying from Nairobi to a capital close to RSA,

60 Figure based on a range of quotes from in-depth interviews with migrants in RSA.

61 According to migrants, smugglers, smuggler's agents and certain informed civil society representatives, the obtaining of most personal identification or travel documentation in Kenya is possible for a price, irrespective of nationality.

such as Harare (Zimbabwe), Maputo (Mozambique), Lilongwe (Malawi) or Lusaka (Zambia). Irregular migrants find it easier to access these countries with false documentation or with visas as tourists, students, businessmen, etc., for short visits. Usually, the documentation is arranged by the smuggler at the point of departure (Nairobi), or his/her agents in the destination country make arrangements in the airports, and/or with immigration units, to allow the migrant access.⁶² Once in the respective country, the journey normally continues overland by foot, car, bus or truck into RSA.

Some rare cases of entry into RSA through Namibia, Botswana and Swaziland (all front line states bordering RSA) were recorded, but the most common last-country routes for those smuggled were Zimbabwe and Mozambique. Mozambique was the last border crossing into RSA for 60 per cent of the Ethiopians and 80 per cent of the Somalis interviewed. The rest, in both cases, crossed into RSA from Zimbabwe.

The evidence suggests that smugglers have contacts in airports. This has been confirmed by different respondents. Interviews with smugglers and national law enforcement agencies confirmed that without the collusion of compromised officials the use of this smuggling route would be impossible. Indeed, as one passes into RSA via Johannesburg there are rows of immigration officials (passport controllers) who deal with the numerous incoming travellers at any time throughout a normal year.⁶³ This individual is the only filter between acceptance and refusal. In the case of land borders, irregular migrants pass immigration officials in large numbers and pay 'fees' / bribes as a matter of course. It is entirely plausible that airport immigration officers are not above venality, and interviews with migrants in RSA indicated that it is, indeed, so.

Another technique used by some smugglers with the complicity of airport employees (interviews indicated that this could include airline staff, ground staff and/or immigration officials) is to spirit out irregular migrants from the Johannesburg airport transit area by pretending they are in transit to Swaziland or elsewhere. In these cases, the smuggler has arranged for the relevant partner to pick up a specific person from the transit area and remove him from the airport into the city.

An internal IOM assessment revealed similar problems, including forgery, and found that RSA is a country of origin and destination for irregular migration. According to the IOM assessment, some government agency representatives have expressed concern, not only about human trafficking and smuggling but also about weapons smuggling and the illegal export of currency. People in transit to a particular destination go to a different country from that stated

62 Based on information obtained from a number of migrants and smugglers, as well as an immigration official.

63 According to one study (confidential) in early 2007, OR Tambo International Airport in Johannesburg handled 13 million passengers per year, or more than one million per month.

on their documentation instead. One way this is achieved is for designated facilitators to meet passengers in the transit area and swap documents. Apparently, as there is often no additional check at boarding for transit passengers, document-swapping is reported to be relatively easy to do. The same IOM assessment also noted that the visa label currently in use in RSA has minimal security features and can be forged without too much difficulty. The assessment team was informed of one instance of forgery that involved a group duplicating a genuine bar code onto a large number of forged visa labels, which were then inserted in people's passports. These comments echoed those gathered during interviews for this study with irregular migrants now in RSA, as well as with third-party informants, including smugglers.

In Kenya, one airport immigration officer told this study that the smuggling and trafficking "networks and organizations transcend all sectors, the ticket bureaus, the check-in desks, the immigration officers." He claimed there is some corruption at the airports and the check-in desks are also involved.

The role of sea travel

Travel to RSA by sea is relatively common for the Somali and Ethiopian irregular migrant. It is unknown for Kenyans and slightly more common for a limited number of Tanzanians who have been known to stow themselves away on ships between Dar es Salaam and RSA's eastern ports (Durban, East London and Port Elizabeth).

A significant number of the 293 irregular migrants whose data was captured through in-depth interviews for this study did travel by boat. An average of 33 per cent of all Somali and Ethiopian respondents described a sea voyage as part of their journey to RSA. In many cases, the voyage passed without incident and lasted a few days, but the vessels were overloaded and, being primitive trading dhows, had neither rescue equipment nor any facility to protect passengers from sun or storm. The respondents also mentioned that they usually were given neither food nor water throughout the trip.

When travelling by boat from Mombasa to Dar es Salaam, we got lost at sea and spent nine days floating around in the water. We then spent a further seven days in Tanzania locked up somewhere.

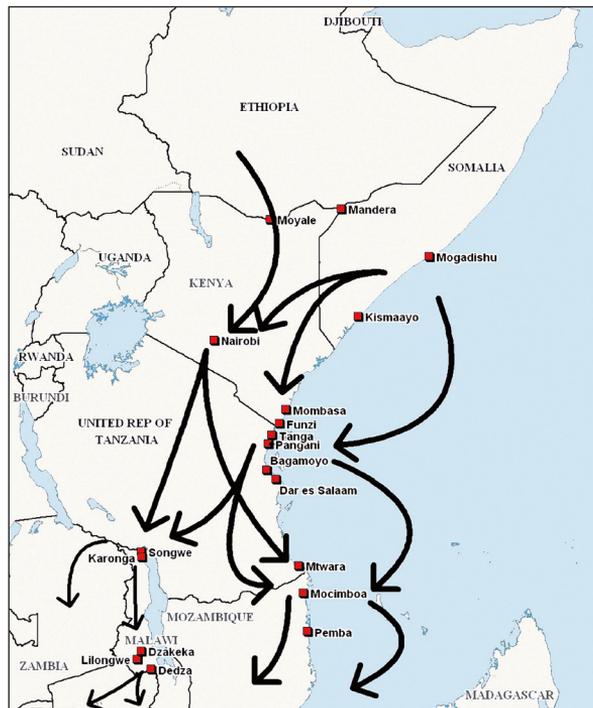
[Somali migrant, 28, Nelspruit, RSA, describing his entry into Tanzania, where he was immediately incarcerated by police]

We were a group of 43 Somali migrants. We took a boat to Mocimboa [Mozambique] from Mombasa [Kenya], but it got lost at sea and we floated around for 13 days. The boat then capsized somewhere off shore and we had to swim ashore. We then boarded another boat to Pemba [northern Mozambique, not to be confused with Pemba Island

CHOICES OF PASSAGE: SMUGGLING ROUTES FROM THE HORN AND EAST AFRICA TO RSA

off northern Tanzania], which also capsized. When we got to Pemba we were arrested, sent to prison for two months and then deported to Tanzania. The days at sea and the days in prison were similar in so far that we nearly died of hunger.

[Somali migrant, 35, Rustenburg, RSA, who was deported to Tanzania but made a new and



The eastern sea-board and the onwards journey

successful attempt to enter RSA though Mozambique some weeks later]

The respondents in this study travelled by boat along the following routes:

- From Mogadishu (Somalia) to Mombasa (Kenya)
- From Kismaayo (Somalia) to Mombasa (Kenya)
- From Mombasa (Kenya) to Pemba or Mocimboa (Mozambique)
- From Mombasa (Kenya) to Dar es Salaam (Tanzania)
- From Mombasa (Kenya) to Tanga or Mtwara (Tanzania)
- From Shimoni and Funzi Island (Kenya) to Tanga, Bagamoyo or Pangani (all in Tanzania)

In early 2008, the Tanzanian government established a ministerial Task Force on Irregular Migration, which conducted investigations and enquiries with 1,110 Ethiopian and Somali detainees in 14 separate Tanzanian prisons. Government staff and other members of the task force were interviewed for this study, and although the final report of the task force has not been released, various findings from their investigation were shared during interviews with the

researchers of this report.⁶⁴ The findings showed that some people were also smuggled from Mogadishu (Somalia) directly into Mozambique (normally Mocimboa or Pemba) by boat. Further, the task force echoed this study's finding of a smuggling route taking people to Mocimboa in Mozambique by boat, only to double back into Tanzania by vehicle in order to enter Malawi through the Mbeya region.

The situation in Mombasa is less clear. Many migrants cite Mombasa as the port they leave from, and it should be assumed that boats leaving the main port are also involved. The only reliable information obtained during research for this report concerned the diminutive Old Port in the Old Town. Although it used to be the main port for East Africa in colonial times, the Old Port's commercial value is dwarfed by the huge commercial port some miles away. However, it is clear that the Old Port does receive smuggled people from Somalia on a regular basis. They also come through Kalifi and Lamu and small, less regulated ports along the north coast.

From Kismayo, the vessels bring dried fish and human cargo. From Tanzania, spices (cloves), and then from Mombasa tea, coffee, oil and cement goes out. Ten or 20 people will come in at one go. Once or twice a week. [...] They come at night, normally around 9 p.m. when the port is closed. The guards at the gate let them out.

[Kenyan informant who had worked in the Old Port for more than a decade]

According to respondents in this study, most boat voyages were periods of hardship and uncertainty characterized by hunger and thirst. Most migrants were transported in small, overloaded dhows and exposed to the elements. There were no reports of physical abuse on board, and neither was drowning or abandonment at sea reported. Unlike the sea route from the Horn to Yemen, which is notoriously brutal and deadly, the smuggled migrants along the East African coast arrive at their destination intact, according to information obtained during this study.

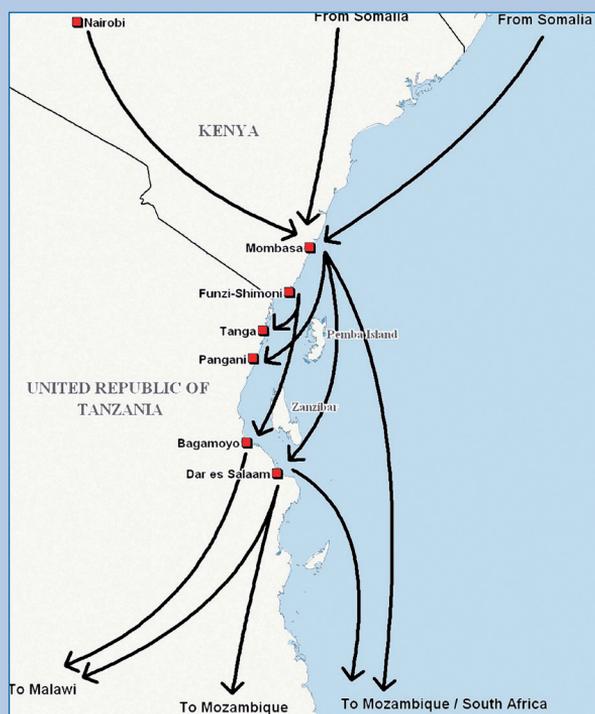
At the end of the boat journey, however, migrants frequently find themselves alone on a beach or hidden in a nearby forest, awaiting promised transport and guides that sometimes take days or even weeks to appear. They wait without shelter, food or water. Robberies by thugs, police arrests and extortion and robbery by different law enforcement officers during these waiting periods were recorded as common events in Tanzania and Mozambique. A later section of this report (Chapter 9) will cover this in more detail.

In addition to sea travel, some migrants also spoke of travelling by boat on lakes (e.g., Lake Kariba, Lake Malawi, Lake Tanganyika) and crossing rivers as illegal border crossings or to avoid police posts (e.g., Zambezi River, Tana River in Kenya, Ruvuma River in Tanzania).

64 This report will make reference to, and draw from, interviews with various members and the leader of the the Ministerial Task Force on Irregular Migration, which was developed under the auspices of the Ministry of Internal Affairs, Dar es Salaam. The task force obtained considerable information from the 1,279 Ethiopians and Somalis detained in Tanzania for immigration infringements (1,100 interviews were obtained from these 1,279 detained irregular migrants).

Case Study 1

The Shimoni connection: Modern-day continuation of the smuggling dhows⁶⁵



The route from Kenya to Tanzania through Funzi-Shimoni

Shimoni village, situated in a small mangrove peninsula two hours south of Mombasa by car, is the southernmost Kenyan settlement before Lungu Lungu, the border town with Tanzania. Wasani is a low island between Shimoni and Pemba, one of the Zanzibar islands. A small tarmac jetty has a half-dozen boats moored to it. The boats are open dhows or small motorboats. Swallows dive through the air as boys dive into the water. The customs and immigration offices line the shore a couple of hundred metres away. It's a sleepy village.

A smuggling village

Smuggling of slaves, spices and other contraband has defined Shimoni's history, resulting in its famous Slave Caves in the middle of the coastal village, offering the only source of tourist revenue to this otherwise poor village. Today, smuggling from Pemba Island to and from Kenya is active and consists mainly of trade in cowry and other shells, seafood, scrap metal, oil, cloves and cooking oil. Reportedly, smugglers do not trade in illegal goods but avoid customs duties or exceed quotas. A new, revived trade is the smuggling of persons, predominantly Ethiopians and Somalis, from Shimoni to Tanzania, some few hours' sailing away.

⁶⁵ Traditional wooden sailing boats, mainly used for cargo transport along the eastern coast of Africa and in the Gulf of Aden.

Case Study 1 (continued)

Perhaps only a dozen dhows are involved in human transportation, but they pack the migrants in and are one of the major nodes in the smuggling network that feeds Tanzania hundreds of transitory migrants per month. They come from Mombasa and Nairobi. They are brought on buses, trucks and taxis or guided on foot. They avoid the ferry at Likoni in Mombasa that connects the north and south coasts for fear of detection. Despite the throngs of pedestrians and cars on the Likoni ferry, a group of Ethiopians or Somalis would stand out.

The mangrove coast

They come at dusk through the '*panya* routes', evading any police or roadblocks. These 'rat' routes are the unregulated maze of tracks and unofficial routes connecting rural Kenya. They cover the last few miles from the main road to the waters at the edge of the mangrove swamps by foot in the dark. In groups of 20, 30 or more (all men), they stumble through the night past knowing villages to the sea in an area called Majorani. The smugglers previously used nearby Funzi Island, but now the police and immigration officials there bother them too much. The guides' torches and cell phones then call in the prepared dhows waiting along the coast, which take them to Tanga or Bagamoyo in Tanzania. For most migrants, this is the second international border crossed on their quest to reach South Africa or beyond.

Sometimes while they are waiting or approaching the water through the trees, the migrants are ambushed by police or immigration officials. This occurs rarely, and normally only because an informant or a competing smuggler has tipped off the authorities. Sometimes people run into the night and the authorities catch only a few. Typically, according to smugglers and migrants interviewed, there are discussions between the authorities and the guides (smugglers) and payments are made. "There are few situations that money cannot smooth out in Shimoni," said one boat captain while talking about dealing with the authorities.

The wooden dhow

A seasoned dhow captain squats at the stern of his craft with six young men taking some food and waiting for nightfall. They seem to occupy about a third of the space in the dhow, which is about 12 metres long and 4 metres wide, but the captain says that when he picks up Ethiopians and Somalis he regularly crams 20 or 30 people inside. He claims to have once taken 47 people, but he admits it is dangerous to be overloaded on open seas. He is told, by phone, of new groups to be picked up by agents in Mombasa. He makes the trip about twice a week, and his boss – a boat owner in Pemba, Tanzania – receives 300,000 Kenyan shillings (\$4,500) for every trip, irrespective of how many people come aboard. By Shimoni standards, this is big money and the risks are small. According to boat captains interviewed for this study, 20,000 Kenyan shillings (\$300) is the standard payment to any police or immigration official in order to be allowed to continue on one's way. What happens when the passengers are delivered in the shallows near a forest in Tanzania is none of his business, the captain says.

The immigration men

The local immigration officers are frustrated. They say their main job is to intercept the smuggling, but they have few resources and an uncooperative community. Posted to this remote village far from their families for one to three years, they bide their time. Some days they have nothing to do, as no new visitors pass through this port, at least not officially. They know smuggling goes on and that people are smuggled out of the mangroves at night, but what can they do? They are responsible for 110 km of coastline stretching from Likoni to Vanga, where there are an estimated 176 illegal entry points. They have no maps, no GPS, no patrol boats. They have one old vehicle and a small allowance for petrol. The average pay is 15,000 Kenyan shillings per month, with a 3,000 shilling housing allowance, a total of \$265 per month. When informants

Case Study 1 (continued)

tell them of a smuggling event and they try to intervene, they say they are either beaten to it by the police, or they find the specified location deserted. Cynical, they said their so-called informants were double dealers and saboteurs playing off everyone and telling smugglers and police everything they saw.

The immigration officers notice that as they pull out of the village in their single truck, a number of boys who are always in the street pull out their phones to make calls. Nevertheless, last year they made four group arrests. They caught smugglers and migrants red-handed in the long grass up near the mangroves in the middle of the night. Some ran away and were not found. Despite what the dhow captain claims, the officers say they have never been bribed or even offered bribes. Catching the migrants is an exciting but rare event. The smugglers' spies in the villages are always some steps ahead of the immigration officials. They say they don't stand a chance against villagers with mobile phones. For some raids, the immigration officials join forces with the administrative police or even the Kenya Wildlife Services (because they have a boat). But they also ask themselves why they bother, as the migrants will only go to court in Kwale, get sentenced to sit in prison for some months and then try it all again. More and more Ethiopians and Somalis are coming to the area.

This informal account is based on interviews with smugglers, immigration officials and smuggled persons/irregular migrants and a research visit to Shimoni, Kenya.

The overland route to RSA

Approximately one-third of Ethiopian and Somali irregular migrants are smuggled on boats, and different proportions use air travel for certain sections. However, the majority travel by road and by foot. Ninety-three per cent of Somalis and 89 per cent of Ethiopians interviewed for this research claimed to have used overland routes for some or all of their journey. Sixty per cent of both groups said they were forced to walk certain sections, normally through bush and forests, especially in border regions, where trucks and buses were unable to access or would draw attention.

The overland route from Ethiopia or Somalia to RSA with the fewest border crossings passes through only three countries: Kenya, Tanzania and Mozambique. Few migrants take the most direct route, as their smugglers must adapt to prevailing conditions, often passing through Malawi, Zambia, Zimbabwe, Uganda, Burundi and Rwanda to deliver migrants to RSA. Sometimes the journeys are convoluted and appear unnecessarily indirect, as the following unusual examples illustrate:

Once I arrived in Nairobi from Moyale, I contacted a second facilitator, and he said it would be better to go through Uganda. After two days I left for Kampala. Then we left for Rwanda and continued straight to Burundi. I rested in Bujumbura for three days and got into a boat bound for Zambia. After two nights we arrived in Zambia. We waited in the forest for a day, and a truck came to take us to Lusaka. I stayed in Lusaka for a

week, as I fell sick with malaria. After that, I took a bus to Mozambique that went all the way to Maputo. Eventually, I left Maputo to cross the South African border by foot.

[Ethiopian, 27, Bloemfontein, RSA]

My journey included Mekele, Dessie, Addis Ababa, Dilla, Moyale, Nairobi, Kampala, Kigali, Bujumbura, Tanganyika [sic], Lilongwe, Mozambique, Tet, Beira, Zimbabwe, Chinhoyi, Musina. It took about four months from the actual day I left Addis Ababa.

[Ethiopian, 28, Pretoria, RSA]

There are a complex variety of routes that may be used within countries, and smugglers, where possible, will use these *panya* routes, or unofficial rural tracks, to avoid detection, roadblocks and major towns. While Ethiopians and Somalis start their journeys in different ways, they are soon united as smugglers group people together more and more as they approach RSA. It can be assumed that smugglers (and their local agents and guides) do this as a cost-saving measure to move large numbers at one time, maximising profits and minimising negotiations with officials. Groups that started off as 15 or 30 in Kenya may find themselves numbering in the hundreds by the time they move into Mozambique from Malawi. During the research visit to Malawi, an incredible 1,200 Ethiopians allegedly moved at one time from a refugee camp near the capital across the border into Mozambique.⁶⁶ Approximately 190 were captured and deported back to Malawi some days later, but most of the others are assumed to have continued on their journey.

According to the interviewees, the main entry point into RSA is across Bietbridge from Zimbabwe. The second main entry was via the border with Mozambique adjacent to Maputo city. Obviously, it is a long border, and most interviewees spoke of crossing at night through holes in the fence or crossing where there is no fence.

The typical Ethiopian route

Ethiopians' voyage to RSA as irregular migrants is typically organized directly from Ethiopia or from Nairobi. Nairobi, a major hub in the smuggling business, is where smuggled Ethiopians who make it from their home areas or Addis Ababa into Kenya via Moyale and Mandera (and much less through Dila) make contact with the major smuggling organizers. Some irregular migrants make it to Nairobi alone and then search for a smuggler to take them down to RSA or another destination. It is possible to procure visas and travel documents to most countries in Nairobi, where it appears visas for Canada, the US, European countries, as well as RSA can be arranged, for a price. Nairobi is not necessarily the departure airport in these cases. According to 148 smuggled migrants interviewed for this study, most Ethiopians have already agreed with smugglers/brokers in Addis Ababa or provincial towns like Hosaina or Nazareth to handle the whole journey, and the majority travel overland.

⁶⁶ Figure confirmed by a number of reliable sources (smugglers, camp residents, NGO representatives) during research visit.

Ethiopians in Kenya

There is a substantial Ethiopian community in Nairobi (but not in Mombasa) that can be relied upon to provide the latest information and travel advice useful to any new arrival. The major accumulations of regular and irregular Ethiopian migrants in Kenya outside of the official refugee camps of Kakuma and Dadaab are in the Lavington and Eastleigh / Kariobangi areas of Nairobi. As of September 2008, there were 4,534 Ethiopians as opposed to 17,151 Somalis in Kakuma refugee camp.⁶⁷ In Eastleigh / Kariobangi, the predominant Ethiopian language heard and spoken is Oromo, indicating the ethnic group that has chosen to make their home in Kenya in recent years and also indicative of their political disagreements in Ethiopia.

According to this study's findings, Ethiopians normally enter Kenya by foot, truck or bus, and are required to pay bribes regardless of whether they have proper documentation. If they pass through the border, according to numerous sources, they allegedly must pay a substantial bribe to the Moyale immigration officers through their brokers.⁶⁸ This bribe reportedly is around \$300 per person, despite the fact that Ethiopia and Kenya have a bilateral agreement to allow each others' citizens free passage in each others' countries. Case Study 3 describes this process in more detail.

The onward journey

Once in Kenya, the next country all Ethiopians must pass through is Tanzania. Some Ethiopians, especially those travelling most recently, are avoiding Tanzania because of the high level of violence they encounter at the hands of smugglers, thugs and officials, as well as because of the risk of being caught and detained. Some take the route through Uganda and the Great Lakes. Those travelling into Tanzania either go to Kenya's coast to take a boat (as described above) or pass through the Taveta and Namanga border areas (both on the Kenya / Tanzania border). Fewer pass at the coastal border crossing of Lunga Lunga / Vanga. They cross the border according to the advice of their smuggler, who will bribe the border officials or send his charges on foot through the bush along what is an extremely porous border. Immigration officials complain of the impossibility of monitoring and patrolling an area where there are an estimated 473 identified illegal crossing points around Kilimanjaro alone.

Next, depending on the judgment of their agent or broker, they are taken through Malawi and on through Mozambique or directly through Mozambique to access RSA around the Maputo area in southern Mozambique. Mozambique was the last border crossing into RSA for 60 per cent of the Ethiopian respondents in this study.

67 According to IOM communication with a UNHCR refugee officer in Kakuma on 18 September 2008.

68 This information was obtained by members of the research team from a range of sources, including migrants, officials and Moyale residents and civil society. In Moyale itself, this information appears to be common knowledge, and witnesses offered their testimony to the researchers freely.

Alternatively, they may pass through Zambia and Zimbabwe to access RSA in the Limpopo area across Beitbridge. Approximately 40 per cent of the Ethiopians questioned used overland routes in Zimbabwe to enter RSA. Few crossed through Botswana, although it is said that there is a small Ethiopian community living in Botswana.

The following seven overland routes were identified by members of the Tanzanian Task Force on Irregular Migration, based on interviews with Ethiopian detainees. These findings were corroborated by the research for this study:

- 1st Route: Moyale (Ethiopia) by road – Nairobi by road to Mombasa by road to Tanga or dhows to Bagamoyo and then Dar es Salaam by road – Mbeya – by road to Malawi.
- 2nd Route: Moyale by road to Nairobi by road to Namanga-Arusha-Mbeya- Malawi
- 3rd Route: Moyale (Ethiopia) by road –Nairobi by road to Mombasa by road to Taveta— on foot to Mwanga district or Sanya Juu in Hai District in Kilimanjaro- by road to Mbeya- Malawi.
- 4th Route: Addis Ababa /Moyale / Nairobi/Mombasa/Namanga/Dar es Salaam/Mtwara
- 5th Route: Addis Ababa /Moyale/Nairobi/Sirari/Mwanza/Tabora/Sikonge/Mbeya-Malawi
- 6th Route: Addis Ababa/ Moyale /Nairobi/Mombasa by boat/ dhow to Mtwara
- 7th Route: Addis Ababa/ Moyale /Nairobi/Mombasa by boat to Mozambique and then return by road to Mtwara where they later travel by road to Malawi⁶⁹

(Refer to map on page 49)

On average, 40 per cent of Ethiopians interviewed for this study who had arrived in RSA passed through Zimbabwe into RSA. Some of them did not necessarily pass through Malawi directly, but instead entered Mozambique (through Mtwara) and traversed Mozambique to enter Malawi (and then Zimbabwe) or Zimbabwe directly.⁷⁰ Sixty per cent of Ethiopian respondents said Mozambique was their last border to cross into RSA. Again, their route from Tanzania may not have been through the Mtwara border; instead it is more likely that most Ethiopians passed through Malawi before entering Mozambique.

The typical Somali route

Because Somali passports are not accepted by RSA immigration authorities and other countries, Somalis are smuggled overland and by sea to RSA. Air transport to RSA is rare for most Somalis, unless they have obtained a false passport of another nationality. According to the 120 smuggled Somali migrants interviewed for this study, their journey to RSA was organized directly from Somalia (south/central) to RSA (normally via Nairobi) or they travelled to Nairobi with the assistance of one broker and looked for an onward smuggling option from there.

⁶⁹ Information collected during interviews with members of the Tanzanian Task Force on Irregular Migration.

⁷⁰ Zimbabwe shares borders with both countries.

According to the responses from Somali detainees in Tanzania (more than 1,000, according to members of the Tanzanian Task Force on Irregular Migration), the main point of departure for Somalis is Mogadishu town, where would-be migrants gather after leaving their provinces. Kismayo and Yakshid are also main departure points where smugglers openly advertise their ability to assist them in leaving the country.

Two reporters recently sighted a signboard outside a travel agency in Dhoblay (Somalia), the translation of which read: “Bureau Travelling Agency, Bulahawa branch, efficiently delivers people to their destinations. From Somalia to Kenya, Europe, Washington, US, even Dubai. Our charges are reasonably low”. Interestingly, RSA is not mentioned, even though it is a major destination for exiting Somalis. The smuggler they found haggling with three would-be irregular migrants told the reporters: “What we do is humanitarian services and not human trafficking.”⁷¹

Somalis in Kenya

Like the Ethiopian community, the Somali community is substantial in Nairobi. It is also substantial in Mombasa and various provincial towns in Kenya. In addition, more than 200,000 Somalis live in the Dadaab refugee camps, and there are 17,000 Somalis in the Kakuma refugee camp. Given the closeness of the Somali community, newcomers have a tight and large network of clan members or relatives to lean on for assistance and guidance as they plan the next legs of their journey to RSA. The main concentration of Somalis in Nairobi is in Eastleigh, where, not surprisingly, various smuggling brokers and their agents also reside. In Eastleigh, there are safe houses for smuggled Somalis, as well as clandestine offices where forgeries and travel documents are made / obtained.

As such, Nairobi is a major hub in the smuggling business for Ethiopians, but especially for Somalis. While many pass through Nairobi briefly (a period of days) en route to RSA, some Somalis stay for weeks, months and even years. According to specific testimonies, their travel may be delayed due to lack of sufficient funds to continue their journey (which may in fact be more ambitious, targeting destinations beyond RSA). Sometimes, they have found work that allows them to earn some income or they enjoying living with clansmen and friends and the cosmopolitan life that Nairobi and Eastleigh offer after the trials of war-ravaged Somalia. In many cases, it is a combination of many factors that keeps them in Nairobi. The result is that thousands of Somalis in Nairobi and other parts of Kenya regard Kenya as their second home, and despite alleged regular harassment by police they feel the Kenyan society is fairly accepting of their presence.

71 “Human traffickers bribe police to be let in”, Boniface Ongeru and Adow Jubat. Excerpted from *The Standard* newspaper, Kenya, 3 September 2008.

Life for thousands of Somalis in Dadaab (and Kakuma) refugee camps is bleak and offers few opportunities. Some of the refugees have been there for almost two decades, and under Kenya's restrictive refugee policies they are not permitted to work or travel freely outside of the camps. Some young men arrange to go to RSA (or beyond) from Dadaab, where brokers are also active in recruiting clients. Somalis coming from the Somali border but who do not want to register as refugees with UNHCR (and therefore also with the Kenyan government) take advantage of the large open camps and use Dadaab as a resting location before continuing on to RSA. In some cases, according to respondents, the would-be migrants are openly collected by their facilitators / smugglers from the camps and taken on to Garissa to start their journey south. Given the high volume of traffic and the movement of vehicles and people in and out of these large camps, this type of arrangement is entirely believable.

Somalis enter Kenya by foot, by four-wheel drive vehicle or lorry or by boat (from Kismayo or Mogadishu to Mombasa or Kilifi / Lamu). Dhoblay, close to the Liboi border crossing, is a major nexus for wretched throngs of drought- or flood-affected, war-fleeing displaced families, would-be refugees planning to leave Somalia and those planning to go beyond Kenya. According to the UN and other organizations, at least a million people have been uprooted by fighting between Somali-Ethiopian forces and Islamist insurgents since late 2006. Brokers, smugglers and transporters are commonplace, and they take their human cargo through the border at Liboi or more commonly across the sand and scrub land adjacent to the official crossing, some miles north or south of it. Those intending or desiring to be classified as refugees and asylum seekers normally transit through Liboi and register with the Kenyan authorities and UNHCR.

A refugee rush

In June 2008, the UN claimed 4,000 Somalis were crossing the border each month, swelling Dadaab's total population by 20,000 to 200,000 residents – most of whom are Somali.⁷² By mid-September 2008, the overall population of Dadaab stood at more than 212,000 persons – a 24 per cent increase since the beginning of the year. By this time, the average rate of arrivals at Dadaab each month had risen to 5,000 – a steady 200 people per day, of which 96 per cent were Somali and 4 per cent were Ethiopian.⁷³

Many other migrants are reluctant to be registered as refugees due to their desire to be free agents within Kenya, to develop new identities, perhaps, and obtain travel documents and passports of another nationality. It is well-known that not only school ID cards, but national ID cards and even false birth certificates are available for a price.⁷⁴ Given the ethnic similarity between Kenyan Somalis and Somalis from Somalia, the conditions could not be better

72 As reported by Guled Mohamed in "Somali refugees pour into Kenya despite shut border", Reuters, 18 June 2008, <http://www.reuters.com/article/latestCrisis/idUSL1876856>.

73 From the 15 September 2008 Arrival Trends report from UNHCR Dadaab.

74 According to various migrants, third-party informants and civil society representatives interviewed for this study.

for fabrication and manipulation of identity documents. In essence, Somalis can reinvent themselves in Nairobi.

Indeed, the entire border between Somalia and Kenya (some 700 km in total) is open and porous, and thousands of asylum seekers and irregular migrants pass at will into Kenya, irrespective of whether the Liboi border crossing is officially open or closed (as it has been since January 2007). The other major border crossing for Somalis is Mandera in the north, where Ethiopia and Somalia meet at the tip of the sharp ‘beak’ of Kenyan land.

The onward journey

Once in Kenya (irrespective of length of stay) the next country all Somalis must pass through en route to RSA is Tanzania. They pass into Tanzania overland through (or near) the border crossings of Namanga (near Arusha and by far the most common crossing), Sirari (near Lake Victoria), Longido (near Moshi) and Vanga (on the ocean). These last three locations are little used in comparison with Namanga, Tanga (by boat) and Bagamoyo (by boat).

Based on the judgment of their agent, migrants will then be taken through Malawi and on through Mozambique or directly through Mozambique to access RSA around Maputo in southern Mozambique. Alternatively, they may pass through Zambia and Zimbabwe to access RSA in the Limpopo area across Beitbridge. Only very few cases have been reported to cross through Botswana, although there is said to be a sizeable Somali community living in Botswana.

The following five overland routes were identified by members of the Tanzanian Task Force on Irregular Migration, based on interviews with Somali detainees. These findings were corroborated by the research for this study:

1st Route: Mogadishu/Garissa / Nairobi/Mombasa/Namanga/Dar es Salaam/Mtwara

2nd Route: Mogadishu/Garissa/ Nairobi/Mombasa/Tanga/ Dar es Salaam/Mtwara

3rd Route: Mogadishu/Garissa/ Nairobi/Mombasa by boat to Mtwara

4th Route: Mogadishu/Garissa/ Nairobi/Mombasa/ Pemba in Mozambique/Mtwara⁷⁵

5th Route: Mogadishu/Dhoblay/ Nairobi / Mombasa – crossing at unidentified points between Tanzania and Kenya and then following unidentified route to where they are caught in Tanzania.

(Refer to map on page 45)

⁷⁵ An alternative disembarkation point in Mozambique often cited by respondents is Mocimboa. In Route 4, it should be noted that some of the smugglers take their clients into Mozambique by boat only to double back into Mtwara and on to Mbaya (both in Tanzania) and the Malawi crossing as previously described.

On average, 18 per cent of Somalis interviewed for this study passed through Zimbabwe into RSA. Some, using the same route as Ethiopian migrants and often travelling with them, entered Mozambique (through Mtwara) and traversed Mozambique to enter Malawi (and then Zimbabwe) or Zimbabwe directly. Others arrived in Mozambique by boat. However, most Somalis pass into Malawi before entering Mozambique, and 80 per cent of Somali respondents said Mozambique was their last border to cross into RSA. The importance of Malawi as a transit country for Ethiopians and Somalis will be discussed later in this report (Chapter 9).

The typical Kenyan route

According to the 25 certified in-depth interviews with Kenyan migrants as well as feedback from the 114 additional interviews with Kenyan migrants in RSA, most Kenyans quite simply take a bus to RSA. Some travel legally, flying with their regular passports (normally legal and valid) and visas obtained from the RSA High Commission in Nairobi (directly, or, allegedly using a facilitator with contacts at the embassy⁷⁶), and some travel with truck drivers hauling goods between Kenya and RSA. Kenyans rarely travel in groups (unless taking a bus) and simply pay relatively small bribes at the relevant border crossings to obtain visas allowing them safe passage through countries. Sometimes travellers are required to take a series of buses, but others find buses that take them directly.⁷⁷ In these cases, the driver effectively becomes a smuggler by virtue of him making deals with immigration officials on his passenger's behalf. Most of the Kenyan irregular migrants said they gave their drivers money to effect the bribe. Typically, they did not actively witness bribery, nor were they party to it, but they were able to pass borders without visas. Some Kenyans claimed they were able to make the entire journey and enter RSA without any documentation at all.

The overland route for most Kenyans takes between five and ten days. The most common route is through Tanzania, Zambia, Zimbabwe and into RSA at Beitbridge border crossing. If they are not travelling with a direct bus, they normally stay a few days in Harare, Zimbabwe, waiting to connect with one of many available guides to escort them into RSA.

A smaller number of Kenyans go through Malawi. From Malawi, as they get closer to RSA, they find their facilitators are also taking Ethiopians and Somalis. Therefore, the Kenyans join these groups on certain legs of their journey. Any robbery or abuse of Kenyans typically occurs when they use the Malawi/Mozambique route and are mixed in with large groups. On their own, Kenyans rarely encounter any violence or abuse, although they confirm that immigration bribery is ubiquitous.

⁷⁶ In such cases, where legal documents are obtained to travel to RSA, the migrants cannot be described as irregular or illegal.

⁷⁷ A bus company in Nairobi has scheduled trips to RSA twice a week.

7. The chain gangs: Smuggling networks, affiliations and profiles

The movement of Ethiopians and Somalis to southern Africa is facilitated by a network of human smugglers who are loosely connected and whose loyalties are predominantly defined by their financial interdependency as well as their origins.

Also known as ‘facilitator’, ‘broker’, ‘guide’ and ‘agent’, the human smuggler is formally described as: **An intermediary who is moving people in furtherance of a contract with them, in order to illegally transport them across an internationally recognized State border.**⁷⁸

This definition is in contrast to that of the human trafficker, who is formally described as: **An intermediary who is moving people in order to obtain an economic or other profit by means of deception, coercion and/or other forms of exploitation. The intent ab initio on the part of the trafficker is to exploit the person and gain profit or advantage from the exploitation.**⁷⁹

According to the formal definition of smuggling, the taxi drivers, bus drivers, truck drivers and bush guides involved in taking people across borders are all smugglers, as well as those who organize the activity, enter into contracts with migrants and accompany them on the illegal crossings.

The typical age of those involved in smuggling from north to south along the eastern side of sub-Saharan Africa is not dissimilar to those they smuggle. The age range of smugglers is between 18 and 40 years of age, and they are predominantly male. A young Ethiopian woman mostly based out of Nairobi has gained some notoriety (and is known by the Kenyan immigration authorities), but she is the exception in a business dominated by men. Not surprisingly, the chief organizers are Somali and Ethiopian, with the Somali organizations being more prolific and comprehensive in terms of having a presence in all transit countries and acting as linchpins in those countries. In some border towns, such as Moyale and Mandera, the main smugglers can be Kenyan citizens of Ethiopian or Somali origin.

⁷⁸ These definitions are taken from Glossary on Migration: International Migration Law. ISSN 1813-2278 © 2004 International Organization for Migration (IOM) and taken from the original international UN Protocols against trafficking and smuggling previously cited.
http://www.iom.int/jahia/webdav/site/myjahiasite/shared/shared/mainsite/published_docs/serial_publications/Glossary_eng.pdf

⁷⁹ Op. cit.

Although we refer to smuggling structures as chains, the image of a chain is not entirely accurate in understanding the nature of smuggling operations. A chain suggests a series of links, locked together in a coherence and uniformity that was not observed in this research. According to the Transnational Organized Crime convention, it takes only three members to comprise an organized crime group. By this definition, smuggling Ethiopians and Somalis down south is conducted by organized criminal groups; however, large, hierarchical crime syndicates were not found.

To shed light on the structure of the smuggling business as observed throughout this study, it may be useful to compare it to a legitimate business structure. For example, an international courier company will have offices all over the world that receive and send on packages to their destinations. The different offices (and their employees) have a loyalty to the brand organization and have agreed prices, ways of working and expectations of each other. Expectations are important because the company thrives when all offices are functioning efficiently. To fly these packages between cities and countries, however, the company uses a wide variety of airlines and vehicles that they entrust with their goods. And, of course, they seek to obtain the cheapest rates in order to maximize their profits.

The smuggling chains observed during this study functioned in a similar way, where, typically, different Somali linchpin ‘managers’ (like the courier offices) reside in major capitals and at key nodes in the journey (ports, refugee camps or border areas). These managers work independently and **with** the chief smugglers rather than **for** them. Those who actually transport the irregular migrants across Tanzania, for example, or captain the boats, or rendezvous with disembarked passengers as forest guides, etc., can be hired from a wide range of local contacts the Somali managers have to choose from. Not surprisingly, they would be drawn from the local pool of opportunists or criminals and are unlikely to speak the languages of those they are handling. As this report will illustrate below, this structure of sub-contracting transportation, guides and so-called facilitators is at the heart of the abuse and brutality migrants face on their journey and which will be elaborated upon in further sections of this report.

Typically, the smuggling ‘managers’ at different nodes of the journey are central to the chain and are paid to move a certain amount of people from one location to another by the chief smuggler (at the top of the chain, but not necessarily based in the city of departure). These managers are autonomous with regard to how they achieve this goal. They also make their local services available to other chief smugglers.

To continue with the analogy of the courier company structure, one can use the services of any of the company’s sub-offices, depending on where the package is being sent from. Just as one can use the services of a courier company sub-office, migrants who have made their own way to Nairobi or Maputo, for example, can rejoin the network and continue their journey. Every service has its price, and smugglers offer long-leg and short-leg services. All roads lead to RSA.

The analogy has its limits, however, because the courier model differs from the smuggling chain in three important ways. Looking at these differences helps in understanding the special qualities of the smuggling model:

Firstly, the offices and employees of a courier company are on fixed pay scales, are loyal to one company (they cannot start handling another agency's packages mid-journey) and have very limited autonomy. If they stopped working for a few weeks they would destroy their network. However, the smuggling chains are infinitely flexible because of the availability of different local agents and managers: If one contact becomes problematic, another can be activated. Loyalty exists, but only if income can be consistently derived from the relationship. A smuggler transporter in northern Malawi who took migrants from the Tanzanian coast (Dar es Salaam and Bagamoyo) to the border with Malawi (Kyela/Songwe) told researchers he had worked for seven 'bosses' in the previous 18 months and competition for 'clients' was stiff, with ten other transporters in the town offering the same service. To avoid overstating this point, or suggesting the relationships are entirely pecuniary and promiscuous, it was also noted in the study that smugglers of Somali origin often worked with fellow clansmen through the network. In one case, four Ethiopian brothers spread themselves out along the route to RSA, ensuring close control of their network and defending each other's interests.

Secondly, establishing courier offices involves hardware and capital assets. By contrast, a smuggling manager needs only a mobile phone and a list of contacts, which would include local transporters, compromised government officials and other managers, including various smuggling chiefs in key locations. Different immigration and police officers told researchers that when they captured smugglers they found exactly these sorts of numbers listed in the contacts lists of smugglers' mobile phones.

Thirdly, the accountability inherent in a branded international company is absent in the smuggling chains, as it is in most illegal enterprises. An abused migrant is unable to seek recompense from his smuggler for robbery, abuse or deception. And within the chain itself, the chief smuggler has limited control of how his clients are treated once they are beyond his or her control. From a moral perspective, this is important for the chief smuggling managers and managers, because they can absolve themselves of the hardships and crimes their clients may face.

In terms of typologies of organized crime and human trafficking networks, the model observed in human smuggling between East Africa and the Horn and RSA was only close to the Mexican model described in the Louise Shelly typology⁸⁰ as the 'supermarket' model: relatively low costs, a high failure rate at border crossings (requiring repeated attempts) and multiple actors acting independently or in loose affiliation, without a strong hierarchy or violent organizational discipline.

80 "Two typologies of organized crime/human trafficking networks," Table One, Chapter 10. *Data and Research on Human Trafficking: A Global Survey*, Liz Kelly, IOM, 2005. ISBN 978 92 9068 240.

In many respects, the smuggling structure is a highly organic, flexible and capitalistic network that responds to equalize supply and demand in a fast-growing sector. There are profits to be made by those running or participating in the structure, but there are also extra, hidden profits to be made by other means (extortion, theft, blackmail) that will be discussed later in this report. The competition between smugglers can be fierce, resulting occasionally in all-out fights but normally confining itself to informing on one another to the authorities or stealing one another's clients, because ultimately, he who moves the people (facilitates) is he who gets paid. There were no reports of monopolistic practices developed through violence or strongman tactics that are typically found in the world of organized crime.

The smugglers understand that they are acting outside the law. They understand, too, that due to ill-defined and weak legislation they are, for now, operating with almost complete impunity. If the smugglers are caught and cannot bribe their way out of trouble, they face small fines and possible deportation. After all, most smugglers (managers) are migrants themselves – and often irregular and/ or illegal. However, their moral perspective is one of innocence in so far as they find themselves providing a service that is in great demand. The following are quotes from smugglers justifying their work:

I help a lot of Ethiopian and Somali brothers come into RSA. All I do is help them come in easier and charge them for the service. I am not doing anything illegal; I am only helping my African brothers. I send my boys into Zimbabwe and they walk the brothers through the fence. We know the soldiers and where to cross.

[South African taxi driver, a final link in the chain]

I facilitate for Ethiopian and Somali people to gain a better life in South Africa. I have a secure connection at the border.

[Somali smuggler based in Maputo who facilitates Ethiopian and Somali irregular migrants into RSA from Mozambique]

Let's say I help people move to their chosen destination – people who would otherwise not be able to. You could say I am like the United Nations (UN) or even like a human rights group!

[Chief Somali smuggler based in RSA]

When people get together they always talk about how their sons or daughters or husbands or brothers and cousins are doing in Europe and the United States (US). I make their dreams come true.

[Major smuggler in Mandera, north-eastern Kenya, on the border with Ethiopia and Somalia]

By contrast, the perspective of those smuggled was quite different when considering the virtues of the smugglers. Naturally during the journey migrants are caught in the dilemma of

needing to depend on the smuggler for a number of important facilities, such as translation, safe houses, negotiation with compromised police and immigration officials and actual route direction. At the same time, they are subject to abuse and exploitation from the smuggler or his affiliates but cannot react strongly for fear of being abandoned or handed over to police. A young Ethiopian migrant in Nelspruit illustrated this dilemma in an interview:

The same facilitator drove us to the Mozambican / Zimbabwe border. He then turned on us and took all our money and clothes. Even though we outnumbered them we were scared of being stranded, as we didn't know our way.

[Ethiopian, 26, Nelspruit, RSA]

A Somali now living in George expressed complaints typical to those of most smuggled migrants using the overland route. Like the Ethiopian migrant in Nelspruit, he pointed out the sense of deception felt by migrants who consider themselves to have been misled by their initial smuggling contacts:

Everyone was kicked and beaten by the smugglers. They were physically violent. Many times they would come to us drunk demanding money or other stuff. When we said we were not willing to give them what they wanted, they would start yelling, cursing and kicking. I was led to believe that the journey would be smooth. It was really very rough.

[Somali, 29, George, RSA]

These experiences were echoed by another Somali migrant:

We were beaten by the police and the smugglers. But in reality [the smugglers] were worse than the police and immigration. Compared with what they promised in Nairobi, everything changed for the worse.

[Somali, 18, Johannesburg, RSA]

It is hard to believe that the chief smugglers / brokers and manager smugglers along the chains are not aware of the rough handling their clients receive at the hands of local guides and smuggling groups. Indeed, part of their payment could be for the turning of a blind eye (by the manager smugglers) to how the guides treat the groups entrusted to them. Although beatings and shakedowns by thieves, smugglers and authorities can take place in any country during a migrant's smuggled journey, the bitterest stories of abuse at the hands of smugglers appear to come from the Malawi / Mozambique leg of the journey:

I thought that I would die from the hunger and constant beatings. The beatings of the Mozambican smugglers were so severe that many in my group could not walk for days.

[Somali, 23, Port Elizabeth, RSA, who recounted stories of beatings and multiple robberies by smugglers in Malawi and Tanzania. He said thugs were permitted to beat them in front of their transporters.]

Immediately after crossing the border [into Mozambique] we jumped onto a truck that took us into the bushes, and the local smugglers robbed us of all our belongings. We were threatened with *pangas* [machetes] and knives.

[Somali, 24, Nelspruit, RSA]

The smugglers on the Malawi / Mozambique leg were very abusive and angry. I thought they were under some influence [of narcotics]. I was scared they might kill us all.

[Somali, 20, Nelspruit, RSA]

We usually find the migrants under extremely poor physical and health conditions. They are very weak and tell us that they have been robbed, abandoned or beaten by their smugglers. Our people take pity on them and feed them.

[Immigration official, Tete, Mozambique]

A general finding from interviews by the Tanzanian Task Force on Irregular Migration and from interviews with migrants for this study, however, was that migrants tended to 'excuse' the initial smuggler (the chief smuggler), who was the first agent that was contacted at the beginning of the trip, often in their own country. Interviewees frequently said that the initial smuggler did not know of and was not responsible for the misbehaviour of the following agents in the chain. It appears to be difficult for migrants to challenge the trust of someone who is known and often referred by a family member or friend. This is important to consider, because it gives us an idea of the perspective of a migrant and how little he knows about the reality of the trip south.

The brutal bullying by smugglers is not confined to beatings and robbery. In some cases, sexual attacks were reported. Given how rare it is for a Somali or Ethiopian woman to be part of a smuggled group of men, and the frequency of reports of sexual attacks on women in the groups, it can be assumed that generally women stand a very high risk of being raped on the overland routes. Given, too, the customary reticence of Somalis to discuss sexual issues, and especially homosexuality or sodomy, the following disturbing extracts from interviews might suggest much more abuse goes on than mentioned. While no Ethiopians interviewed mentioned sexual attacks during their journey south, 6 per cent of Somali interviewees referred to cases of sexual violence and rape during their journey.

In Mozambique, the Malawi and Mozambican smugglers we had been handed over to raped the women with us. At night they were separated from us. One of the girls told me they had been taken into a hut and some were raped repeatedly by the men.

[Somali, 20, Nelspruit, RSA]

All the smugglers were horrible. The last smuggler that assisted us from Tete [Mozambique] to South Africa physically threatened me when I tried to shield him and his police friends from raping the Somali girls [which they later succeeded in doing].

[Somali, 34, Durban, RSA]

The first Somali smuggler was in Nairobi, and he was in constant contact with whomever we were handed to along the way. They were mainly young men between the ages of 25 and 40, Swahili-speaking and ruthless. I think they were high on drugs. They were very abusive in nature and many times drunk. I heard that many Ethiopian and Somali men and boys had been raped along the way. Women generally get raped by smugglers and the truck drivers. The boys get raped in police cells and prisons.

[Somali, 21, Johannesburg, RSA]

THE CHAIN GANGS:
SMUGGLING NETWORKS, AFFILIATIONS AND PROFILES

8. Rites of passage: Victims of necessity

In contrast with trafficked persons, smuggled migrants are assumed to be acting voluntarily and, therefore, in less need of protection. Discussions in the sector continue on what some call the ill-defined ‘see-saw’ of coercion and consent, and the ambiguity for many smuggled persons with regard to how free they are on arrival in destination countries, where they are expected to work off large transport debts. Transport debt, however, is not relevant to the Ethiopian, Somali and Kenyan cases where transportation fees are paid upfront or in stages during the journey, and no cases of post-arrival exploitation were found.

Internal corroboration

The following sections of this report will present findings, mainly based on individual testimony and accounts from firsthand witnesses, of grave abuse of smuggled Ethiopians and Somalis by a range of people involved in their passage to RSA. What struck the research team forcefully was the similarity of the hardships faced by a diverse population of male irregular migrants en route to RSA. Interviews with individual migrants were conducted in different geographical locations in RSA as well as in Malawi, Mozambique, Kenya and Ethiopia, but the accounts are remarkably similar. One senior immigration official in Nairobi, who had worked many years intercepting migrants in North Eastern Province, told researchers: “The treatment of those smuggled is very degrading: no food, no water, kept in the bush. These must be regarded as crimes against humanity.”

External corroboration

The similarities of the testimonies on the RSA route were also corroborated by the findings of other research on the treatment of smuggled migrants leaving Ethiopia and Somalia by another route. Two reports offer striking similarities: The MMTF report on the Gulf of Aden crossing (2008) and the IOM Field Mission Report on Stranded Ethiopian Migrants in Bossaso, North East Somalia/Puntland (2006).⁸¹ According to the MMTF report, “Migrants coming from Ethiopia suffer multiple abuses through their journey from Addis Ababa or elsewhere to Bossaso. [...] In addition to accidental deaths through dehydration, hypothermia, snake bites and similar hazards, they are routinely subject to human rights abuses such as murder,

81 *Field Mission Report: Stranded Ethiopian Migrants in Bossaso, North East Somalia/Puntland*, November 2006. IOM MRF, Nairobi. Prepared by Yitna Getachew Yitna, consultant.

theft, and sexual violence while in transit along the main routes. Migrants have reported that perpetrators of the abuses include the police, government officials, members of militias, common criminals and the smugglers themselves.”

The research established considerable detail concerning the number and nature of fatalities on what can be called the Eastern Sea Passage: “Physical abuses during the Gulf of Aden crossing are well-known and well-documented. Abuses include beatings, stabbings, shootings, burns, asphyxiation, suffocation, neglect causing dehydration and, most common of all, throwing persons overboard to drown [...] In 2007, of the 28,882 persons known to have attempted the crossing, 1,225 (approximately 4% of the total) are known to have drowned or were killed by the crews smuggling them.”⁸²

Harsh and unexpected

The conditions of travel for most smuggled Ethiopians and Somalis are grim and much more difficult than what they expect. Normally, they travel in groups of 15 to 20, although at different stages of the journey they may be put in groups of 50 or more. Groups can be as large as 250 at some points of the journey. It usually takes weeks or even many months to reach RSA, although the average length of journey amongst those interviewed was eight weeks.

Eighty-eight per cent of the Somalis interviewed said their journeys were harsh with unexpected, negative experiences. **Sixty-five per cent said they were beaten or physically robbed at least once during the journey**, while 6 per cent claimed sexual abuse of someone in the group had taken place. A massive 10 per cent spoke of death in their groups during their journey.

Sixty per cent of the Ethiopians interviewed said their journeys were harsh with unexpected, negative experiences. Thirty-five per cent said they were beaten or physically robbed at least once during the journey, but no Ethiopians said sexual abuse had occurred. Three per cent spoke of death in their groups during their journey.⁸³

82 Mixed Migration Task Force report, 2008. Op.cit.

83 In trying to understand the difference in these percentages it is worth recalling that 38 per cent of Ethiopians interviewed (as opposed to 10 per cent of Somalis) had flown directly or part of the way to RSA and therefore avoided the bulk or all of the overland journey where these abuses took place. Another factor of interest could be that people are aware that many travelling Somalis have relatives abroad and can in a crisis call in additional money. The same is not so true for Ethiopians, who often fund their own travel and have less recourse to outside benefactors. This could be a reason Somalis are targeted more systematically by robbers and officials but remains a speculative idea built up during the research.

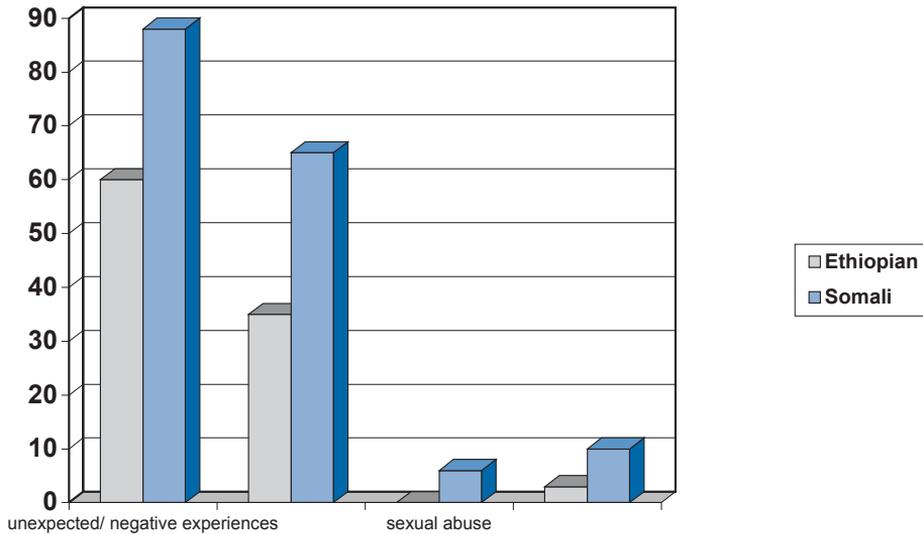


Chart 2: Incidents during travel

The movement of irregular migrants through countries is characterized by travel in the dark, cramped living/travelling spaces, hiding in woods or so-called safe houses, robberies, beatings from and arrest by local police and multiple shakedowns for bribes from the countless officials they encounter. Various incarcerations in different jails are not uncommon. The use of sealed, airless containers and overloaded boats adds to the travellers’ vulnerability and abuse. Food and water provision and health and sanitation facilities are often minimal, and migrants are frequently forced to travel on foot with night guides to avoid police, military and immigration officers. Stories of death, disappearances and rape are uncommon, but they do exist. Beatings are more common and linked to police and robbers encountered en route as well as to the smugglers themselves.

The experience of Kenyans travelling to RSA is entirely different. Very rarely did a Kenyan irregular migrant in RSA report having suffered physical abuse during his journey to RSA, which was typically short in duration (lasting a week to ten days). While it was also necessary for Kenyans to bribe officials when crossing borders, they were not subjected to notable hardships or abuse compared with Ethiopians and Somalis.

Deception

Many irregular migrants expressed that they had been deceived or misinformed by their smugglers. What they were led to believe regarding the journey to RSA bore little resemblance to what actually transpired, as the following accounts indicate:

It was a crazy time. I cannot compare what they told me and what actually happened. *[Ethiopian, 32, Rustenburg, RSA. His journey from Ethiopia to RSA took four months, and he was robbed, arrested and abandoned. In spite of what he endured, he said, "I feel like I had a lucky break compared to the stories I have heard about the trip to South Africa from others."]*

[The original smuggler] promised us that he was going to get us to RSA in five days maximum. In fact, it took over two months and [cost] double the agreed amount. On top of that, I suffered physically and emotionally.

[Somali, 23, Durban, RSA]

Many Oromo are in jail in Kenya. I often meet deportees from Tanzania returning after unsuccessful attempts to go through Tanzania: sometimes with the police, sometimes alone. Normally they are miserable and want to go home. They feel helpless -- some even return without clothes. Their stories are all the same: they sold everything to go to RSA, they paid the brokers ...

[Ethiopian, 26, Nairobi, Kenya]

We left Nairobi in a group of 26, all Somalis. Then we reached Dar es Salaam . The morning we were supposed to leave for Malawi, our smuggler said he would organize the transport, but he took off and we never saw him again.

[Somali, 25, Lilongwe, Malawi]

Boats and forest trials

A high percentage of Somalis and Ethiopians travelled by boat for some of their journey, either from Kenya to Tanzania, or from Kenya to northern Mozambique. Given the precariousness of overcrowded dhows and the frequency of troubled journeys, it is surprising no respondent mentioned any drownings. Adding to the hardship of smuggled Ethiopians and Somalis (most of whom cannot swim), the smugglers appear to make no provisions for food. Those who were taken to Tanzania by boat were normally left in a forest for lengthy periods of time with no provision of shelter or sustenance. In many cases, (illustrated later in this report) they were also robbed in the forests while waiting for their guides.

Then we boarded another boat to Mocimboa, Mozambique. The boat lost power and drifted into the sea. We spent 21 days in the sea. We nearly ate each other out of hunger as our supplies ran out after the first week. We were rescued by a European vessel.

[Somali, 26, Port Elizabeth, RSA]

We stayed in the [Tanzanian] forest for 11 days without food or water. We tried to eat leaves and grass. A lot of people fainted and one person disappeared.

[Ethiopian, 26, Nelspruit, RSA]

We didn't have any food or water in the boat, and afterwards I walked a long way with nothing to eat.

[Ethiopian, early 20s, Maratane refugee camp, Nampula, Mozambique, explaining the conditions during his four-day boat trip from Mombasa to Dar es Salaam]

We took the boat for three days without any food or water. When we arrived in Tanzania we hid in the forest for 15 days. People died of snake bites, malaria and hunger.

[Ethiopian, 28, Port Elizabeth, RSA]

Exposed to the elements

The smugglers appear to regard shelter and sustenance as unimportant to the migrants while in transit. Migrants also seem to be led through dangerous areas, such as national parks and other remote areas where food and shelter are unavailable, for lengthy periods of time. Temporary or complete abandonment of a group en route was commonly reported by the respondents, particularly if law enforcement approached the group or actually intercepted the migrants.

Whilst we were going from Lilongwe refugee camp [Dzaleka] to the Zimbabwe border, the facilitator left us in the mountains with no food for seven days.

[Ethiopian, 28, Pretoria, RSA]

By nightfall we were attacked by wild animals [lion]. The lion ate an Ethiopian man.

[Somali, 28, Nelspruit, RSA]

It was really bad. We walked for days without food and slept in the open in the cold. I was also beaten up by robbers and Tanzanian police.

[Ethiopian 33, Bloemfontein, RSA]

Food was really scarce. We slept in smugglers' safe houses, which were overcrowded and unhygienic. We were transported on overcrowded minibuses and lorries. The conditions were terrible.

[Somali, 21, Johannesburg, RSA]

A lot of people fainted in the trucks. People almost died from hunger and thirst. The facilitators just left us in the forest [in Tanzania] and we had to walk for 11 days.

[Ethiopian, 27, Rustenburg, RSA]

On the Botswana side of the border, we found ourselves in a national park. Wild animals, including elephant, chased us all night.

[Somali, 26, Rustenburg, RSA]

All the money [for the smuggling] is paid in advance. People are desperate and will always agree to the smuggler's terms, even though stories of abandonment abound. It's part of the deal that they don't complain if anything goes wrong during the trip.

[An agent for a major smuggler in Nairobi, who estimates that his boss handles approximately 75 clients per month]

Human rights dimensions

During the research for this study, many migrants expressed a sense of outrage at their treatment. Obviously, in most cases, their vulnerability and desperation to reach RSA constrained them during the abuse and mistreatment suffered along the way. Some migrants spoke specifically of the human rights violations they experienced. The term 'human rights violation' typically refers to violations perpetrated by state officials or someone who enjoys impunity, thanks to lack of state action to stop them. This is different from criminal activities, *per se*, that are perpetrated by non-state individuals (or groups) upon other individuals (or groups). Recognizing these qualifications, the testimonies from numerous irregular migrants strongly suggest that human rights violations as well as criminal violations occurred in the course of many journeys to RSA. The following extracts are two examples of human rights abuses, allegedly perpetrated by state officials:

We arrived in Arusha after crossing the Kenya / Tanzania border. We were mugged en route by some police.

[Ethiopian, 33, Rustenburg, RSA]

Mozambican police took our money and beat us up. They hit me so bad on the knees that I couldn't walk for two weeks because of the swelling.

[Ethiopian, 28, Rustenburg, RSA]

The extracts below illustrate the fine line between trafficking experiences involving sexual exploitation and violations sustained during smuggling:

People's human rights were violated. They were physically abused. Many were sexually abused. Men were raped -- Somali and Ethiopian men. At the safe house we stayed in Tete [Mozambique], we could hear the screams of the girls with us getting raped by smugglers and their friends. The smugglers were abusive, and one thought it would be very possible to be killed by them.

[Somali, 18, Johannesburg, RSA]

I was physically and emotionally abused by the smugglers, police and transport operators [drivers]. We were kicked, beaten, starved and robbed by the very people that we paid so much money to. If there were ever human rights, ours were breached all along the way.

[Somali, 22, Cape Town, RSA]

Where state officials are the perpetrators, or where criminal elements, such as smugglers, abuse the migrants with impunity due to lack of rule of law, the crimes committed against the migrants, as described in these testimonies, are also violations of their human rights.

Discussion of the human rights dynamic in smuggling follows later in this report (Chapter 12) and remains one of the key themes of the study's findings and recommendations.

Container hell

An increasingly preferred method of transporting large numbers of irregular migrants is to close them inside a container. In addition to the space containers afford, they are also very anonymous and easy to move around without raising suspicion. They are also easy for officials to turn a blind eye to, naturally with some inducement and encouragement from the smuggler. Containers are used frequently to take people across Tanzania to Malawi. They are also used within Malawi and from Malawi into Mozambique.

As the following extracts illustrate, a large group of people in a close container is extremely uncomfortable for short periods of time and for longer periods can be disastrous. The first three extracts are survivors' accounts of a notorious example of transportation that was briefly, widely publicized when the Mozambican authorities intervened in April 2008.⁸⁴ The last account is particularly disturbing as it alleges that seven of the migrants died during the trip and were buried (presumably clandestinely) en route.

Once in Mozambique, we were loaded into another container between three and four in the morning. By sunrise we were suffocating. We tried to stop the driver by banging on the walls. I don't think he heard us...he just wouldn't stop the truck. About ten people started fainting. When the police opened the container later I was already unconscious. I then found myself with many other sick people at a camp. I was told three people had died.

[Somali, 23, Durban, RSA]

⁸⁴ There is clearly a disparity in the respondents' memories of the numbers of people involved. The Mozambican press and government figures were lower than those in these testimonies.

A Somali man (25 years approximately) died at this time, probably out of physical exhaustion and hunger. Many people got lost. Out of the initial 250, only 164 (87 Ethiopians and 77 Somalis) made it to the awaiting containers. [In Mozambique]... between nine and ten in the morning, three people died, and others would have also died if the Mozambican authorities did not stop the truck. All those that died were Ethiopians.

[Somali, 34, Durban, RSA]

On one fateful night, 250 of us, 120 Somalis and 130 Ethiopians, were loaded into a container and the doors were locked.[...] After about an hour people were yelling because they were suffocating. The doors of the container opened again at 7 a.m. the next morning. By then, lots of us were unconscious. [...] Three people died in the whole ordeal. The rest were taken to Tete [Mozambique]. Some were hospitalized and others put in prison.

I passed out in the first hour [inside a closed container from Mocimboa to Nampula, Mozambique]. Four Somalis and three Ethiopians died in that trip. Their bodies were buried in Mozambique.

[Somali, 38, Rustenburg, RSA]

Beatings and sexual abuse

As mentioned at the start of this section, a high proportion of Ethiopian and Somali irregular migrants in RSA spoke of beatings and robberies during their journey. Testimonies of robbery, extortion and blackmail are covered in a further section of this report (Chapter 9). These extracts are based on experiences in Zimbabwe and Mozambique.

Shortly after we left [Harare, Zimbabwe] a group of men caught up with us. They threatened us with *pangas* [machetes] and they also threatened the girls with rape. They were touching the girls all over their bodies. We screamed, yelled and hurled stones at them, but they kept coming at us. It was the early hours of the morning, and they eventually overpowered us. There were about 20 men, and they took everything we had.

[Somali, 21, Nelspruit, RSA]

Following our deportation back to Tanzania, all the Somalis re-entered Mozambique by foot. As we were walking in the bush we were cornered by more than 20 men armed with arrows. They beat us up and robbed us of money and other valuables. Then they took us to the police. It cannot be imagined if you have not done it. It was really bad.

[Ethiopian, 26, Nelspruit, RSA]

Smugglers' comments

Smugglers are typically defensive when asked about the harshness of the journeys they facilitate. From their perspective, they deliver on the promise of getting their charges to RSA. According to the smugglers, 'someone else' or the 'authorities' are usually responsible for any misconduct or abuse. As illustrated in earlier extracts in this report, smugglers often see themselves as performing an important service for the migrants, a perspective the migrants themselves would rarely dispute once they arrive in RSA, despite the rough passage.

There is no intentional mistreatment. Sometimes the boys we send to take the travellers across might fight with them. [...] It is true that sometimes we smugglers fight together and the interests of the migrants in transit are forgotten, but I don't mistreat them. [The smuggler's main competitor] is the one who mistreats them.

[Somali smuggler, one of the two largest in Malawi]

We offer services to the migrants. They are not my brothers. They are my customers. But sometimes they are caught in the fire [between competing smugglers].

[Tanzanian smuggler of Somali origin, based in Lilongwe, Malawi]

9. Alliances: Collusion, complicity and human rights violations

This section of the report deals with a range of findings, some unexpected and disturbing, concerning the activities of certain national public officials in many of the countries relevant to this study. It will document findings with regard to levels of corruption and complicity of certain national public officials as well as alleged brutality and human rights violations perpetrated by them. As such, it addresses the problem of border management as well as the problem of controlling official identity documentation and its market availability. This section also describes the apparent links between and collusion of state officials with smugglers and their agents, as well as with criminals who benefit from the harassment of irregular migrants. Extracts from interviews, as well as two case studies, are used to illustrate the findings.

The Smuggling Protocol and protection

Assuming that smuggled people do not later become trafficked persons, it appears logical that they require less protection under the Smuggling Protocol. However, this research shows the grave vulnerability of this population and the abuses it suffers during passage. Issues of criminal abuse and human rights violations inside a particular country are assumed to be covered by domestic legislation, even if this study suggests the legislation is poorly enforced or implemented. Accordingly, the primary emphasis of the migrant Smuggling Protocol is on strengthened border controls – particularly in relation to smuggling by sea. For the first time in international law, states parties are specifically authorized to intercept certain vessels suspected of carrying smuggled migrants.

States are also required to:

- criminalize the smuggling of migrants as well as related offences, including the production, provision and possession of fraudulent travel or identity documents;
- take steps to ensure the integrity of travel documents issued on their behalf and cooperate with each other in preventing their fraudulent use;
- provide or strengthen specialized training for immigration and other officials aimed at preventing, combating and eradicating migrant smuggling;
- adopt appropriate legal and administrative measures to ensure the vigilance of commercial carriers, such as airlines, in preventing migrant smuggling, to guarantee their liability and to provide for sanctions in the event of complicity or negligence.⁸⁵

⁸⁵ As summarised in Gallagher 2002. Op. cit.

While the protection offered to victims of trafficking in the Palermo Protocol is much greater and more comprehensive than that offered to migrants under the Smuggling Protocol, both protocols are nevertheless important benchmarks against which to be measured. The Smuggling Protocol does include provisions aimed at protecting the basic rights of smuggled migrants and preventing the different forms of violence and exploitation that are often part of the smuggling process.

In fact, when criminalizing smuggling itself, states parties are encouraged to use ‘aggravating circumstance’ (of the conditions of smuggled people and situations that endanger the lives or safety of migrants or entail inhuman or degrading treatment, including exploitation) to prosecute smugglers more aggressively. Indeed, states parties are obliged under the articles of the Smuggling Protocol to assist those whose life or safety has been endangered by reason of having been smuggled.

As previously discussed in this report, the conditions endured by Ethiopians and Somalis as they are smuggled are harsh. Beatings, robbery and abandonment are commonplace, while loss of life and sexual attack are also not uncommon. According to the testimonies of those interviewed for this study, much of the abuse suffered by smuggled migrants is administered by government officials who are transgressing the very laws and protocol they are commissioned to uphold. Of the countries relevant to this study, Ethiopia, Somalia, Tanzania and Zimbabwe have not signed the Smuggling Protocol. Kenya, Malawi and Zambia acceded to, or ratified, the protocol in 2005, while Mozambique ratified it in 2006. However, all countries relevant to this study have other human rights obligations to people under their jurisdiction.

Presumably, those drafting the Smuggling Protocol requiring (somewhat vaguely) that states parties “take *appropriate* measures to afford migrants *appropriate* protection” against violence from smugglers, did not entertain that some of the most dangerous criminal activities and violence to be faced by migrants could be perpetrated by states parties representatives.

In this light, it is especially pertinent for this study to highlight to role of state law enforcement (police, prison officials and soldiers), as some of them allegedly act to harm, degrade, injure, rob and threaten the lives of smuggled migrants as they find them in transit through their territories.

What appears to unite the smuggler and corrupt officials in their activities of victimization of smuggled migrants is their shared cupidity, disregard of human rights and, apparently, assured impunity.

Testimonial evidence

In some of the extracts below, the law enforcement officers were allegedly engaged in their official work (arresting, deporting or transporting irregular migrants to refugee camps) while simultaneously engaging in criminal and abusive activities. However, in the majority of cases, the officials committed acts against migrants and then allowed them to continue on their way.

The following testimonies are from migrants who had been smuggled into RSA. They shared their experiences in RSA, Tanzania, Mozambique, Zimbabwe and Zambia with researchers in the relative safety of RSA.

We crossed the river and went under a fence [the RSA border], but before we reached the car South African police caught us and took all our money and threatened us with death.

[Ethiopian, 28, Rustenburg, RSA]

We were robbed countless times. In Tanzania, the police robbed us. There were also thieves who robbed us at gunpoint. In Zimbabwe, they robbed us on the border and beat up some people. The thieves and police were very intimidating and used physical violence whenever they thought you were hiding money.

[Ethiopian, 28, Pretoria, RSA]

We got arrested in Mwanza [Tanzania]. Police stopped us and started demanding money and hitting us with the butt of their guns before they had even arrested us. We paid them \$400.

[Somali, 38, Port Elizabeth, RSA]

When we reached the Mozambique / RSA border, we were taken off the bus and handed over to two guys who were meant to be our pre-arranged guides. They made us walk some distance until we came upon two soldiers. The soldiers then beat us up and body-searched us, taking all they could.

[Ethiopian, 23, Grahamstown, RSA]

We got robbed by the police at the Malawi / Tanzania border of everything we had: jewellery, watches, chains, cell phones, etc. This even after we already paid them bribes to cross into Malawi.

[Somali, 18, Johannesburg, RSA]

Once we got into Mozambique we were arrested by the police. They demanded we pay them money, and they hit us and threatened us with deportation. They took all our money and clothing and took us to the border area and told us to go back.

[Ethiopian, 27, Bloemfontein, RSA]

When we arrived in Harare they took us to a police station and kept us there for four days. They took all our money and some of our clothes. After that, they took us to the refugee camp.

[Ethiopian, 28, Port Elizabeth, RSA]

At Kibiri [on the way to Lusaka], we were caught and had to pay \$300 to police to let us go. We got robbed of the cell phones we had and the little money. We eventually made it to Lusaka but were apprehended by Zambian police and sent to prison. We spent 15 days there, and our families had to pay \$1,400 to the police. We were then released and sent back to the Tanzania/Zambia border.

[Somali, 21, Johannesburg, RSA]

We paid the immigration at every crossing point that we used. The Tanzanian police arrested us before we could pass at Tunduma into Zambia. They took us into the bushes and searched us in every place where it is possible to hide anything, and then robbed us of everything, including some of the clothes we were wearing. There were about eight officers.

[Somali, 21, Nelspruit, RSA]

Everyone along the way was corrupt. We were tortured by sadistic Tanzanian police. They took all our money. These people were really shameless.

[Ethiopian, 24, Rustenburg, RSA]

Levels of corruption and complicity of national public officials

A representative of an international agency in Tanzania stated that stricter rules needed to be applied to curb irregular migration into and through Tanzania. The main barrier to achieving this, however, was that “those tasked with stopping illegal migration are highly corrupted.” This echoed a common view of third-party experts, including many government officials themselves, in all countries visited.

Most smuggled Somalis, Kenyans and Ethiopians witnessed public officials accepting or demanding bribes. These officials were normally from immigration and police units but also included health officials (border health posts) and soldiers (in border regions or at roadblocks). The alleged level of collusion between the smugglers and these officials was highly evident and visible to those being smuggled.

We did not use any documents to cross the South African border. The facilitator dealt with things, and we drove straight through the border post without stopping.

[Kenyan, 29, Port Elizabeth, RSA]

Eighty-one per cent of all Ethiopians and Somalis interviewed said they witnessed corruption by officials during their journey, and 92 per cent said they were aware of bribery of officials where necessary throughout their journey.

[The facilitator in Lilongwe] took 37 of us to the Malawi-Mozambique border. He paid \$800 to the immigration officials after being stopped there. Then we got arrested in Tete, Mozambique. Funny enough, we all paid bribes of 350,000 meticales [\$14.5] to the head of immigration, and then he rented his own bus to take us to the Maputo transit camp, writing a letter stating that we should be given free passage.

[Ethiopian, 32, Port Elizabeth, RSA]

Members of the Tanzanian Ministerial Task Force on Irregular Migration consulted for this research admitted that many of the 1,110 migrant detainees that they interviewed claimed to have spent a lot of money bribing border officials in countries they transited. This was also the overwhelming evidence gathered in of 293 Somali, Ethiopian and Kenyan irregular migrants.

Border officials are bribed at every point. Many smuggled people get caught in Mozambique, Zimbabwe and Zambia, but they can easily bribe their way out of a situation with about \$1,000. Smuggled detainees either pay up and are freed or deported or else they vegetate in jail until their money is raised.

[Ethiopian smuggler, Addis Ababa, explaining why some migrants languish in jail. He also explained that the police lend detainees their mobile phones to call relatives and ask for money to secure their release.]

Smuggled males were found to be vulnerable to demands for extra payments on top of the agreed fee, apparently to cover additional, unforeseen costs, which typically included bribes to cross borders, to get out of trouble and to be sprung from jail. If they were abandoned by their original smugglers, they had to pay new fees to new smugglers. The frequency of police and robbers locating the smuggled Somalis while in transit or while hiding in forest areas or in houses suggests a level of collusion between them and the smugglers. Even when migrants were taken into custody, robbed, abused and then released again to the agent, or held against a larger 'fine' / bribe, they had to pay to continue their journey. - it is possible that the agents themselves are in collusion with the authorities in order to maximize the exploitation.

An arrangement between the smuggler and the police or prison guards would be easy to establish if the result of holding migrants as prisoners meant that those organizing it could wring more money from the migrants. The smuggled people, in these cases, are known to have external financing and can make calls on mobile phones to transfer money within hours. Again, there is a fine line between characteristics of debt bondage found in cases of trafficking, and situations described here, where irregular migrants are held until they pay a particular

bribe then released and allowed to continue their journey south. In some cases, state officials appear experienced in robbing migrants, understanding that many of the migrants can access money through transfers organized by phone. They also display intimate knowledge of where smuggled men hide their money: in human cavities, in hems of shirts, in heels of shoes, sewn into the back of belts, in hair, teeth cavities, etc.

In [Kenya's] North Eastern Province, public and government officials are the most corrupt and facilitate the movement of these smuggled people by acting as intermediaries between government officers and the migrants in transit.

[Lifelong inhabitant and key informant in Mandera, Kenya]

All those senior officers involved in this racket are known, and they do it with those at the provincial headquarters in Garissa.

[Kenyan police officer discussing smuggling and the involvement of public officials]

State officials' views

Interviews with government officials during the study revealed a general acknowledgement that corruption existed, but also a general denial that it was a major problem. "Concerning corruption in the ranks: transparency is a question of perception," claimed one senior immigration official in Nairobi. "Corruption is rare in Kenya, and it is subject to discipline. Action is taken. There is an internal disciplinary mechanism that comes into play, and the activities are classified as misconduct. We have strict codes of conduct in the service." In another interview in Kenya, the immigration officer claimed it was weak laws and not corruption that was a problem: "Kenyan police or immigration are not corrupt. I want to see an increase in penalties for those caught smuggling. We need to make it harder to smuggle."⁸⁶

While able to describe the details of smuggling well, officials in different countries, understandably, were not keen to identify corruption as a factor to explain the ease movement of irregular migrants. An immigration officer in Mombasa who insisted on anonymity told the study: "People are smuggled by road and sea. They don't use the main roads but travel on the *panya* routes. They move at night. Normally they have no documentation and use safe houses to hide during the day. Some come from the Dadaab refugee camp; they come in trucks. Some people are coming in via the Old Port. We have no idea how they are able to do this." He denied any suggestion of corruption by immigration officials.

Other officials interviewed elsewhere were more candid. "Corruption is there," admitted a senior immigration official in Mozambique. "Smuggling at this scale of 50 to 100 per day

⁸⁶ Transparency International found in its Kenya Bribery Index 2009, that the Kenyan Police was the top authority perceived to be most corrupt, while the Immigration Department was ranked as fourth amongst all Kenyan public authorities.

cannot exist without the corruption and collusion of public officials.” In Tanzania, a senior official told the study that he “recognized that the evidence suggests immigration and police taking bribes throughout the country. In the phones of some caught smugglers the numbers and names of immigration officials were found -- not only in brokers’ phones, but even in migrants’ phones.”

Another official in Mozambique explained that the government was concerned about the possible level of corruption in the country: “We know that South Africa is always the object of [the irregular migrants’] travel. [...] There must be considerable internal corruption for this to happen. [...] There is right now an ongoing investigation into who was responsible for the smuggling of so many migrants coming through this country.”

Immigration complicity and abuse

It appears clear from this research that certain immigration officers in some countries along the route see Ethiopians and Somalis as special sources of additional and illicit revenue. They allegedly abuse their authority, subjecting groups of irregular migrants to what appears to be a humiliating, and sometimes violent, robbery of their money and possessions. According to the extracts below, airport immigration personnel and terrestrial border immigration staff routinely fleece irregular migrants and then, in most cases, let them proceed.

The guardians of national border integrity in many places are allegedly deeply compromised, creating a threat not only to migrants but also to national security. The ubiquity of the corruption witnessed by the respondents suggests, too, that the problem cannot be confined to a handful of ‘bad apples’ in the immigration barrel, but that the practice is widespread and systematic. In interviews with 293 irregular migrants, those respondents that passed through official border posts claimed that borders between Ethiopia and Somalia and into RSA were passable if certain irregular payments were made. If migrants were stopped by border guards inside Mozambique or RSA, for example, they normally paid a nominal bribe and were allowed to proceed. Certainly, the evidence suggests that being apprehended was no obstacle, only the occasion of another (normally small) bribe in order to continue. Sometimes irregular migrants made the payments themselves, and many times the bribes were allegedly paid by the smugglers or their agents. These payments were often witnessed by the irregular migrants themselves. Crossing borders in this way was regarded as commonplace by many of those interviewed.

The following extracts were not chosen with the objective of exposing the problem of border management in particular countries, because the findings from interviews with irregular migrants and smugglers (as well as various state officials) showed that all borders could be crossed in this manner, at least at certain crossing points.

We paid the immigration at every crossing point that we used.

[Somali, 21, Nelspruit, RSA]

At the Malawi border, the police and immigration searched us and took whatever they could. They didn't leave any of us out. They searched people's private parts to take out hidden money.

[Somali, 26, Karonga transit camp, Malawi]

When we came to the Tanzania-Malawi border we were taken straight to immigration [sic]. They lined us up and searched us all – men and women – in every inch of our bodies. Girls' private parts were even searched for money. They took all they could find.

[Somali, 25, Dzaleka refugee camp, Malawi]

Before we reached the camp [Karonga], the police and immigration stopped us and took us into the bushes, taking everything we had on us: money, mobile phones, watches and clothes.

[Somali, 24, Dzaleka refugee camp, Malawi]

When I arrived in Harare [by plane from Kenya] there was no one to receive me as promised, and the Zimbabwean immigration arrested me. I was imprisoned for five days without food or water. Then the immigration took all my money, which was about \$400, and deported me to Kenya.

[Ethiopian, 27, Port Elizabeth, RSA]

When I arrived in Johannesburg I was in transit to Swaziland. I was in the waiting area for transit passengers and a guy came and took me out. I walked out of the airport waiting area with a South African official. My brother was waiting for me in the airport.

[Ethiopian, 23, Bloemfontein, RSA]

We arrived in Zimbabwe and the immigration caught us. We paid a bribe and they let us go.

[Ethiopian, 27, Rustenburg, RSA]

We were brought to the Malawi border and taken over a river. Then the immigration and police caught us [a group of 45 Somalis]. They demanded money and threatened us with deportation. They searched everybody and took money and belongings. They took \$300 from me alone.

[Somali, 22, Port Elizabeth, RSA]

I didn't pay a bribe the last time I came in because I had already created a relationship with the immigration guy [at the Zimbabwe / RSA border]. I had given him a bribe a number of times and also brought him some business.

[Kenyan, 36, Cape Town, RSA]

I spent three days in Harare. The 50 of us then proceeded to Beitbridge. We all crossed over the official bridge by paying money to the Zimbabwean immigration and police.

[Somali, 22, Port Elizabeth, RSA]

Police, prison officials and military profiteering and abuse

Testimonies also indicated the police and, in some cases, the military, are well-versed in the benefits of intercepting migrants. Migrants interviewed for this study repeatedly told stories of corruption and robbery by police and the military during their journeys. Soldiers were also mentioned by those irregular migrants interviewed as being actively involved in extortion or corruption, although less frequently. Soldiers stationed in border areas such as northern Kenya (Moyale) or along the borders of RSA and Mozambique were mentioned most often. Soldiers also manned roadblocks in Malawi and were said to demand bribes as Somalis and Ethiopians left the Lilingwe-based Dzaleka refugee camp and approached the Mozambican border at Dedze.

Many migrants experienced not one, but multiple, situations of harassment and robbery by the police or others. The collusion between smugglers and police to exploit and extort from the passing migrants is discussed further in this report (Chapter 9). Unlike the common criminal who can threaten only violence to a migrant who resists robbery, the police have the law on their side and threaten migrants with prison and deportation. A competition between different law enforcement agencies to extract profit from irregular migrants was often mentioned in interviews by third-party experts and law enforcement personnel themselves. In some cases, the zeal of a particular unit to search scrub land or mountain areas adjacent to an official border crossing was due to their eagerness to find migrants before other units did, to be the first to profit from their vulnerability in the face of foreign officialdom.

We started driving to South Africa [from Maputo] but were caught by some [Mozambican] soldiers after driving about an hour. We had to negotiate and pay some money.

[Ethiopian, 27, Bloemfontein, RSA]

We [17 people from Somalia] got stopped by the Tanzanian police and we had to pay \$1,200 for all of us to be released. We were again stopped outside Dar es Salaam by the Tanzanian police. We were robbed of all we had.

[Somali, 24, Johannesburg, RSA]

We were robbed by the police in Tanzania. Some of us were released earlier than others and 34 of us were transported to the Malawi border in a container. We were brought to Karonga refugee camp through Shutiba, a small town near the Tanzanian/Malawi border. We were robbed by the police at both Shutiba and Karonga. In Karonga, we were also robbed by civilians.

[Somali, 34, Durban, RSA]

We were caught by the police on the way, but the driver collected money from all of us and paid them off. They let us go and we drove into Maputo.

[Kenyan, 27, Port Elizabeth, RSA]

All along the way they were very greedy, and I understand they always demanded big money. I witnessed it all. The police and immigration never hid what they wanted.

[Kenyan, 18, Durban, RSA]

The first time I got involved in smuggling I was taking 20 people across Tanzania. We all got caught and thrown into prison. The police agreed to spring us en masse for \$500. They asked for \$1,000 but I negotiated it down. Police are bribe-able all along the way in Tanzania and Malawi. Nothing stops the smuggling when they can pay the police.

[Smuggler at Songwe border between Tanzania and Malawi]

At Kibiri, on the way to Lusaka, we were caught by the police and had to pay them \$300 and then they let us go on.

[Somali, 21, Johannesburg, RSA]

If [smuggled] people are caught, it's only because the smugglers are getting greedy, allowing the migrants to get caught and pocketing the money instead of paying [the police and immigration] the bribes.

[Tanzanian driver who assists smugglers in the Arusha area of Tanzania]

In other cases, migrants stated that they were held in jail until the bribes demanded by prison officials and/or police (separate from any official fines) could be paid. This is therefore often a determining factor for any delay in actual release. In some cases, a smuggler would come to the prison and pay a group fine for the release of his clients.

From Mombasa we left on a boat to Tanzania, where we were caught by police, sentenced and put in prison. The Tanzanian police took all our clothes and money when they caught us. In custody, they beat us repeatedly. They seemed to be having fun inflicting pain. There was no reason for them to keep hitting us when we were in prison. After two or three months, we were released, but the police chief told us that even

though the courts had released us we would still have to pay him \$1,500 to actually leave. He threatened us that we would die in prison if he didn't get his money.

[Ethiopian, 24, Rustenburg, RSA]

These statements, which were corroborated by some smugglers who regularly work to release migrants under their charge, would indicate that certain prison officials use their office to further exploit and mistreat smuggled migrants.

According to one migrant's response to a questionnaire in this study, even the April 2008 presidential pardon for irregular migrants detained in Tanzania (which followed the investigations and recommendations of the draft report of the Tanzanian Task Force on Irregular Migration) was not enough to ensure the release of some detainees:

On 10 October 2007, we were sentenced to 18 months in jail in Tanzania. I spent over seven months there doing hard labour in the prison. We built houses and moved stones, etc. They made us carry sacks filled with sand. If you fall down from the weight you will be kicked and beaten. On 24 April 2008, a presidential pardon allowed us to be released, but for the 110 Ethiopians and 70 Somalis who qualified, it only allowed us a change of clothes – from prison clothes to normal ones. We still had to pay the prison police to be released. A Somali man had to pay \$1,200 to them for my release. I got out on 28 May 2008. [Somali, 40, Dzaleka refugee camp, Malawi]

Easy documents

Repeatedly throughout this study, migrants, smugglers and experts on migration, crime or related issues stressed that just about every official document could be obtained for a price in their country. Whether direct forgeries by professionals or official documents from compromised offices of the state, ministries, embassies and consulates, it appears there is nothing that money cannot buy: national ID certificates, school cards, passports, work permits, visas, forged / counterfeit UNHCR refugee documentation and birth or marriage certificates. At Beitbridge, the most common crossing into RSA, for example, interviewees and officials said that entry documents or even work permits were easily and routinely obtained with a bribe. This was also the case in Kenya, Tanzania, Mozambique and Zimbabwe, and, in fact, every location visited. According to those interviewed, documentation at locations where the controls were stricter and demand was higher was naturally more expensive, but nonetheless available.

This is a global problem. "Access to plausible documents is a crucial resource for human smugglers and traffickers," admitted Ronald Noble, the secretary-general of Interpol, in 2005. He said that one of his most vexing problems was how to deal with the stock of more than 20 million lost or stolen passports, of which only 5.8 million were registered in databases.⁸⁷

⁸⁷ Naim, 2005. Op. cit., (p.101).

One Canadian expert on refugees who was interviewed for this study mentioned that in her home city she knew settled migrants (now Canadian citizens) from different countries in Asia, Latin America, the Middle East, Africa and South Asia, all of whom paid upward of \$20,000 (Canadian) for the relevant documentation to be smuggled to the country. And it is no different for Ethiopians or Somalis or Kenyans. According to testimonies from irregular migrants and smugglers, it appears that if they can pay the high prices, anything is possible.

By obtaining visas to countries close to RSA, irregular migrants can reduce the hardship of the journey by flying into Harare or Maputo, for example. Obviously, an official visa issued against an under-the-table payment would probably also necessitate a file of other fabricated justification documents. One airport immigration officer in Kenya told the study: "Documentation is not important for the real traffickers or smugglers. They can obtain it. Or forge it. We find forged documents daily at the airport."

Nevertheless, many migrants who travel overland and by boat also make the journey with no documents or with passports that are either destroyed at a certain advantageous point or are taken by the smugglers, who are known to reuse passports for future groups of clients where needed.

I flew from Nairobi to Maputo direct. I paid the smuggler in Nairobi \$450 for the Mozambican visa.

[Ethiopian, 24, Maputo, Mozambique]

My cousin told me to contact a Somali guy in Nairobi, and he helped me to get a visa for South Africa.

[Kenyan, 23, Cape Town, RSA]

At times, documents are produced and even processed by immigration or other agencies without the person actually using the document being present. According to migrants who used the 'service', agents in Nairobi routinely secure official visas for RSA for Kenyans for between \$100 and \$600. According to research from this study, it takes only a couple of days. In Moyale, Kenya, for example, a number of witnesses told researchers that smugglers / brokers would bring between 20 and 150 passports of Ethiopian migrants to immigration officials in bars after work hours. For an average price of \$300 per person, the passports were all stamped (with what should be a free travel pass to enter Kenya) in the absence of their owners.

I travelled on a Kenyan passport [to Malawi] that [a major smuggler in Nairobi] organized for me.

[Somali, 30, at Karonga transit camp, Malawi]

An internal report for the Ministry of Home Affairs (RSA) concerning transit visas in RSA said that people travel to neighbouring countries to obtain passports that allow them access to RSA. Furthermore, it was reckoned that a combination of weak passport issuing processes and corruption makes this a relatively easy way for criminals and irregular migrants to secure genuine passports fraudulently. Although the report admitted that no figures on the extent of these activities are available, it is reportedly understood that this is a significant problem in the region. Other migrants apparently enter illegally through porous borders, the report claimed. Some reports also point to the existence of well-organized criminal groups that guide irregular migrants across borders and bypass immigration controls altogether.

Interdependent collusion between thieves, officials and smugglers

There are police and immigration officers that work with us. We don't move people unless we have our guys [government officials] in place.

[Tanzanian smuggler (of Somali origin) based in Lilongwe, Malawi]

A pattern too distinct to ignore emerged from the many interviews and visits conducted in the course of this study. This pattern was implicit in some situations and explicit in others, according to the repeated testimony from the migrants interviewed. The pattern is one where the smuggled migrant is in fact prey to a constellation of people he encounters from the start to the end of his journey to RSA. The maximum extraction of money and possessions from the smuggled migrant during his passage (and in some cases, malicious pleasure) appears to be the central motivation of many people in this constellation.

In line with sound economic principles of sustainability, those involved do not terrorize their victims so much that they will stop choosing the RSA option (as there are always other migration options). Neither would the death of migrants in transit be compatible to good business.

Where necessary, those involved work together to maximize their extractive powers. Different players have different functions according to their official or assumed role (drawn as they are from immigration officials, police, border guards, soldiers, health inspectors, prison officers, truck drivers, agents, go-betweens, bus drivers, taxi drivers, airline staffers, boat captains, bush guides, forgers, embassy contacts, smuggler managers and chief smugglers, etc.), and it must be assumed that they all understand that the smooth running of the entire smuggling machine must be maintained.

This report does not wish to impute that government officials are inevitably unfaithful to their office or involved in abuse of smuggled migrants. However, the testimonies of numerous migrants in the course of this research indicated that a sufficient number of officials are involved in different aspects of corruption and collusion, which makes this issue worthy of comment in this examination of violations of smuggled migrants. What may appear overly speculative in this section are attempts to understand the reality suggested by many of the interviewees' testimonies.

While trying to avoid conspiracy theorizing or overactive imagination, the testimonies and logic suggest a strong pattern of collusion. Collusion between different players with respect to smuggled migrants is therefore necessary and opportunistic for those concerned.

Examples of possible collusion between police and smugglers

Smugglers do not fear exposure or capture as much as they should. Repeatedly during the research for this study, interviewees indicated that there were few situations that cash payments could not solve. What may appear as a cat-and-mouse hunt between police and smugglers may often be something else: Smugglers take rural, unofficial *panya*⁸⁸ routes as much as possible, not because they cannot come to an understanding with police manning the roadblocks on the main roads, but because they do not want to come to an understanding. Understandings eat into profits. A police raid on a smuggler's safe house resulting in arrests may be not only a successful police interception, but also the result of a tip from a competing smuggler who wants to destroy his competitor's business by informing the police.⁸⁹ Of course, a competing smuggler can also come to understandings with police and the original smuggler may in turn be raided the following week. All of these scenarios were described to the researchers.

We were taken to a Somali smuggler woman's house. We were kept there for 16 days. She was waiting for other migrants to arrive. We were robbed by Tanzanian police at her house while staying there. Eventually, we were taken over the border [into Zambia].
[Somali, 38, Port Elizabeth, RSA]

In fact, the police [assist the smugglers for an agreed price] by sometimes taking the migrants directly to the Maasai villages, from where they do their border crossings at night, to avoid immigration.[...] The police are not keen to stop this business at all, only to get their hands on more of the money involved. The top police may be against it, but the lower police are happy with it as an additional form of income.
[Tanzanian driver who assists smugglers in Arusha, Tanzania]

Examples of possible collusion between smugglers and robbers

The network of smugglers used throughout the journey from Ethiopia and Somalia down to RSA was outlined earlier in this report. Clearly, despite the presence of a Somali or Ethiopian smuggling 'manager', the guides, transporters and fixers will normally be locals. If they are already informal working men involved in illegal activities, it is not unimaginable that they

88 Unofficial network of rural tracks connecting villages and main roads that usually is not policed. Literally translated from Kiswahili as 'rat' routes.

89 These hypotheses are based on actual examples described by irregular migrants and smugglers and serve here as examples of possible scenarios and motivations.

may have other criminal associates. With these associates acting as chance thieves on the clandestine route used by the guides, the guides and his friends presumably stand to gain far more than the fees paid by the smuggling manager.

I feel that the thieves were not there by chance. There were too many coincidences for it to be just bad luck. Maybe the thieves and the smugglers were working together.

[Ethiopian, 28, Pretoria, RSA]

The two Tanzanian smugglers took us into the bushes before we crossed into Malawi. There we were met by 20 men waiting for us. They were armed with machetes, pangas, knives and sticks. They robbed us of all the money we had as well as mobile phones.

[Somali, 31, Port Elizabeth, RSA]

We were led by our Mozambican smugglers into an ambush at the border fence [with RSA]. There we found men waiting armed with guns and pangas. We were all body-searched. Money was recovered from private parts, wisdom teeth, hair and all sorts of places inside clothes. I had \$1,200 sewn into my shorts.

[Somali, 23, Port Elizabeth, RSA, who managed to escape with his money untouched]

When we reached the Mozambique / RSA border, we were taken off the bus and handed over to two guys who were meant to be our pre-arranged guides. They made us walk some distance until we came upon two soldiers. The soldiers then beat us up and body-searched us, taking all they could. Our two guides then led us into another trap. This time a group of Nigerians! They took us to the bushes and started hitting and threatening us with guns. There was a Cameroonian man with us. He did not have any money so they nearly killed him. I tried to intervene, but they shot at me.

[Ethiopian, 23, Grahamstown, RSA]

Guides may have deals with soldiers and police as to where and when they can find the guide crossing with groups of migrants. Guides can also systematically delay arriving at a rendezvous to allow time for some local thugs to rob clients, as described in various accounts about the forests of Bagamoyo. Similar collusion between smugglers and violent bandits was described to the researcher of the eastern route of Ethiopian migrants to Yemen through Bossaso (by boat).⁹⁰ The Burro gang, led by the bandit named as 'A' in the report, and then his equally violent sons after his death, repeatedly ambushed every smuggler's vehicle and fleeced clients in the western desert of Somaliland. The smugglers and transporters were never attacked or hurt. In the case of Ethiopians and Somalis, the smugglers and guides all too often appear to lead the migrants into gangs waiting for them in the bush.

⁹⁰ Yitna, 2006. Op. cit. (pp. 19-34).

When we got off the boat in Tanzania and were waiting to be picked up, we were attacked by Tanzanian thugs. They were heavily armed with guns and pangas. They searched us and took our money. They were very brutal and hit people left and right. I was hit in the face. The guides [smugglers] came shortly after and took us to a house.
[Ethiopian, 22, Bloemfontein, RSA]

We travelled from Dar to Mocimboa, Mozambique. We were 24 men and women and our smuggler abandoned us on the beach. We then got robbed by the locals.
[Somali, 25, Rustenburg, RSA]

When we arrived in Tanzania [by boat], we were told to wait in the forest for the guide. But while waiting for the guide we were robbed by armed men. They searched our clothes and took our money and even cavity-searched us.
[Ethiopian, 33, Bloemfontein, RSA]

Examples of possible collusion between police and thieves

Knowing that Ethiopian and especially Somali migrants have potential contacts abroad who can *in extremis* send money via *hawala*⁹¹ contacts or Western Union links, it would not be useless for the police to arrest a group of migrants that have recently been robbed by local thieves or smugglers.

When I arrived in Namanga, me and another guy were caught and we paid \$100 each as a bribe and were then released. We went to a safe house in town, where we were robbed. Then the thieves called the police to come and get us after robbing us. We ran away to the forest to avoid the police.
[Ethiopian, 32, Rustenburg, RSA]

In Mocimboa, Mozambique, we were received by a smuggler. He took us to a mosque where we spent the night. During the night, we were awoken by police and village elders. They searched us, took money, mobile phones, watches and clothes ... later that day, approaching Nampula, we detoured into the bushes to avoid police detection.
[Somali, 28, Nelspruit, RSA]

At the Mozambique / Zimbabwe border we were dropped in the bush near the crossing. Locals and police met us and forced money and whatever else they could from us.
[Somali, 22, Port Elizabeth, RSA]

⁹¹ International money transfer mechanism outside official banking structures.

Competition between smugglers

During the research, smugglers and smuggled migrants reported that double-dealing and sabotage between smugglers were common occurrences that frequently resulted in the arrest, abandonment or delay of migrants in their journey. Unlike examples from human trafficking or the illicit drugs business, there were no reports of lethal confrontations between smugglers. The competition between smugglers currently confines itself to skulduggery, deceit and what one smuggler called “spoiling the other’s cargo”, rather than anything more lethal. The consequences for the smuggled migrants, however, can be serious in terms of arrest, prolonged delays or additional costs in their journey to RSA.

A typical example of ‘cargo theft’ occurred while the research team were in Malawi: A group of migrants waiting to be picked up in a remote area (and taken to Mozambique) were picked up by another smuggler instead. He had been informed somehow of the location and convinced the group that he was the contact they awaited. The disgruntled smuggler told the research team he would revenge himself on his competitor, who he knew well.

I made four failed attempts to leave Malawi for Mozambique. We got intercepted each time by the police because smugglers were fighting over customers and each was tipping off the police to spoil the other’s cargo.

[Somali, 22, Cape Town, RSA]

[The chief smuggler] tried to mess with me the other day. I taught him a lesson. I called my guy at the immigration and he was stopped leaving the country. To boot, he was arrested and his travel papers were confiscated.

[Tanzanian smuggler of Somali origin based in Lilongwe, Malawi, illustrating both official collusion and smuggler competition in one sentence.]

The Maputo smugglers fought each other and all of us got arrested. The police demanded \$600 but had to settle for \$100.

[Kenyan Somali, 35, Grahamstown, RSA]

I was told to use the services of [a smuggler] in Maputo. But [a different smuggler] got to us first. When I insisted on speaking to [the original smuggler], [the other smuggler] called the police and we all got arrested. [The original smuggler] then asked us to pay money to the police or else we will have to stay in custody for ever.

[Kenyan, 22, Port Elizabeth, RSA]

There's a lot of competition, for example here at Songwe, there are at least ten of us trying to get clients from the big brokers. The most I have ever taken in one go is 80 migrants from Bagamoyo [east coast] to the Malawi border.

[Tanzanian smuggler at Songwe border between Tanzania and Malawi]

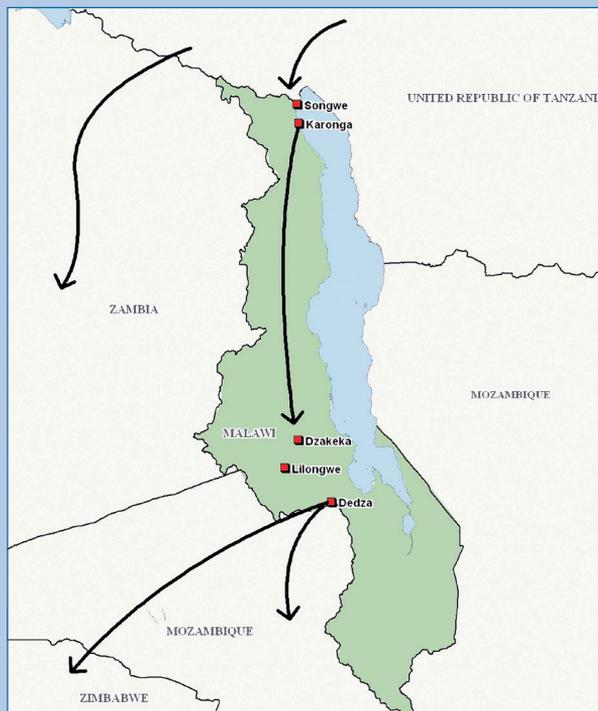
We offer services to the migrants. They are not my brothers. They are my customers. But sometimes they are caught in the fire [between competing smugglers].

[Tanzanian smuggler of Somali origin, based in Lilongwe, Malawi]⁹²

92 This quote has also been used to illustrate another point elsewhere in this report.

Case Study 2:

The Malawi connection: a win-win situation? Karonga transit centre and Dzaleka refugee camp



The route from Karonga transit Centre to Dzaleka refugee camp

The role of Malawi in the current smuggling business is an illuminating case study that illustrates a range of practices involving smugglers, some government refugee administrators and some law enforcement and immigration officials.

Case Study 2: (continued)

The official context

In the last two years, a high proportion of Somalis and Ethiopians being smuggled to RSA have transited through Malawi. Kenyan migrants rarely come this way. It has become the route of preference for smugglers who bring Somalis and Ethiopians from Kenya into northern Tanzania (land crossing) or into Tanga or Bagamoyo (sea crossing). After transporting them across Tanzania to the border crossing with Malawi in the south-western region of Mbeya, the smugglers take the irregular migrants illegally into Malawi. There, the migrants claim to be asylum seekers and therefore are granted protected legal status and offered temporary refuge in a transit centre at Karonga, one hour south of the border crossing at Songwe and on the shore of Lake Malawi.

Malawi is welcoming to refugees and those fleeing insecurity or oppression. It also takes pride in honouring its international refugee commitments (the 1951 Convention and the 1967 Protocol). It has offered sanctuary to thousands of people from the Great Lakes and elsewhere over the years and has recently extended that hospitality to Ethiopians and Somalis entering its territory and claiming asylum. Malawi currently offers refugees shelter at the Dzaleka refugee camp outside Lilongwe, its capital, in the southern part of this long country.⁹³ Refugees are given shelter, food and clothing, but Malawi (like Kenya, Tanzania, Mozambique and Zimbabwe) maintains the 1951 reservation against free movement, free association and free employment of refugees. After some time (officially a maximum of two weeks) in Karonga, the asylum seekers are transported to Dzaleka. Previously the transportation was paid for and organized by UNHCR, but for the last year or more the transit camp administration (government) has organized the transport, which is paid for at cost price by the asylum seekers themselves. The official rate is set as no more than \$5 per head for the 500 km journey. Once in Dzaleka refugee camp, according to various camp officials and NGO representatives, asylum seekers from Ethiopia and Somalia receive two week's rations of food and some blankets as their registration process as refugees commences.⁹⁴

Beneath the surface

According to the findings of the research conducted in Malawi and visits to Songwe, Karonga transit camp, Dzaleka refugee camp and Dedze (a southern Malawi border point with Mozambique), there is more to the story of Ethiopians and Somalis transiting via Malawi. For the many asylum seekers from the Great Lakes the camp (Dzaleka) remains a long-term refuge as they wait for settlement as refugees. The camp is a government refugee facility supported by UNHCR.

Researchers spoke with smugglers, immigration officials, irregular migrants, refugee officials, transit camp and refugee camp administrators, as well as UNHCR personnel, and collected the following information:

The following extract (used earlier) typifies many migrants' complaints just before entering Malawi:

We got robbed by the police at the Malawi / Tanzanian border of everything we had: jewellery, watches, chains, cell phones, etc. This even after we already paid them bribes to cross into Malawi.
[Somali, 18, Johannesburg, RSA]

93 Until 2007, there was also a refugee camp at Mwanza that was used in the same way – as a breathing space – by Ethiopian and Somali irregular migrants during their smuggled journey. According to officials interviewed, it was for this reason that the camp was closed.

94 As explained by the UNHCR representative and government refugee chief. Unlike other residents at Dzaleka camp, Ethiopians and Somalis only receive two weeks' rations, precisely because it is commonly known they will leave within a few days. The camp had been giving them full monthly rations, which the irregular migrants would then sell locally before leaving Malawi clandestinely.

Case Study 2: (continued)

Typically, smugglers lead migrants into Malawi across a river and overland at night. They are abandoned there, or a vehicle takes them some kilometres from the town. From there, they are told to walk the rest of the way, ask for the transit centre and request asylum. The smugglers tell them they must not say they are en route to RSA or else they will be deported to Tanzania (or arrested) instead of being transported to Dzaleka. In the past, migrants came in smaller numbers (100 per month), but in the last year or more the rate of Somalis and Ethiopians coming is 250 to 300 per month, the camp staff claim.

Many wandering asylum seekers and irregular migrants are picked up by police and taken to Karonga transit camp, while others walk into it themselves. Some, less commonly, may have crossed at the Chitipa border (with Zambia). Instead of a protective environment they are met with violence, intimidation, scarcity, extortion and neglect. The conditions of the transit centre are pitiful, situated as it is in a disused and defunct small hospital. The men sleep on the concrete floor of large dormitories without mattresses or blankets and, according to their personal testimonies, are prey to the centre's administrators, the police and local thugs:

We get attacked at night. As you can see, the windows are broken and there are no fences. We are usually woken up by thugs who want to take our meagre belongings. They attack us with knives. They stabbed me in my sleep the other night [he showed the researcher two fresh wounds on his shoulder].

[Somali, 26, Karonga transit camp, Malawi]

Both the police and the immigration officers beat us up. That camp manager is behaving so nice now that you are here. He is the worst. He has a stick that he beats people with. The beatings started soon after we arrived. We were body-searched and they took everything. We are suffering.

[Somali, 27, Karonga transit camp, Malawi]

When we got here [the camp management] demanded money and we were given mobile phones to call our relatives. I called [the smuggling manager] but it took him a couple of days to send the money to the camp managers. They are ruthless. I have never seen people as cruel as they are. They come to us at night and actually beat us up for the fun of it.

[Somali, 28, Karonga transit camp, Malawi]

We are all suffering here. As you can see we are all emaciated. We don't eat enough food. [...] Before you are allowed into the camp you will be searched and any money found is taken. We are given rice and beans but no cooking oil or salt.

[Member of a Somali group in Karonga transit camp, Malawi]

There are 360 Ethiopians and 40 Somalis here in the camp. Some of us have been here for four months, some for two months and others for just three or four weeks. We are really suffering. Please help us to get to the other camp in Dzaleka.

[Member of an Ethiopian group in Karonga transit camp, Malawi]

Case Study 2: (continued)

In fact, far from staying in Karonga for the official maximum of two weeks, the asylum seekers testify they are compelled to stay there until they pay the camp authorities an amount far larger than the fixed 1,500 Malawi kwache (approximately \$5) stipulated as the cost of local transport to Dzaleka. The research team met men claiming to have been there for four or more months. Smugglers in Malawi and numerous smuggled males in Malawi and RSA confirmed that the sum demanded by the camp officials is between \$125 and \$130 (and in one case below, \$150). They go to some lengths to facilitate the payments, as these extracts indicate:

We were transported to Dzaleka refugee camp and we had to pay \$125 per person to be taken, otherwise you remain forever in the camp. We were tortured in Karonga by the police.

[Somali, 34, Durban, RSA]

[A camp manager] at Karonga gave me his phone to call my family. The money was sent via Western Union. [He] then gave me a letter to take to the Western Union so that I can collect the money. I paid him \$150 that time because it was my second time at the camp [meaning his first attempts failed and he had to pass through Karonga transit camp after being deported to Tanzania or Kenya].

[Somali, 24, Karonga transit camp, Malawi]

All the Somalis [40 in number] will go soon. We all paid \$125 [to the camp officials]. There are also ten Ethiopians who are leaving. The rest have to stay here until their smugglers pay the money.

[Somali group in Karonga transit camp, Malawi]

The camp management gave us letters to collect the money sent to us by our family through the Western Union. Then we had to pay them with it.

[Somali, 22, at Karonga transit camp, Malawi]

One smuggler the research team met in Songwe confirmed these payments were common practice and that smugglers themselves paid the costs directly to the few camp officials and in some cases they were included in the overall fees the irregular migrant paid at the start.

For sure the immigration officers at Karonga charge \$130 to release migrants to move on to Dzaleka [refugee camp near Lilongwe]. If the migrants don't pay they cannot leave – that's why some are there for a long time. It's become part of the smuggler expenses. I myself have taken money to the immigration officers there for a particular batch of migrants due to go on to Dzaleka. I've handed them the cash that was sent to me by smugglers higher up.

[Smuggler at Songwe border between Tanzania and Malawi]

Although the research team had official permission to visit the transit centre, the staff were uneasy with the visit and cooperated only after a phone call from a superior in Lilongwe. The researchers arrived in the evening and tried to talk to migrants in the camp, which is entirely open and situated next to other houses amongst trees and near the lake.

Case Study 2: (continued)

The men interviewed said that if they simply left the area they would be quickly picked up by the authorities and would miss the opportunity of laid-on transport (at a price) for the 500 km ride from Karonga to Dzaleka refugee camp.

The men were very keen to talk to the researchers and did so freely, until a camp official shortly arrived and asked the researchers to leave, saying he feared for their security. When the team arrived at the transit centre the next day, the 400 men were very reticent and uncooperative, in direct contrast to their attitude the night before. Later that day they started to explain what happened:⁹⁵

Like the others told you, soon after you left last night, all the camp management came to us. We were told we should not share with you any information. They said if we told you that we had to pay them money to leave the camp, they would deport us back to Tanzania immediately.

[Somali, 25, Karonga transit camp, Malawi]

Once the migrants reach Dzaleka they join the 9,000 refugee residents there.⁹⁶ Camp staff explained that of the 9,000 who have applied for refugee status in Dzaleka, only a half-dozen Ethiopian and Somali families have claimed refugee status and continue to reside in the camp. All the rest pass through after a few days or a few weeks, on to Mozambique. In fact, the few Ethiopians and Somalis residing in Dzaleka (three Ethiopian and five Somali families according to the Red Cross there) are widely known to be the main organizers of onward travel – liaising with other smuggler managers and camp authorities and acting as smugglers themselves. These smugglers live in the camp, are fed and sheltered by the camp authorities and allegedly are in close communications with camp authorities, whom they pay every time groups of smuggled migrants leave the camp. Other camp residents complained of collusion between the camp management and the actual smugglers making it impossible for them to negotiate prices and camp conditions.

Everyone knows the Somalis in the camp are organizing it. The camp authorities make money out of all those smuggled out.

[Camp official, Dzaleka refugee camp, Malawi]

Smugglers live in the camp and are part of a new market, making big money. Thousands of migrants pass through these smugglers' hands. After a couple of days, all the Ethiopians and Somalis suddenly leave. For sure the camp chief takes a cut. It's all organized. They even have manifests for those being bussed out.⁹⁷

[Representative of international NGO in Dzaleka refugee camp, Malawi]

95 The research team was not aware of this situation until later the next day; neither could the team have planned for such an event. Officially, the team had been given permission to interview transit camp managers and irregular migrants staying at the camp.

96 In December 2007, UNHCR calculated after a lengthy counting exercise that there were 8,000 residents, but another (approximately) 1,000 have joined the camp since then, according to camp administrators in July 2008 during the research visit. Almost all the Dzaleka residents originate from the Great Lakes, and most are from Democratic Republic of Congo.

97 This informant also mentioned one recent story told to the research team by an NGO official working in the camp. The camp chief refused the \$1,000 the smugglers offered him to allow 20 Somalis to leave the camp one night (for the border and Mozambique) and demanded more. The smugglers refused and started pushing the official around. In anger at his greed, the smugglers drove off without paying anything.

Case Study 2: (continued)

While Malawi officials admit that the Somali and Ethiopian migrants appear to want to be refugees but then “slip away”, they fail to explain or acknowledge that Malawi is clearly a transit country for large numbers of irregular migrants who use the Karonga and Dzaleka camps as staging posts, from which they re-group and re-organize their safe passage through Malawi as officially protected asylum seekers.

The scale of organized transit is remarkable. In the first five months of 2008, for example, Dzaleka received 3,753 Ethiopian (70%) and Somali (30%) asylum seekers, none of whom were still in the camp in early July. At the time of the research visit there were 960 Ethiopians and 360 Somalis around the camp, but 1,200 Ethiopians had allegedly left in the last four days preceding the research visit. This was confirmed by the remaining Ethiopians and Somalis, camp staff and smugglers encountered during the visit.

The ‘clandestine’ departure of 1,200 men from a guarded refugee camp and their one- or two-hour journey to the border area of Dedze (bordering Mozambique) and passage into Mozambique by irregular means is a remarkable notion. If 60-seater buses were used, for example, a convoy of 20 buses would have been necessary.

Some of these people, it appears, were apprehended almost immediately once inside Mozambique, because the day after the research visit to Dzaleka news emerged of 193 Ethiopians being deported from Mozambique back to Malawi. UNHCR was being asked to provide vehicles to transport them back to Dzaleka (from Dedze), where by all accounts (according to migrants, smugglers and UNHCR) they would try to re-enter Mozambique until successful. The immigration officers at Dedze could not tell the research team how such a large group of migrants could pass the border area unnoticed but admitted it was not uncommon for smaller groups to be deported regularly.

There must be corruption on the Malawi side if such large groups are free to move down roads and out of Dzaleka freely.

[Immigration officer at Dedze, Malawi]

According to a senior UNHCR official in Malawi interviewed for this study and previously cited, approximately 400 to 500 irregular migrants were “thrown back” from the Mozambican border (i.e., deported) every month in early to late 2008. The refugee official claimed approximately 10,000 Ethiopians and Somalis had passed through Malawi since 2002 / 2003 but the numbers were increasing from month to month.

In summary:

This case therefore illustrates:

- The increasingly high number of Ethiopians and Somalis using Malawi for transit;
- The ability of so many irregular (smuggled) migrants to cross Tanzania despite the vaunted vigilance of the authorities;
- Alleged irregularities and criminal abuse at the Tanzanian border by different state officials but, according to most migrant testimonies, primarily on the Tanzanian side;
- Brutality and extortion by the small group that manage the Karonga transit centre, as well as their collusion with smugglers;

- Organized smuggling operations starting at the 'clearing house' refugee camp called Dzaleka with, allegedly, cooperation (and profiteering) by local camp administrators;
- Presumed cooperation / venality along the roads (police / army roadblocks) or at immigration centres as the migrants depart Malawi;
- Large-scale and regular deportation of migrants to Malawi and Dzaleka. They are likely to try again later, and there is no effort to halt the cycle at any point.

While Malawi's positive asylum policy and practices are highly esteemed, the environment in Malawi does facilitate the smugglers' access to Mozambique, and not surprisingly it has become a preferred route. Smuggler managers in Lilongwe extract migrants from Dzaleka in their own time, when their systems and people are ready. Ironically, if things backfire, the government and UNHCR are 'available' to transport the deported irregular migrants back to Dzaleka, where they re-group in order to attempt a second or third crossing.

According to new information received in early 2009, the anti-corruption office in the Malawi government has commenced investigations with respect to certain officials at Karonga transit camp and Dzaleka refugee camp.

Case Study 3

The Moyale connection: leaving Ethiopia see map page 36)

A research team visited Moyale (and Mandera) in Kenya as part of the study, initially seeking information and interviews concerning human trafficking as well as the smuggling of Ethiopians and Somalis to RSA. Moyale – almost due south of Addis Ababa and due north of Nairobi – is the key crossing point for most Ethiopians passing into Kenya. All smuggled migrants that do not take a plane directly from Addis Ababa pass into Kenya to either fly from Nairobi, take a boat from the Kenyan coast or start their overland journey south by vehicle. Mandera, in the furthest corner of north-east Kenya, is adjacent to Gedo region in Somalia and south of where Ethiopia's Oromiya and Ogaden meet, and is the gateway for many Somalis and Ethiopians coming into Kenya.⁹⁸

Prior to the visit, the research team had gathered information from a number of reliable sources that Moyale is a major nexus of smuggling. One estimate reckoned that up to 60 per cent of the town's income is derived from smuggling, and the complicity between officials and smugglers is overt and common knowledge.⁹⁹ This case study also shows how the smuggling business at one important node such as Moyale has income implications for a large number of people. In the harsh environment of Moyale, where poverty is endemic, the smuggling business provides wealth to a considerable number of people, both directly and indirectly. One government officer in Moyale explained that different forces in the town were all benefiting from the activities:

⁹⁸ Close contact with a major smuggler in Moyale resulted in extensive information on the smuggling business in Mandera town and the north-west of Kenya. Due to restrictions of space and to avoid repetition, this case study will focus primarily on Moyale but refer to the Mandera example where relevant.

⁹⁹ Based on various interviews with third-party experts, citizens and smugglers. The 60 per cent figure is a rough estimation made by more than one inhabitant of Moyale.

Case Study 2: (continued)

“Healthy competition between the different forces, all of who want a slice of the pie, so to speak. Every trick is happening. Everyone is taking advantage of innocence and desperation of the Ethiopians. No one is arrested because no one wants to kill the golden goose. Sixty per cent to 70 per cent of all wealth in Moyale comes from this business.”

[Government officer in Moyale, Kenya]

Soon after arriving in Moyale and beginning its assessment, the research team was summoned by a cartel of smugglers and asked to explain its motives. The team was then instructed to end its investigations after the first 24 hours and leave town. One researcher was a well-known human rights activist from the area – a fact that “limited the cartel’s reaction” to being investigated, they euphemistically claimed. The issues discussed in interviews in Moyale and in Nairobi with other key witnesses can be summarized as follows:

- 1) All Ethiopians coming into Kenya require a visitor’s pass but no visa due to a mutual visa-abolition agreement between Ethiopia and Kenya. The pass is free of charge. Nevertheless, allegedly and according to various testimonies, some immigration officers have an arrangement with the smugglers / brokers whereby each Ethiopian pays approximately \$250 to \$400 to obtain the required travel stamp.
- 2) Immigration officers are known to stamp stacks of passports brought to them by brokers in bars after work. Different witnesses claimed they could stamp and receive payment for 20, 60 or even 150 passports at one time, depending on the concentration of migrants waiting on the Ethiopian side to pass into Kenya.

Immigration officers don’t even see the travellers ... agents deal with the whole thing.

[Law enforcement official in Moyale, Kenya]

- 3) The considerable sums made from the illicit sale of the immigration stamps are shared, allegedly, between the different government officials based in Moyale as well as those in Garissa. Informers insisted that the highest ranking local authorities benefited from the business directly and identified some of them by name.
- 4) Those who obtain the stamp can use public transport and trucks to ride into Nairobi, but they will still have to pay police or soldiers at the eight roadblocks between Moyale and Isiolo (where the tarmac road from Isiolo to Nairobi begins and the police roadblocks end). At each roadblock, they may have to pay a few hundred shillings (100 Kenya shillings = \$1.5 approximately).
- 5) Those who do not obtain the stamp and who pass into Kenya illegally and through the bush are the most interesting migrants from the point of view of immigration patrols, police, soldiers and roadblock guards en route to Nairobi. The desire to catch these migrants (who may or may not be travelling with a smuggler / transporter) is high, as those extorting money from them usually have to share it amongst a smaller number and are probably officials who do not benefit from the sharing of the large regular sums obtained by the immigration chiefs.

Case Study 2: (continued)

These are the richest pickings because if they can extort the money secretly, then they don't have to share it with other forces.

[A public official in Moyale, Kenya]

- 6) Informants spoke of examples where Moyale police would find irregular migrants within Kenya without the requisite stamp (or passport) and then, for a price, give them a letter of passage to Nairobi or on occasion drive the migrants en masse some or all of the way in official vehicles, which of course would not be stopped or searched at roadblocks. The same reports were received during investigations in Mandera.
- 7) If Ethiopians are caught without documentation or without the requisite stamp/passport, the officials concerned will extort similar amounts. Some unlucky migrants pay in bribes much more than the cost of a \$250 to \$450 stamp by the time they arrive in Nairobi.

I paid a bribe a number of times to the border police on the Ethiopia-Kenya border at Moyale.

[Ethiopian, 26, Rustenburg, RSA]

We paid bribes to Kenyan immigration more than five times [at Moyale].

[Ethiopian, early 20s, Maratane refugee camp, Mozambique]

- 8) The smugglers in Moyale take over those sent by other smugglers in Addis Ababa and also pick up the considerable casual trade of migrants looking for passage to Nairobi or beyond. They prefer to use back roads and panya routes to avoid the police and avoid paying bribes. The report from Mandera was the same.
- 9) Smugglers are numerous, although there is a group of four or six main smugglers who allegedly have a close relationship with immigration officials who bring them clients.
- 10) On average, immigration officials (via select brokers) sell the stamp to between ten and 30 passport holders each day.¹⁰⁰ Some days, groups of 50 come through. The cost of the stamp does not affect the broker, who passes the cost onto the migrant. More people are estimated to pass illegally through the porous bush trails than through immigration.
- 11) Informants spoke of very large sums being accumulated by officials who struggled to be posted to desolate locations such as Moyale and Mandera due to the vast additional earnings that could be made. In addition to the business of smuggling people, they spoke of arms, drugs, merchandise and foodstuffs passing through the border with irregularities that earned significant earnings for some compromised staff.

¹⁰⁰ A rough estimate. If an average of 20 passports were stamped every day under these arrangements, the immigration officers concerned would earn approximately \$180,000 per month (selling the stamp at an average cost of \$300).

Case Study 2: (continued)

Human smuggling is big business, not only in Mandera but in the entire province. An attempt to arrest a smuggled person could easily trigger a clan war...so we let things go on. If I stop them, the clan members can kill me in revenge for stopping their sons enjoying the prospect of a better life.

[Local tribal chief in Mandera, Kenya]

The anti-corruption office should pay a visit to Moyale. ...Even an angel would become corrupt in Moyale.

[Moyale businessman describing the situation in Moyale, Kenya]

For the Ethiopian irregular migrant, the transactions described above are the first taste of the kind of journey they will endure in terms of dealing with officials who use their office to extract bribes. In fact, for many migrants it is the starting point of their journey and their first dealings with agents and smugglers that will later become familiar if they continue their journey. The key difference with other parts of the journey, however, is that there were no stories of violence, abuse or robbery from Moyale or Mandera. All witnesses and informants were also adamant that there are no activities that resembled trafficking of any kind in either location.

ALLIANCES: COLLUSION,
COMPLICITY AND HUMAN RIGHTS VIOLATIONS

10. A harsh welcome: Realities facing Somali and Ethiopian migrants in RSA¹⁰¹

Once in RSA, most Somali and Ethiopian irregular migrants immediately register as asylum seekers and start working with relatives or in the informal sector as street vendors – typically bulk-breaking cheap, imported Chinese goods, selling mobile phones or setting up grocery shops in townships. Of course, those joining relatives and friends with business concerns may have work opportunities on an informal basis. Younger men who earn little pay working for relatives immediately upon their arrival are often given money to start their own business after a year or two. Non-contractual, casual work arrangements, in which food and shelter may be given *in lieu* of (or in addition to) pay is not uncommon amongst the Somali and Ethiopian communities.

From some perspectives, there could be said to be a fine line between cultural norms in which family members work for relatives without normal contracts or pay, third parties who assist (financially and through contacts) the journey to RSA without contracts or pay, and labour exploitation. If the person who assisted in a migrant's journey to RSA (whether a family member or a third party) organized the journey with the intention of using that migrant as cheap labour for a period of time, this could be perceived as a situation with characteristics that are similar to those in trafficking cases. However, no irregular migrants interviewed for this study said they had been exploited or deceived, and the impression is that they knew the nature of the arrangement beforehand and accepted it willingly. Indeed, they described their situation in terms of a positive opportunity, rather than anything close to exploitation, intra-familial or otherwise.

The lure of construction work in RSA in preparation for the World Cup in 2010 appears to be entirely unfounded in relation to Somalis. Research found that under the Ministry of Labour the businesses involved in the construction of all buildings associated with the World Cup were subject to rigorous scrutiny and regulation. One such regulation ensures that no irregular migrants are employed and that wages are in line with government standards. In addition, no evidence was found that Ethiopians or Somalis were involved in construction of

¹⁰¹ This section concentrates on the experiences of Ethiopians and Somalis in RSA. The Kenyan irregular migrants do not appear to have experiences similar to those of irregular migrants from Somalia and Ethiopia in terms of being victims of crime.

these buildings. Very few Somalis or Ethiopians appeared to be involved in manual work or construction at all. It is possible that the prospect of construction work related to the 2010 World Cup may have been used as an incentive for migrants to take the journey to RSA, but no such job opportunities in RSA have materialized.

Many Somalis and Ethiopians have prospered in RSA and done well setting up small stores and retail outlets or transportation services throughout RSA. A relatively low number have been associated with crime, despite blanket accusations by their detractors that all migrants are disproportionately involved in crime. In fact, the Nigerian, Zimbabwean and Mozambican migrants appear to be much more involved in criminal activities, while Ethiopians and Somalis – despite initially engaging in the informal sector / grey economy – are not noted for their involvement in crime.

It should be noted, too, that in addition to surviving and succeeding in RSA, a significant (but unknown) number of Ethiopians and Somalis make it out of RSA for the West. The growing number of irregular migrants from Ethiopia and Somalia in North America, Europe and Australia, for example, illustrates that their borders are still porous, their restrictive systems are not water-tight and ‘legal’ visa, identity and immigration documentation are still for sale or successfully counterfeited. Researchers for this study heard stories of migrants leaving on direct flights into Europe or North America but also using more convoluted routes: Somalis and Ethiopians along with Bangladeshis, Chinese or Pakistanis, for example, may fly to Brazil, Mexico or the Caribbean (Trinidad and Tobago), where immigration is less restrictive, and then be moved up through Latin America and cross into the US at Mexico’s northern border along with hundreds of thousands of Mexicans.

Another example is that of false conferences or bogus international workshops fabricated with official letterheads and appropriate documentation to enable numerous ‘delegates’ to fly in and then immediately slip underground. Another front to dupe immigration regulations is where institutions of further education may ‘cooperate’ by offering someone a ‘scholarship’ or special study position in the West. Once in-country, the individual also slips underground.

For some years, Ethiopians and Somalis (and other foreigners) have been targeted for attacks by jealous or xenophobic South Africans who resent their business capacity or presence. Somalis, for example, are known to boldly open shops in tough townships. In addition to regularly facing criminal gangs and violent attacks, the Somali community was badly affected during the 2008 so-called xenophobic attacks that affected parts of RSA during an intense two-week period of unprecedented mob violence targeting black foreigners.

In April 2008, myself and my Somali friends who I was living with got attacked where we stayed by 15 armed men with *pangas* [machetes] and knives. In May, a Malawian colleague of mine was killed in xenophobic attacks and our boss [a doctor] was injured.
[Somali, 25, Rustenburg, RSA]

The disturbances resulted in many members of the Somali community becoming displaced, and many were placed in designated government ‘camps’. The Ethiopian community was affected to a lesser extent. According to press and official reports, of the 60-plus deaths of ‘foreigners’ (some victims were actually from South Africa but mistaken as foreigners) at that time, there was only one fatality from the Somali and Ethiopian communities, although many suffered beatings and harassment. Their businesses were looted, and both communities were evidently traumatized and angry that the government planned to return them to their unwelcoming communities in the autumn (2008).¹⁰²

Nevertheless, the entry of Somalis into RSA through irregular means with smugglers appears to have suffered only a limited setback in May and June 2008. Normal activity appears to have resumed, according to reports from Malawi and interviews with different informants for this study.

Reasons to remain

There are various factors that could contribute and interact to explain why many Ethiopians and Somalis remain in RSA, despite the initial desire of a significant proportion to use RSA only as a launching area to move the West. Some of these factors are:

- People sometimes have dreams that cannot transcend the hard obstacles of reality.
- Migrants may have been injured or impoverished by general gang violence and criminality (which many migrants complain of) and cannot afford to continue their journey.
- Migrants’ sponsors abroad may not have been as accommodating or helpful as expected.
- Obtaining legal or illegal documentation to leave RSA (passports, visas, etc.) and access the West may have been more difficult than anticipated. The need for internationally recognized documentation is critical for Somalis, who have been without a government for almost two decades. This need spawns a lively trade in forged, stolen or bribed documents in hubs like Nairobi and Johannesburg, as previously mentioned.
- Conversely, many migrants find they enjoy and prosper in RSA and ask themselves why they would want to move on, only to start afresh in another new country. People’s dreams also change: The Ethiopian and Somali communities in RSA are close and supportive, and people establish friendships, families and businesses. Their children start attending South African schools, and some migrants also continue their studies in RSA.

¹⁰² Since the main wave of attacks in early 2008 there have been more, less-publicized atrocities, particularly against the Somali community, where migrants have been hacked to death. In one case in late 2008 a woman – neither Somali nor Ethiopian – was reportedly cut 113 times, raped and then beheaded in front of her three children, who were then killed in the same way.

- Others, however, hold onto the belief that once given refugee status in RSA they will one day be resettled to an attractive third country. Many wait for years with this sustaining hope that in most cases is unfounded and unrealized.
- The hope of relocation to a third country always depends on the means available to the individual rather than on assisted resettlement by UNHCR or other agencies. The exceptions are those who remain in the temporary shelters provided for victims the xenophobic attacks in May 2008, who expressly stated that they wished to be resettled by UNHCR to a third country and feared returning to their previous communities in RSA.

Level of satisfaction

Most irregular migrants who participated in this study expressed considerable satisfaction at their new life in RSA. Few talked about leaving RSA. Seventy per cent of Ethiopians and 84 per cent of Somalis stated that the experience in RSA was positive overall. Twenty per cent of Ethiopians and 14 per cent of Somalis stated they were unhappy and their experience was negative. The remaining percentage in each case was ambivalent. In terms of who was interviewed, 31 per cent of Ethiopians and 45 per cent of Somalis had arrived in RSA within the preceding 12 months (some only days before the interview). Twenty-two per cent of Ethiopians and 10 per cent of Somalis had arrived in the last two years, while 47 per cent of the Ethiopians and 45 per cent of the Somalis questioned had been in RSA longer than two years.

A catalogue of violence

These findings were somewhat surprising given the common experience of violence, intimidation, racial attacks and harassment or indifference from national authorities in RSA. Bhabha of Harvard University writes: "From a human rights perspective, migration is an inherently risky activity. Despite the potential rewards and benefits, switching the familiar for the new, and the status of a national for that of a non-national or alien in a world in which the state is still the prime guarantor of rights entails material, social, and psychological challenges." In another section of the same article, she writes: "Many of those who do reach their destination find themselves locked in cycles of violence, exploitation, and abuse." The writer was referring to cases of trafficking, but in the case of RSA the same could be said of irregular migrants from Ethiopia and Somalia who in the course of interviews for this research revealed extraordinary stories of violence in their daily lives in RSA. For some, it started on arrival:

Having just arrived in RSA, one man and his friends were immediately robbed of their clothes by the 'facilitator's friend'. Then the next day we arranged for a taxi driver to take us to Johannesburg. The taxi driver tried to have us mugged on the way but as they couldn't find any money on us they just beat us up.

[Ethiopian, 28, Rustenburg, RSA]

I started working in a township shop two days after getting to RSA. In July 2006 we were attacked in our shop in New Brighton township by ten armed men. [...] They shot me in the head but luckily I survived. We reported the matter to the police but they flatly refused to assist. They helped themselves to things in the shop and joked among themselves as I lay fully conscious in a pool of blood. Worst still, the ambulance came but when they saw that we were foreigners they left us there.

[Ethiopian, 32, Port Elizabeth, RSA]

Some of the stories seem to beggar belief in terms of the alleged repetition of attacks and the continual targeting of Somali and Ethiopian traders by RSA gangs. However, the researchers in this study heard similar stories from diverse groups of Ethiopians and Somalis from different parts of RSA.

I started working in Motherwell. I have a shop at NU13 in Motherwell. I was attacked there by gunmen on 15 different times. In October 2004, three armed men attacked me in my shop and forced me to open the cash till. They broke my right arm. I lost everything.

[Somali, 24, Port Elizabeth, RSA]

A chronic protection crisis

In the absence of any reliable protection from RSA authorities, some victims of attacks try to protect themselves by buying and using firearms themselves. In one case described below, the respondent mentions being abused violently by a policeman. Many other respondents stated that police would regularly 'confiscate' their goods (while street vending) or take their earnings. They suggested that the gangs and the police were their biggest problem in RSA in what was a chronic protection crisis, despite having papers identifying them as asylum seekers.

In September 2005 in Port Elizabeth at around 4 a.m., some people tried to force their way into my shop. We were sleeping inside. We shot at the invaders, so they poured petrol on the door and set fire to it. In 2006, I was beaten up inside police cells by a police officer. Nothing ever got done.

[Somali, 29, Port Elizabeth, RSA]

Soon I started working for a small trader in Port Elizabeth. By late 2005, I had my own shop. I was attacked in my shop more than five times. In 2007, four armed men robbed me. They came back the next day and robbed me again. The police never seemed interested to listen to my cry for help. When the same four armed men returned at the weekend, I organized myself an unlicensed firearm. As soon as they arrived, I started shooting at them. I injured two of them; the other two ran for their lives. Then

the community I was trading in took issue with me because of this incident, and I was nearly killed by angry mobs. I fled that township leaving everything behind.

[Somali, 26, Port Elizabeth, RSA]

In December 2005, my best friend was killed in Soweto. In October 2006, I was one of the many foreign-owned shops in Schweizer-Reneke that were mass-looted by locals. We were also attacked here in Port Elizabeth in February 2007, but then we shot back at the thugs and chased them away.

[Somali, 23, Port Elizabeth, RSA]

As these cases illustrate, the attacks are violent and brutal, but the objective of the gangs is normally robbery. RSA's global notoriety for violent crime suggests the wider population also faces alarming crime risks. Despite this, migrants remain and continue to arrive in increasing numbers. It is impossible with today's ease of communication and the infrequent returning migrant (Ethiopians and Kenyans return but rarely do successful migrants return to Somalia) that aspiring migrants in the source communities of Somalia and Ethiopia do not know of these stories, and the potential violence they may face in RSA.

In some cases, migrants are directly faced with the results of bitter experiences. One Ethiopian man interviewed for this study was so badly beaten by thugs five years ago, in his shared apartment in Johannesburg, that he was paralysed. He spent all his savings from years in RSA and much more on his hospital treatment and now, living with his impoverished mother in Addis Ababa, he is slowly learning to walk again.

That these irregular migrants remain and succeed in many cases in RSA is not only an indication of how they must consider their original situation in Ethiopia and Somalia but also a testimony to their resilience and desperation or resolve to overcome crisis.

This section ends with four further extracts from stories of the endless attacks endured by many migrants/asylum seekers/refugee businessmen in RSA. That the final result of the migration journey is conditions such as these cannot be ignored if we are to consider migration from a human rights and protection perspective. It seems, indeed, that being a migrant and an asylum seeker is an inherently risky activity, both during the journey and after arrival.

I was robbed five times in RSA. Twice in Motherwell, and three times in Johannesburg.
[Kenyan Somali, 35, Grahamstown, RSA]

In late 2004, two armed men attacked me in my shop in the Gabalezani township. They tied me and an assistant and took everything. Then, in 2005, at the same shop I was held at gunpoint and [they] looted the shop. In 2006, I was attacked twice in Pronkspruit. They were four armed men and they returned to rob me again later that

night. [...] They started shooting at us, and my friend got hit seven times. Miraculously, he survived. Then they held a gun to my head and shot but they had run out of ammunition. So they beat me up instead.

[Ethiopian, 26, Mafikeng, RSA]

I was attacked in Limpopo by seven armed men. They tied me up and took all the stock and cash in the store. They also stabbed my friend several times in the buttocks.

[Somali, 38, Rustenburg, RSA]

My brother was killed by armed thugs who attacked us in our shop.

[Somali, 23, Port Elizabeth, RSA]

A HARSH WELCOME:
REALITIES FACING SOMALI AND ETHIOPIAN MIGRANTS IN RSA

11. Paying for the dream: Financing irregular migration and the economics of smuggling

All the money is paid in advance. People are desperate and will always agree to [a well-known Nairobi smuggler's] terms, even though stories of abandonment abound. It's part of the deal that they don't complain if anything goes wrong during the trip. *[An agent for a major smuggler in Nairobi, who estimates that his boss handles approximately 75 smuggled migrants per month]*

This section covers issues relating to the financing of irregular migration and the economics of the illicit enterprise. To do this, the number of people moved in 2008 has been estimated.

Because of the changing nature of the smuggling business in terms of using different combinations of modes of transport (by air, by boat, by vehicle and on foot) and taking different routes (often with unexpected delays, obstacles and additional payment requirements), the costs are flexible.

Irregular migrants interviewed in RSA spoke of different amounts paid for the entire journey, as well as different charges demanded for different legs of the journey. Although most would-be migrants pay the full sum upfront, as suggested in the extract above, there were also reports of partial payments or staggered payments throughout the journey. What makes such a flexible system possible is the power of the mobile phone, the speed of the informal *hawala* banking system and formal money transfer systems, the diaspora and modern communications.

The role of the diaspora

The sizable Ethiopian and Somali diaspora (in total estimated to be more than two million people) plays a critical role in financing at least half of all migrants being smuggled between the Horn and South Africa. Research indicates that many Somali and Ethiopian smugglers (or agents) are paid, normally directly, by members of the diaspora who finance their friends' or relatives' movement to RSA. The key receivers of the payments appear to be in Nairobi, Addis Ababa and RSA itself, but there are a range of alternative agents and intermediaries who facilitate the deals, which may result in payments being made in a number of locations.

For example, a main smuggler operating out of Mandera in north-east Kenya could be paid in cash through the local *hawala* systems and never use formal (traceable) banking facilities in Mandera, Nairobi or any other town.

However, a significant proportion of Ethiopians (58 per cent of those interviewed) fund their journey through the sale of private assets and livestock or with donations/loans from relatives within Ethiopia. In Ethiopia, land is owned by the government; therefore, items sold could be the immovable and movables on the land rather than the land itself. People sometimes transfer the lease of their government-owned land to raise money. The decision for a young Ethiopian to go to RSA, therefore, is not just a personal decision but a strategic, economic and investment decision by other family members.

Sixty-four per cent of Somalis interviewed stated their journey to RSA was financed by relatives abroad. The majority of Somalis do not fund their own movement, and as such the decision for a young Somali to go to RSA is also often not a personal decision but a strategic, economic and investment decision by other clan members or close relatives. A relatively small number of Somali respondents (not more than 15 per cent) financed their movement to RSA by selling business or other assets in their hometown.

Re-paying benefactors

It is also the case that irregular migrants (those with newly acquired asylum seeker papers) from Ethiopia in RSA set up business ventures where they need additional people to sell their goods on the streets, etc. They will often fund the smuggling of people they know to come to RSA with the direct understanding that the newly arrived migrant will become part of the benefactor's workforce and, presumably, pay off the cost of the smuggling as they work together and before the new arrival sets up his own venture.

However, in such cases it is more a sense of duty and trust rather than a business understanding that the newly arrived operate under. Benefactors normally help the new arrivals start their own retail businesses and they normally use the wholesaler as their supplier. Church groups and other community structures also assist new arrivals. The way the cost of smuggling is paid off is not through labour, but through periodic payments. They are actually not obliged to work with their benefactors or even take stock from them as long as they pay off the cost of the smuggling. There is only moral and social pressure obliging the person to be loyal to the person who helped them to come to RSA. Debt for the smuggling cost is verified by community leaders, and they assign witnesses to make sure that payment has been made. Sometimes people will end up working with the person who paid for their trip; in these instances it is usually when there is some kind of blood relationship between new arrival and benefactor. It is also quite normal for people not to repay anything, particularly if the benefactor is a close relative.

The *hawala* system

In fact, the *hawala* system is not *per se* a Somali creation, but a banking system that has its roots in Islamic law. Its origins can be traced to the eighth century. The *hawala* system in its modern incarnation developed as an informal money-transfer system that grew in direct response to Somalis overseas needing to remit money into Somalia, often to remote areas of the country. According to one observer, “Somalia’s failed economy and heavy dependency on its Diaspora for survival in the 1990s coincided with revolutionary advances in the telecommunications sector. These advances made remittance transfers from great distances much easier.”¹⁰³ In the last two decades, the *hawala* system has blossomed into a full-blown financial operation known formally as Somali Remittance Companies (SRC). The remittance business therefore “grew exponentially in the vacuum of statelessness,”¹⁰⁴ but the system has been adopted and has evolved to serve the needs of people outside the Somali community. The smuggling business from the Horn to RSA is mostly dominated by Somalis and not surprisingly depends on the *hawala* system for almost all its transactions. Where cash flows are a problem, a nearby Western Union office provides an alternative.

Additional payments during the migrant’s journey are inevitably necessary. These are typically unforeseen bribes for release from incarceration in local prisons, extortion activities by different officials or unplanned payments, such as the payment for departure from Karonga transit camp in Malawi. In these cases, migrants are compelled to phone benefactors in foreign countries to arrange transfers to local Western Union offices or *hawala* networks.

Western Union¹⁰⁵ and money transfer by telephone

If payments are made to a local Western Union office, the receiver of the money can be a third party who gives the money to anyone. This may even be someone who is blackmailing or extorting the migrant, and therefore will remain confident that no paper trail of culpability exists.

In Kenya, at least, people have started using the Empesa system in addition to the *hawala* system. Empesa is a money transfer system via mobile phone in which up to 35,000 shillings – approximately \$550 – can be sent instantly, each time to another phone user. The system is revolutionizing rural transfer and banking habits but also being used by smugglers and agents for storing and transferring money. To deal with the limitation on quantity, people have different SIM cards for their mobile phone, each a mini-bank.

103 “Myths and realities of Somali remittances”, Mohamed Y Abshir Waldo (for the World Bank). Online at http://siteresources.worldbank.org/EXT/CPR/Resources/WP38_web.pdf?resourceurlname=WP38_web.pdf. The author claims that the one million Somalis in the diaspora remit more than \$1 billion per year, which is far more important for livelihoods and survival than all international development and humanitarian aid combined.

104 Op. cit.

105 There are different money-transfer systems, but Western Union is named here due to its large presence in all the transit countries mentioned in this report and the frequency with which it was referred to by name by those interviewed when discussing money transfer issues.

Unlike cases of trafficking where ‘addition costs’ are added onto the final repayment bill/debt for the trafficked person, there is no evidence that the chief smuggler is implicated in the additional payments affecting the smuggled migrant. However, it is possible to speculate that the cost of the journey to RSA is relatively low because the chief smuggler knows he can take a sizable profit margin instead of giving out large bribes, because those involved will extort money directly from the migrants themselves. The chief smuggler may not even hear about these events.

Modern communications

Finally, the role of modern communications is crucial to the efficiency of the smuggling business and its financing.

With an office complete with all the trappings of technology, from satellite dish for Internet connection, satellite telephone handset, radio communication sets to the local telecom wireless, Safaricom and Celtel mobile phones, he is able to establish all the necessary contacts in all areas relevant to his operations.

[Informant’s description of a major smuggler’s office in Mandera, Kenya, which is far better-equipped than the local law enforcement agencies]

The use of the Internet by migrants is probably quite limited due their clandestine night-time progress, short stays in overcrowded, poorly provisioned ‘safe houses’ and restricted movement in urban areas. Migrants commonly start their journey with mobile phones, which are frequently stolen before they leave Tanzania. Nevertheless, many retain their SIM cards (hidden, even in prisons). The SIM cards are their master file of critical numbers to assist them in their journey. Their aggressors or extorters also know this. Various irregular migrants interviewed in RSA spoke of how police, prison officials and other officials would even lend migrants their own mobile phones to make calls to relatives (with their own SIM cards) to bring in extra money. Mobile phones are used to schedule and cancel meetings between groups handing over migrants at short notice.

They don’t carry much money. All the transactions are done through the diaspora and their own banking methods. On the day of departure, you’ll see groups of Somalis and Ethiopians in groups all talking on phones, in a sort of frenzied way...

[NGO representative in Dzaleka refugee camp in Malawi, discussing how the migrants leave the camps at night]

According to senior law enforcement officers interviewed in Kenya and Tanzania, SIM cards found on captured smugglers indicate that they use mobile phones to contact border officials, police at roadblocks, refugee camp organizers and the whole network of smugglers they need

for operations. It is the ultimate tool that lubricates the operations, negotiations and cash flow that are the lifeblood of a business with a plethora of mutable and volatile factors.

Smuggling economics

If the complicity of public officials and others is the oxygen of the smuggling business, then money is the *raison d'être*. In countries where unemployment is high, average wages are barely enough to survive, and financial security is far from reality, the income that smuggling can generate for people associated with the business is highly attractive. It is also a fast earner for those who organize and control the business, just as it is a fast earner for those in key official positions who can extort income from the smuggled migrants.

On one level, the economics of the smuggling process are relatively straightforward. Between \$1,000 and \$3,000 per person is paid to the agency / broker handling the smuggling movement. Of the 268 Ethiopian and Somali respondents interviewed, 178 gave the researchers a clear account of what they paid smugglers for their journey. Based on these accounts, the average amount paid by smuggled migrants was just under \$2,000. Between approximately \$1,750 and \$2,000 is probably the most common amount paid.¹⁰⁶

So the smuggled people do not have to travel with lots of money. The whole sum is paid to [the head smuggler] from Addis or wherever it comes from before travel. He holds it. All of it is paid in advance.

[An agent for a major smuggler in Nairobi, Kenya]

In reality, many smuggled people are robbed and incur extraneous costs to pay police, prison officials, thieves and immigration officers along the way. The final cost to the smuggled person may be much more than the sum that was originally agreed upon. The money transfer is conducted outside of regular banking systems, normally using the international *hawala* system, where transfers are affected in a matter of hours.

I would take about 12 or even 15 people at one go. I charge 17,000 birr [\$1,750] per person. They need passports but don't need visas. I let them stagger the payments using the *hawala* system through the journey.

[Ethiopian smuggler, Addis Ababa, Ethiopia]

The *hawala* headquarters are mainly in RSA and Kenya, but as long as there is a small migrant community there is always the possibility that there is a *hawala* service provider within the community. According to a founding member of the Somali community in RSA, all

¹⁰⁶ By contrast, Ethiopians and Somalis using smugglers to take them to Yemen across the Red Sea and the Gulf of Aden pay between \$50 and \$120 on average.

hawala headquarters are in Nairobi, Kenya. There are no *hawalas* in Mozambique, Malawi or Zimbabwe. There are just two *hawalas* in Tanzania, but 21 operate in RSA and many more in Nairobi, Mogadishu and Ethiopia. Western Union money transfers are also used extensively, and both systems are commonly used for remittance flows as well.

Those migrants who do not have the cash can use my phones to contact their families abroad for help. The money will be sent to me via Western Union. The sender will use my name as the recipient and he will use the beneficiary's name as the sender. Then I will know who to take to RSA.

[Somali smuggler, one of the two largest in Malawi]

Evidence in fragments

Previous sections of this study outlined the modes of transport, the variety of routes and many of the dynamics of those involved in the smuggling process. It may be worthwhile to consider some of the quotes and extracts gathered as fragmentary evidence in the effort to understand the wider economic picture.

The following findings, based on interviews with Ethiopian and Somali irregular migrants and asylum seekers in RSA, describe the migrants' initial payments to the chief smuggler and do not include any additional costs they may have incurred.

Initial payment to chief smuggler (US \$ equivalent)	Ethiopian respondents (103 answered this question)	Somali respondents (75 answered this question)
Up to \$1,500	38%	45%
Between \$1,500-\$2,000	26%	28%
Above \$2,000	36%	27%

Interestingly, the trip to RSA is cheaper proportionally for Somalis than for Ethiopians. Almost half of the Somalis paid no more than \$1,500 as the initial fee to the chief smuggler. By contrast, almost as many Ethiopians paid more than \$2,000 for the trip (a significant number said they had paid \$3,000) as those who paid less than \$1,500. Detainees interviewed by the Tanzanian Task Force on Irregular Migration, established in early 2008, reported similar payments.

According to members of the Tanzanian task force, Ethiopians interviewed at Uyui Prison in Tabora reported that the smuggling agents offered them the option of paying \$1,700 to be transported from the Kenya/Tanzania border at Sirari to RSA or paying \$850 to be taken as far as Malawi. Apparently, most paid the higher amount to get to RSA.

The following extract illustrates the range of charges for the same service:

The majority of those that come through here are using passports. They get a visa from Addis or Nairobi. My job will then be to organize for them an address in Maputo and grease the hands of the immigration officials and police to smooth the moving of people. I don't make much money off them. Depending on the type of passport they have – the worst being Somali and the best being Kenyan – we charge them between \$300 and \$1,000.

[Somali smuggler based in Maputo who facilitates Ethiopian and Somali irregular migrants into RSA from Mozambique]

The following extract from one smuggler in Malawi suggests that a chief smuggler charging \$2,000 makes on average a clear profit of 25 per cent (\$500).

I make \$200 per person. My job is to move them from the coast where they arrive to the Malawi border and even take them across the river away from the official crossing. I move between 50 and 100 people per month. The most I ever took in one go was 80. Most of the smuggled people have paid around \$2,000 in Nairobi. The brokers there often have bosses in RSA who they pay the money to. He then releases the money along the chain as and when needed. I reckon the top guy gets around \$500 profit from each smuggled person after all the expenses are paid.

[Smuggler at Songwe border between Tanzania and Malawi]

If the Songwe smuggler's claims are accurate, he was being paid \$10,000 to \$100,000 per month. However, from this he would have to pay significant transport costs and bribes as he passed through roadblocks and also pay for the release of arrested migrants from prison from time to time. Nevertheless, he agreed the money was extremely good and said he was constructing a house with his profits.

According to the economics of supply and demand, a higher volume of smuggled people (as has been seen in the last two years) should reduce the fees. Instead, it appears to be making the smugglers good profits as they move increasingly large numbers of migrants, achieving potentially extraordinary economies of scale. According to informants interviewed by the research team, for example, the chief smuggler in Dzaleka refugee camp in Malawi can move 600 Somalis in one operation, charging each migrant \$400 just to guide him from Malawi to RSA. The operation would take a few days and would gross him \$240,000. As his costs are unknown to us, we cannot estimate his net profit.

The short-leg smuggler

My job is to make the journey easy for those that want to go to RSA in order to live better lives. There are many people in the chain. I only move people from Malawi to RSA. I charge \$360 per person when travelling by container truck. If someone has a [purchased or forged] Kenyan passport and is willing to pay \$550, I then group them into threes or fours and send them by bus with one of my boys.

[Somali smuggler who is known to be one of the two largest in Malawi]

Smugglers also make money organizing 'short legs' within the journey. For example, the crossing from Malawi to Mozambique is paid for separately:

So there are different prices, depending on the level of comfort with which you want to cross the border. The long walk, which may take three hours or longer in the dark, will cost you \$100. The short walk takes just an hour or less and costs \$150. The drive-through will cost you \$200. It's my job to facilitate the passage with the immigration guys.

[Somali smuggler based in Maputo who moves Ethiopian and Somali irregular migrants into RSA from Mozambique]

It is not clear if the smuggled migrant has to pay an additional fee for this service or whether the smuggler handling him pays for it from the original fee, but a similar testimony from another border confirmed the practice:

We only move Somali migrants these days [from Malawi into Mozambique]. There are about five or six Ethiopian smugglers, but Ethiopians don't like to pay. They only pay about \$200 max. When we can we move Pakistanis and Bangladeshis. They are more profitable than the Somalis or the Ethiopians.

[Tanzanian smuggler (of Somali origin) based in Lilongwe, Malawi]

In this third example, a small-time smuggler offers a very discrete service that is potentially highly lucrative given the time it involves:

I organize groups of people to pass into Zimbabwe [from Zambia]. Mostly I used to do it by boat across the Zambezi River. It only takes five minutes and I charge \$100 per person. Normally I take groups of two or five or seven at most. I could take 50 and would charge \$50 per person, but we would have to go through the official crossing. My aunt and brother work in immigration and they would sort it out. This border makes big money for everyone. Where the police are there is always money to be made.

[Opportunistic smuggler at the Chirundu border crossing between Zambia and Zimbabwe].

Once again, in Kenya, the transportation of migrants to Nairobi can be far more lucrative to transporters than any other merchandise. Because the truck drivers ply the roads frequently, they are familiar with police and soldiers at roadblocks and allegedly are used to cutting mutually beneficial deals with them.

We can use trucks with false bottoms or roll people up in canvas. They pay us about 40,000 to 45,000 Kenya shillings [\$600 to \$700] to take two men without papers through to Nairobi. It's much more profitable than transporting cattle.

[Truck owner in Moyale, Kenya, who occasionally smuggles migrants without papers to Nairobi]

The smugglers' foot soldiers

An example of how lucrative it is to be associated with smuggling comes from Eastleigh in Nairobi, where unemployment is high and many Ethiopian and Somali migrants are destitute (as they wait for onward travel or the elusive dream of the better life). The agent quoted in the passage below claims he is paid \$1,000 to \$1,200 per month to find recruits for his boss. This is an excellent income in Nairobi, where many educated public officials earn only \$200 or less per month.

I am one of many agents in Eastleigh [in Nairobi] scouting around for people who want to go down south. I work for [a major smuggler out of Nairobi], and he pays me \$200 for every Ethiopian or Somali I bring to him who wants to sign up to be smuggled. The cost to get from Nairobi to RSA is between \$1,100 and \$1,500. I think about 25 people leave Eastleigh every day to be smuggled to RSA. I normally get [the smuggling boss] five or six new recruits every month.

[An agent for a major smuggler in Nairobi who estimates that his boss handles approximately 75 people per month, Nairobi, Kenya]

However, not everyone gets rich. In Shimoni, Kenya, the captain of a dhow that regularly takes smuggled migrants to Tanzania explains that the profits go to the boat owner.

My boss is paid 300,000 shillings [approximately \$4,300] per trip [from Shimoni in Kenya to Tanga in Tanzania], irrespective of how many are in the boat. I sometimes take 20 or 30 and once took 47. If I am caught by the police I have to pay about 20,000 [Kenya shillings, equivalent to approximately \$300] as a bribe for the whole cargo. It's more profitable than good transportation, but also more risky.

[Tanzanian captain of a 12 metre dhow who has smuggled Ethiopians and Somalis into Tanzania at the rate of two trips a week for the past three years. He claims many other captains also engage in this work.]

In the case described above, the Pemba-based boat owner stands to earn \$31,500 per month if he runs two smuggling trips per week -- even if he must bribe police every time. From this

amount, the boat owner must then deduct payments to the captain and his deckhands. From the smuggler's point of view, it is also a good arrangement, because if he can average out 25 paying migrants on every trip it effectively will cost him \$172 per migrant¹⁰⁷ to move clients from Kenya to Tanzania, avoiding border police and immigration officials, potential interception (and thus the payment of additional bribes) or, at its worst, deportation of his clients.

Profits

For two case studies in this report – from Moyale, Kenya (Case Study 3) and Karonga, Malawi (Case Study 2) – some concrete figures were repeatedly mentioned during data collection in reference to transactions with authorities who allegedly make money from smuggled migrants:

In Moyale, numerous informants claimed that the average rate to obtain the entry / travel stamp is \$300 per (Ethiopian) passport. The estimated number of Ethiopians seeking the stamp varies from ten to 30 per day. Based on these figures, if an average of 20 passports were stamped every day, six days per week, the immigration officers concerned theoretically could earn approximately \$144,000 per month (or \$1,728,000 per annum). This is a colossal amount of additional income for anywhere in rural Kenya.

In Karonga transit camp in Malawi, the camp managers reportedly demand on average \$125 per migrant travelling south to Dzaleka refugee camp near Lilongwe. The figures from the administration data in Dzaleka indicated that from January to July 2008, at least 5,000 Ethiopians and Somalis had come to the camp from Karonga. If each of them paid the requisite amount to camp managers at Karonga, the managers theoretically would have earned \$625,000 (minus \$25,000 for the actual transport costs they pay) during a seven-month period. This case study serves as an example of how potentially lucrative administrative positions may become when officials are involved in smuggling.

A steady and rising tide: towards establishing the number of migrants smuggled

An elusive but critical area of knowledge when examining the movement of Ethiopians and Somalis to RSA is that of scale. How many people pay brokers and smugglers to take them south? Estimating the scope of the business allows us to understand its economic power (and therefore resilience) and better understand migration trends.

It is more than likely that no one knows how many Ethiopians, Somalis and Kenyans move down to RSA through irregular means each year. Like that of other irregular, illicit and clandestine activities, the information is not collated. Equally, smugglers only have a vague idea of what

¹⁰⁷ The figure of \$172 comes from dividing \$4,300 (the cost of the boat trip as paid to the boat owner, i.e., 300,000 Kenya shillings) by an average number of passengers (25).

numbers their competitors are handling.

As with the economics of smuggling, the study gathered certain fragmentary information and testimony,¹⁰⁸ but it also compiled some more concrete baseline figures that serve us well as we attempt to calculate the number of irregular migrants. Border figures, based on official accounts or on agents' estimates, do not provide an accurate assessment because so many people are smuggled through bush areas adjacent to official posts. Despite the multifarious routes used by smugglers, there are certain bottlenecks that help us gather figures. In particular, the preference and predominance of Malawi as a transit country is important, as it offers us reliable information concerning the number of people that pass through the refugee camp there. As mentioned throughout this report, almost all irregular migrants use the two main facilities (transit camp and refugee camp) to transit Malawi. The same cannot be said of the refugee camps or transit centres in Kenya or Mozambique or elsewhere. Indeed, these facilities in Malawi are part of the smugglers' established route. Figures from Malawi therefore are a main tool used to arrive at the estimations in the table below.

Based on all information gathered, this study estimates that between 17,000 and 20,000 Somalis and Ethiopians engaged smugglers to take them to RSA in 2008. The author further suggests this may be a conservative estimate.¹⁰⁹

The following sections summarize some of the information gathered during the research:

UNHCR estimated that approximately 10,000 Ethiopians and Somalis (in total) have transited through Malawi in the last four or five years, but the monthly numbers have been increasing considerably (if not precariously) since early 2007. UNHCR also stated that it had facilitated the transport of 400 to 500 deported irregular migrants from the Mozambique border at Dedze to the Dzaleka refugee camp in Malawi every month during 2008.¹¹⁰ These deportees were left at Dedze by the Mozambicans, and UNHCR provided transport assistance to the government of Malawi, returning deportees to Dzaleka, which usually was the deportees' point of departure some days or weeks before. The deportees undoubtedly re-attempted crossing into Mozambique some days or weeks later.

The figures from Dzaleka indicated that at least 715 Ethiopians and Somalis travelled through Malawi every month in 2008, despite the violence in RSA earlier in the year.¹¹¹

108 Testimonies and statements mentioned 250 people in one container, for example. The case of 1,200 Ethiopians going into Mozambique in one convoy, of a dhow carrying 47 people, etc.: "I was among 186 Somali and Ethiopians that left Mombasa," [Somali, 24, Nelspruit] and "They move in large numbers, sometimes more than 200 in one go," [senior immigration official, Tete, Mozambique].

109 During the same period in 2008, more than 50,000 Ethiopian and Somali migrants were smuggled into Yemen. As the route to RSA was comparatively more expensive (by a factor of 20), migrants who were smuggled into Yemen considered the RSA choice as the exclusive option available only to wealthy migrants.

110 According to author's interviews and communication with the acting country representative for UNHCR.

111 These official figures are taken from the administration offices of Dzaleka GoM / UNHCR camp. These monthly figures are derived using the conservative total of 5,000 migrants in seven months. There are indications it could be slightly more, as not all migrants use the refugee and transit camp but find alternative means to pass through the country.

Only a small percentage of migrants who attempt to transit Mozambique are caught and deported. According to the research from this study, only 60 per cent of Ethiopians and 80 per cent of Somalis transited Mozambique as their last country before entering RSA. An unknown number sail directly into Mozambique from Kenya, and others may use the less common, eastern overland route from Tanzania into Mozambique (crossing in north-eastern Mozambique at the coast instead of coming into Malawi). But the larger majority appear to use Malawi. Based on information from the respondents in this study, 38 per cent of Ethiopians fly to airports in RSA or neighbouring countries. We also know that Ethiopians make up 70 per cent of the caseload passing through Malawi.

A senior Kenyan immigration official told this study that they deport on average 70 to 100 irregular migrants every week. Tanzania has been deporting and jailing irregular migrants as well; therefore, the full number that leave Ethiopia and Somalia do not necessarily make it to Malawi and as such are not represented in the Dzaleka figures. In terms of the economic dynamics, however, they do represent value because the chief smuggler will have been paid some or all of his fee, irrespective of police interception.¹¹² The 1,200 Ethiopian and Somali detained migrants in Tanzanian jail in April 2008 had all paid their smugglers the full fee, according to members of the Tanzanian Task Force on Irregular Migration who were interviewed for this research.

The table below outlines the key data (based on actual figures and estimations) used to establish the approximate, minimal number of Somali and Ethiopian migrants who attempt to move from the Horn to RSA each year.

Estimate source	Activity & data	Extrapolated for entire year
UNHCR /Gov't of Malawi (GoM) & interview findings	Somalis transiting Malawi per month (30% of 715)	2,600
UNHCR/ GoM & interview findings	Ethiopians transiting Malawi per month (70% of 715)	6,000
Interviews and Malawi data	Additional migrants arriving through Zimbabwe from Zambia	1,000
Interviews analysis	Migrants arriving directly by air into RSA (3% Somalis, 5% Ethiopians)	800
Interviews analysis	Migrants flying to Mozambique or Zimbabwe and then entering RSA by road	4,000
Interviews analysis	Migrants sent back by Kenya immigration authorities	3,500-5,200

¹¹² Indeed, an arrested migrant, like one abandoned midway, could represent the most profitable migrant to the chief smuggler, as he has no more costs to pay but has probably received the majority of his fee.

TOTAL	17,900-19,600
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Quantifying the business

Based on the information above, it is possible to estimate the volume as well as the economic dimension of smuggling along the eastern corridor from the Horn of Africa to RSA.

Calculating the full economic value of smuggling from the Horn (and East Africa) to RSA is problematic for two reasons:

There is evidence that beyond the core fees charged to smuggled migrants there is another level of payments (bribes to border and prison authorities) and material losses (repeated robberies) that are very difficult to quantify but could represent a significant sub-economy within smuggling.

The nature of this business is very informal, flexible and competitive, to the extent that people may pay different amounts for the same service.

Nevertheless, this report attempts to bring together as much information as possible from the 600-plus in-depth interviews to serve as a baseline for some of the figures involved. A critical advantage to this study in terms of calculating the number of smuggled migrants is the much-used bottleneck in their journeys that is Malawi. The situation in Malawi, with smugglers using the transit centres and refugee camps to complete the Malawi leg of the journey, means we have access to reliable data regarding those using this route. In addition, we have a strong idea of what percentage of Somalis and Ethiopians actually use the Malawi route based on interviews of 293 migrants, mainly in RSA. These two critical aspects of our data gathering allow us to reasonably extrapolate and establish a sense of scale in terms of the numbers, and therefore the estimated economic value of this illicit trade to smugglers.

If we put this and other fragmentary information together and apply some informed extrapolations, it is possible to estimate that 1,400 to 1,650 men may have been smuggled from Ethiopia and Somalia per month during 2008. If these estimations are valid, it represents a volume of 17,000 to 20,000 men per year. If the average fee charged by chief smugglers is \$1,750 to \$2,000, the business may be worth between \$28 million and \$36 million per year (based on estimated data from 2008). The table below summarizes these figures using the two estimations of volume (17,000 and 20,000) against the two estimations of payments to chief smugglers (\$1,750 and \$2,000).¹¹³

¹¹³ The author alone is responsible for this estimate and the general calculations in this section. Given the paucity of data available, they have been arrived at through informed judgment as opposed to scientific evidence.

Estimate of annual number of Ethiopians and Somalis entering RSA during 2008	Using the lower average ¹ fee paid by migrants (\$)	Annual total value (\$) of business to smugglers (only)	Using the higher average ² fee paid by migrants (\$)	Annual total value (\$) of business to smugglers (only)
17,000 men	1,750	30 million	2,000	34 million
20,000 men	1,750	35 million	2,000	40 million

Somewhat surprisingly, the statistics from this study suggest that the majority of migrants (two-thirds at least) are Ethiopian, therefore making Somalis the minority. Given the fact that between 5,000 and 9,000 Somalis (according to UNHCR) entered Kenya every month in 2008 due to the conflict and that so many Somalis have relatives abroad, it is a surprising conclusion for this author to reach. Of the 50,000 Ethiopian and Somali irregular migrants that arrived on Yemen’s shore in 2008, 33,000 were Somali, but these would not have come from the same group entering Kenya during the same period. However, the available data and estimates do suggest a national division of this nature.¹¹⁴

However, given the economic and business opportunities in Ethiopia, Somalia and Kenya, human smuggling must represent one of the most lucrative and low-risk activities available to smugglers. Given the lack of prosecution, the absence of specific legal statutes against smuggling (or trafficking in most cases) and the alleged level of corruption within the law enforcement agencies, smuggling offers high earning potential.

This section ends with an interesting extract from a smuggler on the moral dilemma of over-demand in a business that looks set to expand before it declines.

People think we make a lot of money out of them. Truth is, it is a very tough business, moving a lot of people from one country to another. And these days it seems that the whole of Ethiopia and Somalia are coming here. Sometimes we can only move 60 people and we end up with 600. Who do you leave? Who do you take?
[Somali smuggler who allegedly is the main controller of the smuggling business from Somalia to RSA, Johannesburg, RSA]

¹¹⁴ The division of Ethiopians and Somalis amongst the 1,110 detainees interviewed for the Tanzanian ministerial study echoes the same proportions of two-thirds or more being Ethiopian. The same is true of those passing through Dzaleka refugee camp and registered by the government and UNHCR.

12 De-demonizing irregular migrants: issues of status, protection and legal harmony

This study was not designed to provide a legal review with regard to irregular migrants smuggled from East Africa and the Horn, down the eastern corridor, and into RSA. Such a review is still very much needed (see Recommendations, Chapter 14). Instead, this section will briefly raise issues of status, criminalization, legal and protection issues in relation to the irregular migrants themselves, and in relation to the international Smuggling Protocol. One of the aims of this final section is to de-demonize the irregular migrant and emphasize the migrants' fundamental, transitory objectives. While nations need robust border management, border control and clear national immigration rules, the male irregular migrant in the case of the eastern corridor is, nevertheless, predominantly an economic migrant en route to RSA or beyond. As he negotiates his way south, his status and levels of protection change considerably, as do his risks of human rights violations, other forms of violence and abuse and subjection to different national legal regimes.

Chameleon migrants

The journey of the irregular migrant is not only one of hardship and uncertainty, but also one of changing identities in order to make the different migration regimes of different countries work in his favour. Understanding something of the regimes in different countries through which they pass, irregular migrants change their stories accordingly. For example, when entering Kenya and Tanzania it is advantageous for Ethiopians to have passports into which visas and travel passes (however obtained) can be entered. After Tanzania, before entering Mozambique or Malawi, the passports need to disappear because they become a liability. Then, in Malawi, all migrants claim that they are seeking asylum and that they want to live in Malawi as refugees. This secures them a place at Dzaleka refugee camp and the 'trouble-free' ride from the north to the south of Malawi (with the exception of the inflated transport costs). Instead of registering as refugees in Dzaleka they leave, to cross the border into Mozambique where, again, they change their status. It appears from the interviews with migrants and other parties that the irregular migrant himself has partial information about the regimes of the countries he is passing through, but is predominantly instructed how to act by his smugglers.

The main refugee camp in northern Mozambique is Maratane in Nampula, well off the desired road to Maputo (or Zimbabwe) and then RSA. If caught in Mozambique, the typical

smuggled migrant claims he is an irregular migrant (in contrast to what he claims in Malawi) and actually wants to be deported to Malawi. If he claims asylum, he will be 'protected' and taken to Nampula refugee camp, where at the time of writing not one Ethiopian or Somali was resident. Migrants do not want to end up in Nampula because RSA is their objective, and Mozambique restricts the freedoms and opportunities of camp residents. Once inside RSA the irregular / smuggled migrant will immediately claim to be seeking asylum again and register to become a refugee under RSA's migrant policies, which are perceived by irregular migrants as welcoming and liberal in comparison with other options.

International norms

The UN protocols against trafficking and smuggling, (as part of the United Nations Convention Against Transnational Organized Crime) represent an important step forward in combating some of the most exploitative and dangerous situations that smuggled migrants can encounter. Law enforcement concerns are judged to have been the driving motivation for the protocols, but nevertheless they include important protective measures, which, if implemented fully, could significantly advance the human rights of migrants. The details of these various abuses have been discussed in previous chapters (particularly Chapters 8 and 9).

Of the countries relevant to this study, Ethiopia, Somalia, Tanzania and Zimbabwe have not signed the Smuggling Protocol. Kenya, Malawi, and Zambia acceded to, or ratified, the protocol in 2005, while Mozambique ratified it in 2006. However, as with many new international agreements or legal instruments, the Trafficking and Smuggling Protocols need to be read against the corpus of existing human rights law and labour standards that already exist to protect the rights of migrants.

International human rights norms oblige states to protect the human rights of all people under their jurisdiction, regardless of their status. This body of law includes, among others, the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), the International Convention on the Elimination of All Forms of Racial Discrimination (CERD), the Convention Against Torture (CAT) and the Convention on the Rights of the Child (CRC). These treaties and conventions protect a wide range of rights, especially the right to life, freedom from torture and freedom from unlawful imprisonment, etc. Although not all the countries involved in this study are signatories to all international human rights treaties, they have signed enough of the core international human rights tools that would protect the basic human rights (such as right to life, freedom from torture, freedom from unlawful imprisonment, etc.) of irregular migrants passing through their territory.

Asylum seekers and refugees should be accorded international protection under the 1951 Convention Relating to the Status of Refugees (Geneva 1951), the 1967 Protocol Relating to the Status of Refugees and the Convention Governing the Specific Aspect of Refugee Problems

in Africa (1969 OAU Convention). All eight countries listed above have signed both the 1951 Convention and the 1967 Protocol, including Somalia, which signed them both in 1978, long before the collapse of the government.

Prisons and the criminalization of irregular migrants

Currently the criminalization and prosecution of irregular migrants appears to be far more advanced than the criminalization of smugglers. The Smuggling Protocol argues for exactly the opposite. The prohibition of the criminalization of migrants is a critical part of the protocol, articulating an important international commitment to a basic level of protection for the smuggled migrant.

Article 5 of the Smuggling Protocol deals with the criminal liability of migrants. It states:

“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.”

Article 6 deals with criminalization of human smuggling. It states:

1. Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally and in order to obtain, directly or indirectly, a financial or other material benefit:
 - (a) The smuggling of migrants;
 - (b) When committed for the purpose of enabling the smuggling of migrants:
 - (i) Producing a fraudulent travel or identity document;
 - (ii) Procuring, providing or possessing such a document;
 - (c) Enabling a person who is not a national or a permanent resident to remain in the State concerned without complying with the necessary requirements for legally remaining in the State by the means mentioned in subparagraph (b) of this paragraph or any other illegal means.

According to interviews with the members of the Tanzanian Task Force on Irregular Migration, a total of 1,031 irregular immigrants from the Horn of Africa were apprehended and kept in custody in Tanzania between April and November 2007 alone. By January 2008, the figure stood at 1,289 persons from 12 different nationalities. The numbers continued to increase, and by April 2008, the figure of Ethiopians and Somalis alone, according to interviews and press reports, was said to have risen from 1,168 to 1,279.

But migrants are not detained or imprisoned in Tanzania alone. Statements from hundreds of irregular migrants from Ethiopia, Somalia and Kenya, as well as corroborating information from smugglers, NGOs, government officials (and, in the case of the national study in Tanzania, national statistics) confirm that the imprisonment of smuggled migrants in countries

along the way is not uncommon. Many migrants spoke of incarceration for days or weeks and months and even longer, accused of infringement of immigration laws. In some cases, men experienced multiple detentions in different countries in the course of their journey south.

This report does not seek to argue against the detention of irregular migrants who enter a country illegally while awaiting humane, safe and orderly deportation. However, in line with the Smuggling Protocol there is no room for criminal convictions carrying harsh punishments for migrants while smugglers remain safe from liability. According to the former UNHCR advisor on trafficking, "Migrants themselves are not to become liable to criminal prosecution under the Protocol for the fact of having been smuggled (although this provision would not prevent a State from prosecuting a smuggled migrant for violation of national immigration laws). All appropriate measures must be taken to preserve the internationally recognized rights of smuggled migrants, in particular, the right to life and the right not to be subjected to torture or other cruel, inhumane or degrading treatment or punishment."¹¹⁵

At the same time, the Smuggling Protocol explicitly endorses the rights of states to detain smuggled migrants provided that they are afforded the requisite consular access. It does also require states parties to return smuggled migrants to their home countries expeditiously.

We were sentenced to six months in prison when we were caught in Mozambique. I spent five months and 25 days in jail there. The prison was my worst experience. We were fed just once a day - a very small amount of food. I contracted dysentery.
[Somali, 30, Port Elizabeth, RSA]

The testimonies and evidence suggest that smuggled migrants are frequently arrested, detained and incarcerated in mainstream prisons, even though the state prosecutors understand that the detainees have been smuggled and have infringed immigration laws while in transit through their countries. Some testimonies indicate that hard labour may be included in the criminal sentence, and in many cases migrants spoke of appalling treatment, including beatings, sexual violence and extortion, which were compounded by minimal representation, little food, minimal health protection and general victimization by certain prison officials.

We were arrested and sentenced to two months each in Mocimboa, Mozambique. There were 40 of us, but I escaped after 16 days. We were tortured inside the prison. Every day, four soldiers would come with whip-lashes. They would tell us to take off our clothes. I had the scars long after I arrived here [RSA].
[Ethiopian, 26, Mafikeng, RSA]

¹¹⁵ Gallagher, 2002. Op. cit.

We were arrested in Quelimane [Mozambique]. We were 25 Ethiopians and Somalis. We had to stay there for a month. We were so hungry that we nearly ate our own faeces.

[Somali, 29, Grahamstown, RSA]

The conditions were horrendous. Prison in Tanzania was not good. Some Somali boys got raped.

[Somali, 18, Johannesburg, RSA]

We got arrested in Dar es Salaam [after taking a boat from Mombasa to Tanga]. We spent 19 days in captivity [Tanzanian jail]. There were three women with us. I don't know what happened to them but they complained of mistreatment in their cells. We understood that they were raped but they did not say it and we did not press it.

[Somali, 25, Nelspruit, RSA. This man went on to be arrested by the Mozambican authorities in Mocimboa and jailed for a further 45 days and then again in Maputo raided and arrested for 12 days. In each of the three cases, he and his compatriots were released after their facilitators / smugglers cut deals with the police. In Mocimboa, the police agreed on \$500 per person. As there were nine of them at that point, the police were paid \$4,500 to release the migrants within Mozambique to continue their illegal passage through the country.]

We were all caught by the Tanzanian police and thrown into jail for three months at Songwe [sic...on the Malawi border]. Then we were deported by bus to the Kenyan border. The Kenyans put us in their prisons in Nairobi for 2.5 months. Eventually, they drove us up to Moyale and dropped us off there. Prison conditions in Tanzania and Kenya were very poor. The food was bad and the cells were so full we had to sleep sitting up. There was no bedding. We all lost a lot of weight in prisons.

[Ethiopian, 30, Hosiana, Ethiopia, who had already been deported twice but was saving up to try again.]

We were taken to the [Botswana] court the next day and sentenced to two years each. After a year, a UNHCR representative came to us and told us he failed to secure our release. [...] While in custody, a Zimbabwean man tried to rape me. I fought him off and hit him so hard that he needed eight stitches to his face.

[Somali, 26, Rustenburg, RSA]

As indicated by the large number of migrants arriving in RSA, including those whose testimonies are quoted here, neither imprisonment nor expulsion prevent many migrants from eventually reaching their final destination. This study heard cases of RSA deporting Ethiopians and Kenyans to Nairobi and to Addis Ababa but not to Somalia. According to these cases, the normal course of events when deportation is used by police and immigration officials in Malawi, Tanzania, Mozambique, Kenya and South Africa is merely to physically take the migrants (en masse) back to the border they last crossed and force them to re-cross it. According

to testimonies collected during the study, shots are sometimes fired over migrants' heads to encourage them in a certain direction.¹¹⁶ In most cases, the migrants re-enter whichever country has just expelled them without delay, once the police have disappeared.

Different regimes

A further legislative review is needed to provide a full picture of the existing statutory approaches to smuggling in the eight countries covered by this research. However, the reality exposed through this research already suggests there is a gap in both legislation and implementation that allows smugglers to act with impunity and smuggled migrants to be punished as the sole perpetrators, paying a heavier price for their actions than established under international law, and particularly the Smuggling Protocol.

Smuggled migrants are effectively criminalized to different degrees. One Tanzanian immigration official told researchers that an irregular migrant (convicted of immigration infringements including illegal entry) could be sentenced to as much as two years' imprisonment, while statements from irregular migrants imprisoned in Kenya, Uganda, Zimbabwe and Mozambique claimed they were imprisoned for days, weeks or months. It is not clear from the specific interview whether they were detained with or without trial. The Tanzanian Task Force on Irregular Migration interviewed more than 1,000 Ethiopian and Somali prisoners who had been sentenced to different terms of imprisonment. In one case, an irregular migrant said he was sentenced to two years' imprisonment in Botswana.

In many cases, states claim that they lack adequate funds to even feed detained irregular migrants but still cannot release detainees who do not have proper documentation. At the same time, states may claim they have insufficient resources to return irregular migrants to their place of origin. In these situations, the detained migrants may be caught in a so-called Catch 22 situation, in which an unofficial arrangement (involving payments) becomes the only realistic solution – if available.

Virtual impunity

"The protocols share several key features," commented one expert observer. "Both require state parties to criminalize the relevant conduct of traffickers or smugglers, to establish and implement domestic law enforcement mechanisms, and to cooperate with other states to strengthen international prevention and punishment of these activities. Both stipulate that the migrants themselves should not be subject to criminal prosecution because of their illegal entry."¹¹⁷ The criminalizing of smugglers still remains a long way off, it appears. "This issue of leniency – the censure is so limited that it acts as impunity for smugglers," claimed one Zanzibar

¹¹⁶ Told to the researcher by a Kenyan immigration official in relation to Tanzanian officials encouraging unwanted migrants back into Kenya.

¹¹⁷ Bhabha, 2005. Op. cit..

immigration official interviewed. His complaints were echoed by immigration officials, other law enforcement agents, politicians and civil society representatives who repeatedly cited weak or avoidable legislation that was inadequate to restrain the smuggling trade.

Interviews with immigration officials and smugglers in different countries indicated that due to lack of relevant legislation criminalizing the acts of the smugglers and the payment of bribes smugglers have little to fear. Smugglers are often at large and well-known by members of the public and law enforcement agencies. In interviews for this study, law enforcement representatives frequently complained that there were few and weak laws with which they were trying to tackle the problem. Police in different countries often complained that in the absence of clear anti-smuggling legislation they could only charge smugglers with possession of false documents or harbouring 'illegal' migrants. It is easy for smugglers to continue their operations without becoming trapped by the law. Government officials in Malawi, Tanzania, Kenya and Mozambique all mentioned that inadequate legislation hindered their ability to stem the activities of smugglers.

A story from Tanzania illustrates the inadequacy of legal disapprobrium at present. This case was described by a state official for immigration in Zanzibar as follows:

In late 2007, [a smuggler] was caught in his dhow off-loading 45 Somali smuggled persons (men) at Pangani. He was arrested and was charged with "assisting illegal migrants to enter Tanzania". The case was concluded on 18 March 2008, and he was told to pay 50,000 Tanzanian shillings [\$46] or face six months in jail. The fact is he had already received \$1,500 from each of the 45 men, which was not retrieved or returned. He paid the fine and was free to leave the court. The 45 migrants, however, are still detained, pending either court cases or deportation, or they are serving actual sentences.'

After explaining these details, the official told the study that the smuggler was known to have immediately returned to his smuggling business. He also mentioned that the local community was poor and materially benefited from the activities of the smuggler and a more serious punishment or incarceration would have been very unpopular.

Given the pervasive use of de facto punitive measures against smuggled migrants in different countries as described by different migrants (incarcerated as they have been in prisons of Mozambique, Kenya, Zimbabwe, Tanzania, Uganda and Botswana), there is still an urgent need for the spirit of the Smuggling Protocol to be implemented by certain states. As discussed in an earlier section, the UN Smuggling Protocol explicitly approves a state's decision to detain smuggled migrants as long as they are afforded the requisite consular access. Detention is not the same as criminalization, or criminalization with hard labour.

CONCLUSION

On the other hand, the Smuggling Protocol requires states to remove smuggled migrants back to their home countries expeditiously. Migrant detainees can find themselves in a somewhat absurd position that illustrates a lack of clarity of jurisdiction, combined with a lack of resources by the state to deport them back to their home countries. For example, when detained migrants finish their sentence and/or pay a fine for illegal entry, they remain in prison with a deportation order issued to them, but not as prisoners. This is because there is no place to put them when they receive a deportation order. The government cannot afford to deport them due to lack of funds. Equally, the prisons also lack budgets to keep them and space to house them. Migrants can remain captive, without resources, in an environment where the relevant responsible department (immigration) is absent, and the existing department holding them (the prison system) does not meet its obligation to care for them. The conditions in prisons in Kenya, Mozambique and Tanzania, as described by irregular migrants for this study, are dire, with degrading and even life-threatening conditions in some cases.

Blaming neighbours

Many of the countries involved in this study are troubled by the number of irregular migrants passing through their territory. They see this trespassing as a threat to their state security and an infringement of their immigration laws and border controls. In their frustration with a problem that appears intractable and growing, it was common during the course of the study to hear government officials criticize the inadequate policies of neighbouring countries: “Compared to ten years ago, the increase of Somalis and Ethiopians is visible and significant. South Africa complains that Mozambique is too liberal, but the problem is Tanzania and Kenya, who are far too lax,” stated one refugee official in Maputo, Mozambique. The same criticism was heard in Malawi, Tanzania and Kenya, where officials blamed other transit countries or origin countries for their own problems with irregular migrants.

While further legislative review of the relevant laws and policies regarding smuggling in all relevant countries is required, it can already be said that the status offered to irregular migrants by different countries (whether they can apply for asylum or refugee status, etc.) and the level of criminalization of irregular migrants and of leniency towards smugglers contribute to a regional environment of disharmony. It is a disharmony that appears to work towards the direct benefit of the smuggling networks that exploit it and is currently expanding their trade. It is a disharmony that appears to call out for regional review and re-appraisal if a solution to controlling migrant flows and border management is to be found.

13. Conclusion

The findings of this assessment of the irregular migration of men from East Africa and the Horn of Africa to South Africa are sobering. They expose serious border control and management problems in a number of countries, while also exposing a significant level of corruption of state officials and abuse of irregular migrants by various parties, including smugglers, other criminals and state officials. The major positive finding of this study - that there is no evidence of trafficking of males into RSA - is therefore offset by the extensive allegations of official venality in relations to abuse of smuggled males. This in turn raises questions about the limits of definitions currently in use with regard to trafficking and smuggling, where the former category is characterized by abuse and exploitation and the second category is assumed to be largely free of abuse.

Contrary to the aim of the international Smuggling Protocol, which seeks to criminalize smuggling activities while offering protection to smuggled migrants, various countries continue to detain and convict smuggled migrants while failing to find better ways to censure the smugglers, who presently enjoy considerable scope for impunity.

At the same time, the tide of irregular migrants being smuggled, particularly from Ethiopia and Somalia, appears to be rising, with the demand for a better life and better opportunities away from endemic poverty and insecurity being successfully met by the supply of smuggling networks offering passage.

People are increasingly seeing the virtues (or otherwise) of the rest of the world as exposed on film/TV and the Internet, in addition to recognizing the earning potential in a culture of remittances that has developed in recent years. It is likely that the dynamic of leaving the country to find work and opportunity will persist. RSA will continue to be a key attraction, not only for those using the eastern corridor but for other African aspirant migrants, in contrast to the northern route to Europe through Libya (which is much more difficult), and the eastern route through Bossaso and into Yemen (by boat and with a reputation for violence and fatality).

With all the pull factors of RSA remaining strong despite the anti-foreigner violence in 2008 and the much-cited general xenophobia, it should be expected that the flow of Ethiopian and Somali men will continue and increase.

The push factors in Ethiopia are as strong as ever, with endemic poverty taking the lead. Migrants also mentioned the political situation as a reason for departure. The climate has been unkind, with droughts and flooding affecting millions of people each year in Ethiopia,

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where the environment appears to struggle to sustain the country's ever-increasing population. A state minister in Ethiopia told researchers for this study that a "strong poverty-reduction policy was seen as the best government response to smuggling and trafficking." She spoke of "intensive city programmes" creating jobs and building already improving the lot of many.

The fact that Ethiopia is not at war but responsible for at least two-thirds of the estimated flow of smuggled migrants to RSA suggests that our understanding of push and pull factors may not be sufficiently nuanced. By this it is meant that other factors, rather than absolute poverty or absolute insecurity, motivate people to move. Ironically it is Somalia, where increasing violence continues, that would be expected to promote a higher level of exodus to RSA.

The push factors in Somalia are arguably far stronger, with a weak, even defunct, government in place that is unable to stem the military and criminal activities of a society ripped apart by clan and resource-based power struggles. Few expect the Somali crisis to end soon. The economic plight of millions in this war-torn country will continue to drive men overseas to ease their burdens and support those left behind.

Even if the fighting subsides, the country has been severely affected by years of war and neglect. In addition, the climate has been unkind, with droughts and flooding affecting millions of people each year.

In 2008, the flow of registered refugees departing Somalia for Kenya alone was between 4,000 and 5,000 per month. That number peaked at 9,000 in October 2008. The current context is one where all the information points to increasing numbers of migrants and asylum seekers from Somalia and Ethiopia.

Ethiopians and Somalis are affected by absolute poverty, but amongst those who choose to migrate, the issue of expectations and 'relative' poverty also play a part. As long as people have the perception that accessible greener pastures exist elsewhere, the flow will continue.

According to one senior refugee official in Mozambique, "[The irregular migrants] are all economic migrants really and not interested in becoming refugees in Mozambique. Mozambique is one big transit country for them. [...] As long as Ethiopia and Somalia have economic and stability issues it will be impossible to stop this flow."

As it continues to offer good survival opportunities as well as the best hope to get out of Africa and to the West, RSA will continue to attract thousands of Ethiopians. Smuggling these Ethiopians to RSA will likewise continue as long as the demand is high.

J. Bhabha of Harvard University summarized the dilemmas facing those wishing to control and managed the flow of smuggled, irregular migrants:

Prospects of a better life abroad, poverty, economic marginalization, political and social unrest, and conflict are all incentives to move. In an increasingly interconnected world, movement is easier. As push and pull factors encourage increasing numbers of people to migrate, these individuals in turn collide with the many legal obstacles to entry that industrialized countries have put in place.

However, opportunities to immigrate legally are severely limited. Migrants, including asylum seekers, have increasingly resorted to irregular means of entry and unauthorized stays, and ever-larger numbers use the services of smugglers to evade the system, compounding their vulnerability to exploitation and ill treatment.¹¹⁸

The rise of smuggled migrants presents nation states with legal and practical problems in terms of sustaining border integrity, and the apparent ease of movement across international borders has significant national, regional and international security implications. Another side of the security threat posed by porous borders is the actual security threat to irregular migrants and the country as a whole, as witnessed during the attacks against ‘foreigners’ in RSA in early 2008. Findings from this study further illustrate that beyond the publicized attacks on and subsequent displacement of foreigners in 2008, many irregular migrants in RSA appear to be victims of repeated violence and criminality. Despite this, the flow south continues with a self-reinforcing strength, as successfully smuggled migrants to RSA (and to the West) pay for the exodus of their friends and relatives from the Horn and East Africa.

In an increasingly globalized world, smugglers, document forgers and transnational criminals find lucrative markets for the illicit transport of people across borders. Evidence from around the world also suggests that the more restrictive border controls become, the higher the demand for the services of smugglers and the higher the fees they can charge (in accordance with the simple economic principles of supply and demand). In turn, the more money the illicit trade generates the greater the temptations facing law enforcement officials in the affected countries. As one representative of an international NGO told researchers in Mozambique: “The smugglers will always be able to pay state officials more than their employers.” The impact of systematic corruption in eroding the authority and integrity of democratic government and promoting dysfunctional state offices is impossible to calculate, but it can be judged to be undesirable.

The major challenge for policy makers, and national governments, is how to address a problem that from the points of view of the irregular migrant, the smuggling network and the profiteering state officials (and criminals) could be seen as a win-win-win situation. It could further be argued that RSA benefits economically from the additional workforce of predominantly informal low-paid workers, just as the families and communities of successful

¹¹⁸ Bhabha, 2005. Op. cit..

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migrants benefit through remittances to Somalia, Ethiopia and Kenya. These realities may suggest a more nuanced and practical approach is called for as a response. Equally, if the failure of governments to establish sufficient means of safe migration for people in the globalizing economy is the fertile ground in which smuggling now thrives (as quoted in the executive summary of this report), then some new thinking may be required by stakeholders. Some comment is made on this issue in the recommendations of this study.

Finally, this study has hinted at the apparent disharmony between legal regimes in relation to irregular migrants and smugglers in different countries, but this report does not aim to offer a legal review describing the extent of this disharmony or how countries could best harmonize their policies and laws as an important step towards addressing the situation. This challenge not only faces the states directly involved in the current flow of irregular migrants, (i.e., those researched in this study), but also those beyond, as Europe and North America are reportedly the ultimate objective of many Ethiopians and Somalis who make it to RSA. As such, the concerns raised in this study have national, regional and global implications.

14. Recommendations

The context for the following recommendations

According to the introduction provided by UN Office for Drugs and Crime, the Protocol Against the Smuggling of Migrants by Land, Sea and Air, adopted by General Assembly Resolution 55/25, entered into force on 28 January 2004. It deals with the growing problem of organized criminal groups who smuggle migrants, often at high risk to the migrants and at great profit for the offenders. A major achievement of the protocol was that a definition of smuggling of migrants was developed and agreed upon for the first time in a global international instrument. The protocol aims at preventing and combating the smuggling of migrants, as well as promoting cooperation among states parties, while protecting the rights of smuggled migrants and preventing the worst forms of their exploitation that often characterize the smuggling process. Of the countries relevant to this study, Ethiopia, Somalia, Tanzania and Zimbabwe have not signed the Smuggling Protocol. Kenya, Malawi, and Zambia acceded to, or ratified, the protocol in 2005, while Mozambique ratified it in 2006. The following recommendations are listed with close regard to the articles of the Smuggling Protocol, irrespective of whether countries are signatories. It is used as a practical benchmark against which to develop recommendations. The protection of irregular migrants from harm and loss of life, and censure of those that abuse them, are not only expressed in the Smuggling Protocol (the full text is presented in Annex 1), but in a wide corpus of international conventions signed by the countries covered in this study. In addition, most countries have existing laws that, if implemented, would go a long way to protecting irregular migrants and reducing the illegal entry of irregular migrants.

Recommendation 1: further legal and policy review and research

- (1a) A legal review of the relevant countries is recommended to establish where harmony and disharmony occur in relation to addressing the problem of smuggling and irregular migrants.
- (1b) Better data, both qualitative and quantitative, is required on the numbers of people being smuggled, their motivations, where they end up and how they are smuggled. Understanding their vulnerability and the scale of the problem will assist in prevention as well as protection. This study has made a start in this direction, but greater depth and tracking would benefit states aiming to tackle the problem. There is a need to look further into the conceptual issues that prevent exploited migrants from receiving assistance if their experiences fall outside the definition of trafficking, as defined by the Trafficking Protocol.

Recommendation 2: towards regional harmonization of policies and practices in relation to smuggling and irregular migrants

- (2a) If efforts to restrict and curtail smuggled migration are to succeed, states relevant to this study should maximize their communication, cooperation and information-sharing concerning the movement and monitoring of smuggling routes and smugglers.¹¹⁹ Such cooperation would benefit from the legal review and research proposed under Recommendation 1.
- (2b) If the restriction of the smuggling business is to be successfully accomplished, the response to smuggling in the region should be harmonized, either through the ratification of the Smuggling Protocol by the states involved or by creating a regional tool. States should cooperate and share practices with a view to harmonizing their collective governmental policies and laws in relation to smugglers and smuggled migrants.
- (2c) In developing the two recommendations above (2a and 2b), special attention should be given to creative, solutions-oriented, nonconventional approaches to deal with the presence of migrant detainees in prisons and the steady (probably increasing) flow of irregular migrants down the eastern corridor into RSA. Current approaches do not appear to be succeeding in ending the smuggling trade or abating the flow of migrants. On the contrary, it appears to be flourishing.

Recommendation 3: towards the de-criminalization of irregular migrants

- (3a) Smuggled migrants should not be liable to criminal prosecution.¹²⁰ They should not be convicted and sentenced to imprisonment as common criminals. Irregular migrants filling jails creates an unbearable burden for host governments, and the problem of irregular migrants not having the correct paperwork after a sentence is served remains unsolved no matter how long the punitive sentence.
- (3b) Irregular migrants currently detained in countries relevant to this study need to be given passage “in an orderly manner with due regard for the safety and dignity of the person”¹²¹ to their country of origin. International organizations and the governments of the countries of origin may cooperate with the ‘host’ country to achieve this. Appropriate travel documentation should be developed to facilitate this.
- (3c) All exploited migrants, regardless of their status, need to be granted protection and provided with the necessary assistance. It may be appropriate to look closely at trafficking and smuggling within a broader framework of protection of all vulnerable and exploited migrants.

¹¹⁹ Relating to Article 7, Article 10, Article 11 (6) and Article 14 of the Smuggling Protocol.

¹²⁰ Relating to Article 5 of the Smuggling Protocol.

¹²¹ Relating to Article 18 (5) of the Smuggling Protocol for this quote and the entire Article 18 for this part of the recommendation.

Recommendation 4: towards the criminalization of smugglers and their networks

- (4a) States need to develop legislation to appropriately censure the activity of smuggling in its various manifestations and sufficiently criminalize the activities of smugglers so that those responsible can be prosecuted for smuggling people, as opposed to being charged with tangential offenses, such as road traffic offenses or harbouring irregular migrants, etc., which carry low-level penalties and are easy to avoid.¹²²
- (4b) The criminalization of smuggling should be separated from other activities smugglers and their agents are allegedly involved in, namely robbery, extortion, violent attacks, sexual attacks and even murder or causing death due to negligence. When apparent, these associated activities should be treated as serious crimes worthy of police investigation and prosecution, just as they would be if perpetrated against a citizen of the country through which the smuggled migrant is taken.¹²³

Recommendation 5: towards ending human rights violations against irregular migrants

- (5a) Recognizing that national law enforcement officers are allegedly involved in robberies, human rights violations and extortion of irregular migrants in their charge, states need to redouble their efforts to investigate and prosecute offending civil servants and develop a professional culture where such abuse of power is unacceptable and sanctioned with the same severity as if the same crime were committed by a citizen of that country under domestic law.¹²⁴

Recommendation 6: towards universal compliance with the Smuggling Protocol and similar treaties

- (6a) Recognizing that countries affected by smuggling on this eastern corridor are already signatories to different international and continental human rights conventions, this recommendation urges states to honour their commitment to these treaties with respect to irregular migrants, just as with other people within their territories.
- (6b) Concerning those countries that have not signed or acceded to the Smuggling Protocol, this recommendation urges them to review their commitment to this protocol as a first step to joining with other countries in trying to address the problems associated with irregular migration and smuggling within and through their territories.
- (6c) Further to Recommendation 6b, states are urged to sign and ratify the Trafficking Protocol.

¹²² Relating to Article 6 (1-4) and Article 16 (1 & 2) of the Smuggling Protocol.

¹²³ Relating to Article 6 (3a) and 6 (3b) of the Smuggling Protocol.

¹²⁴ Relating to Article 6 (4) of the Smuggling Protocol.

Recommendation 7: towards enhancing border control

- (7a) Border management and control of irregular migration requires a far stricter adherence to national immigration regulations, a significant reduction (and movement towards elimination) of official corruption and profiteering from smuggling (directly or indirectly), and serious efforts to secure porous borders.¹²⁵
- (7b) Training in migrants' rights is recommended to all relevant officials.

Recommendation 8: prevention and tackling the root causes and critical factors

- (8a) Clearly, poverty and insecurity are key factors driving irregular migration in this region. All efforts to reduce the severity of poverty and insecurity in Ethiopia, Somalia and, in some cases, Kenya should be expected to have an impact on the flow of migrants seeking a new life in RSA and beyond. All measures to improve opportunities and alternatives in these three countries should be promoted and encouraged.¹²⁶
- (8b) If the current flow of irregular migrants to RSA represents a genuine filling of employment vacancies unmet by local workers, RSA should explore whether it can develop a policy of allowing quotas of migrants to legally enter RSA to work in some capacity as a mechanism to control its borders and register its migrant inhabitants. Other possibilities of circular migration between countries in the region should be explored as well.
- (8c) Border crossings throughout the region, as well as in the source countries / communities of many of these irregular migrants, could be targeted by information campaigns to promote public awareness of the dangers of being smuggled, human rights and who to contact if their personal safety is compromised, etc.¹²⁷

Recommendation 9: anti-corruption measures

- (9a) All states involved are encouraged to address credible allegations of corruption or abuse practiced by state officials through investigations as well as through national programmes and policies and, where relevant, include entities attending to irregular migration issues. States need to redouble their efforts to develop a new culture of professionalism and integrity where corruption is subject to appropriate discipline.¹²⁸

¹²⁵ Relating to Article 11, Article 12 and Article 13 of the Smuggling Protocol.

¹²⁶ Relating to Article 15 (3) of the Smuggling Protocol.

¹²⁷ Relating to Article 15 of the Smuggling Protocol.

¹²⁸ Relating to Article 16 (1 & 2) of the Smuggling Protocol.

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Annexes:

A: Smuggling Protocol

PROTOCOL AGAINST THE SMUGGLING OF MIGRANTS BY LAND, SEA AND AIR, SUPPLEMENTING THE UNITED NATIONS CONVENTION AGAINST TRANSNATIONAL ORGANIZED CRIME

Advance copy of the authentic text. The copy certified by the Secretary-General will be issued at a later time.



UNITED NATIONS 2000
 PROTOCOL AGAINST THE SMUGGLING OF MIGRANTS BY LAND, SEA AND AIR,
 SUPPLEMENTING THE UNITED NATIONS
 CONVENTION AGAINST TRANSNATIONAL ORGANIZED CRIME

Preamble

The States Parties to this Protocol,

Declaring that effective action to prevent and combat the smuggling of migrants by land, sea and air requires a comprehensive international approach, including cooperation, the exchange of information and other appropriate measures, including socio-economic measures, at the national, regional and international levels,

Recalling General Assembly resolution 54/212 of 22 December 1999, in which the Assembly urged Member States and the United Nations system to strengthen international cooperation in the area of international migration and development in order to address the root causes of migration, especially those related to poverty, and to maximize the benefits of international migration to those concerned, and encouraged, where relevant, interregional, regional and subregional mechanisms to continue to address the question of migration and development, *Convinced* of the need to provide migrants with humane treatment and full protection of their rights,

Taking into account the fact that, despite work undertaken in other international forums, there is no universal instrument that addresses all aspects of smuggling of migrants and other related issues,

Concerned at the significant increase in the activities of organized criminal groups in smuggling of migrants and other related criminal activities set forth in this Protocol, which bring great harm to the States concerned,

Also concerned that the smuggling of migrants can endanger the lives or security of the migrants involved,

Recalling General Assembly resolution 53/111 of 9 December 1998, in which the Assembly decided to establish an open-ended intergovernmental ad hoc committee for the purpose of elaborating a comprehensive international convention against transnational organized crime and of discussing the elaboration of, inter alia, an international instrument addressing illegal trafficking in and transporting of migrants, including by sea,

Convinced that supplementing the United Nations Convention against Transnational Organized Crime with an international instrument against the smuggling of migrants by land, sea and air will be useful in preventing and combating that crime,

Have agreed as follows:

I. General provisions

Article 1

Relation with the United Nations Convention against Transnational Organized Crime

This Protocol supplements the United Nations Convention against Transnational Organized Crime. It shall be interpreted together with the Convention.

The provisions of the Convention shall apply, *mutatis mutandis*, to this Protocol unless otherwise provided herein.

The offences established in accordance with article 6 of this Protocol shall be regarded as offences established in accordance with the Convention.

Article 2

Statement of purpose

The purpose of this Protocol 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.

Article 3

Use of terms

For the purposes of this Protocol:

- (a) "Smuggling of migrants" shall mean 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;
- (b) "Illegal entry" shall mean crossing borders without complying with the necessary requirements for legal entry into the receiving State;
- (c) "Fraudulent travel or identity document" shall mean any travel or identity document:
 - (i) That has been falsely made or altered in some material way by anyone other than a person or agency lawfully authorized to make or issue the travel or identity document on behalf of a State; or
 - (ii) That has been improperly issued or obtained through misrepresentation, corruption or duress or in any other unlawful manner; or
 - (iii) That is being used by a person other than the rightful holder;
- (d) "Vessel" shall mean any type of water craft, including non-displacement craft and seaplanes, used or capable of being used as a means of transportation on water, except a warship, naval auxiliary or other vessel owned or operated by a Government and used, for the time being, only on government non-commercial service.

Article 4

Scope of application

This Protocol shall apply, except as otherwise stated herein, to the prevention, investigation and prosecution of the offences established in accordance with article 6 of this Protocol, where the offences are transnational in nature and involve an organized criminal group, as well as to the protection of the rights of persons who have been the object of such offences.

Article 5***Criminal liability of migrants***

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.

Article 6***Criminalization***

1. Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally and in order to obtain, directly or indirectly, a financial or other material benefit:
 - (a) The smuggling of migrants;
 - (b) When committed for the purpose of enabling the smuggling of migrants:
 - (i) Producing a fraudulent travel or identity document;
 - (ii) Procuring, providing or possessing such a document;
 - (c) Enabling a person who is not a national or a permanent resident to remain in the State concerned without complying with the necessary requirements for legally remaining in the State by the means mentioned in subparagraph (b) of this paragraph or any other illegal means.
2. Each State Party shall also adopt such legislative and other measures as may be necessary to establish as criminal offences:
 - (a) Subject to the basic concepts of its legal system, attempting to commit an offence established in accordance with paragraph 1 of this article;
 - (b) Participating as an accomplice in an offence established in accordance with paragraph 1 (a), (b) (i) or (c) of this article and, subject to the basic concepts of its legal system, participating as an accomplice in an offence established in accordance with paragraph 1 (b) (ii) of this article;
 - (c) Organizing or directing other persons to commit an offence established in accordance with paragraph 1 of this article.
3. Each State Party shall adopt such legislative and other measures as may be necessary to establish as aggravating circumstances to the offences established in accordance with paragraph 1 (a), (b) (i) and (c) of this article and, subject to the basic concepts of its legal system, to the offences established in accordance with paragraph 2 (b) and (c) of this article, circumstances:
 - (a) That endanger, or are likely to endanger, the lives or safety of the migrants concerned; or
 - (b) That entail inhuman or degrading treatment, including for exploitation, of such migrants.
4. Nothing in this Protocol shall prevent a State Party from taking measures against a person whose conduct constitutes an offence under its domestic law.

II. Smuggling of migrants by sea

Article 7

Cooperation

States Parties shall cooperate to the fullest extent possible to prevent and suppress the smuggling of migrants by sea, in accordance with the international law of the sea.

Article 8

Measures against the smuggling of migrants by sea

1. A State Party that has reasonable grounds to suspect that a vessel that is flying its flag or claiming its registry, that is without nationality or that, though flying a foreign flag or refusing to show a flag, is in reality of the nationality of the State Party concerned is engaged in the
- 2 smuggling of migrants by sea may request the assistance of other States Parties in suppressing the use of the vessel for that purpose. The States Parties so requested shall render such assistance to the extent possible within their means.
3. A State Party that has reasonable grounds to suspect that a vessel exercising freedom of navigation in accordance with international law and flying the flag or displaying the marks of registry of another State Party is engaged in the smuggling of migrants by sea may so notify the flag State, request confirmation of registry and, if confirmed, request authorization from the flag State to take appropriate measures with regard to that vessel. The flag State may authorize the requesting State, *inter alia*:
 - (a) To board the vessel;
 - (b) To search the vessel; and
 - (c) If evidence is found that the vessel is engaged in the smuggling of migrants by sea, to take appropriate measures with respect to the vessel and persons and cargo on board, as authorized by the flag State.
- 4 A State Party that has taken any measure in accordance with paragraph 2 of this article shall promptly inform the flag State concerned of the results of that measure.
- 5 A State Party shall respond expeditiously to a request from another State Party to determine whether a vessel that is claiming its registry or flying its flag is entitled to do so and to a request for authorization made in accordance with paragraph 2 of this article.
- 6 A flag State may, consistent with article 7 of this Protocol, subject its authorization to conditions to be agreed by it and the requesting State, including conditions relating to responsibility and the extent of effective measures to be taken. A State Party shall take no additional measures without the express authorization of the flag State, except those necessary to relieve imminent danger to the lives of persons or those which derive from relevant bilateral or multilateral agreements.
- 7 Each State Party shall designate an authority or, where necessary, authorities to receive and respond to requests for assistance, for confirmation of registry or of the right of a vessel to fly its flag and for authorization to take appropriate measures. Such designation shall be notified through the Secretary-General to all other States Parties within one month of the designation.

- 8 A State Party that has reasonable grounds to suspect that a vessel is engaged in the smuggling of migrants by sea and is without nationality or may be assimilated to a vessel without nationality may board and search the vessel. If evidence confirming the suspicion is found, that

State Party shall take appropriate measures in accordance with relevant domestic and international law.

Article 9

Safeguard clauses

1. Where a State Party takes measures against a vessel in accordance with article 8 of this Protocol, it shall:

- (a) Ensure the safety and humane treatment of the persons on board;
- (b) Take due account of the need not to endanger the security of the vessel or its cargo;
- (c) Take due account of the need not to prejudice the commercial or legal interests of the flag State or any other interested State;
- (d) Ensure, within available means, that any measure taken with regard to the vessel is environmentally sound.

Where the grounds for measures taken pursuant to article 8 of this Protocol prove to be unfounded, the vessel shall be compensated for any loss or damage that may have been sustained, provided that the vessel has not committed any act justifying the measures taken. Any measure taken, adopted or implemented in accordance with this chapter shall take due account of the need not to interfere with or to affect:

- (a) The rights and obligations and the exercise of jurisdiction of coastal States in accordance with the international law of the sea; or
- (b) The authority of the flag State to exercise jurisdiction and control in administrative, technical and social matters involving the vessel.

4. Any measure taken at sea pursuant to this chapter shall be carried out only by warships or military aircraft, or by other ships or aircraft clearly marked and identifiable as being on government service and authorized to that effect.

III. Prevention, cooperation and other measures

Article 10

Information

1. Without prejudice to articles 27 and 28 of the Convention, States Parties, in particular those with common borders or located on routes along which migrants are smuggled, shall, for the purpose of achieving the objectives of this Protocol, exchange among

themselves, consistent with their respective domestic legal and administrative systems, relevant information on matters such as:

- (a) Embarkation and destination points, as well as routes, carriers and means of transportation, known to be or suspected of being used by an organized criminal group engaged in conduct set forth in article 6 of this Protocol;
 - (b) The identity and methods of organizations or organized criminal groups known to be or suspected of being engaged in conduct set forth in article 6 of this Protocol;
 - (c) The authenticity and proper form of travel documents issued by a State Party and the theft or related misuse of blank travel or identity documents;
 - (d) Means and methods of concealment and transportation of persons, the unlawful alteration, reproduction or acquisition or other misuse of travel or identity documents used in conduct set forth in article 6 of this Protocol and ways of detecting them;
 - (e) Legislative experiences and practices and measures to prevent and combat the conduct set forth in article 6 of this Protocol; and
 - (f) Scientific and technological information useful to law enforcement, so as to enhance each other's ability to prevent, detect and investigate the conduct set forth in article 6 of this Protocol and to prosecute those involved.
2. A State Party that receives information shall comply with any request by the State Party that transmitted the information that places restrictions on its use.

Article 11

Border measures

1. Without prejudice to international commitments in relation to the free movement of people, States Parties shall strengthen, to the extent possible, such border controls as may be necessary to prevent and detect the smuggling of migrants.
2. Each State Party shall adopt legislative or other appropriate measures to prevent, to the extent possible, means of transport operated by commercial carriers from being used in the commission of the offence established in accordance with article 6, paragraph 1 (a), of this Protocol.
3. Where appropriate, and without prejudice to applicable international conventions, such measures shall include establishing the obligation of commercial carriers, including any transportation company or the owner or operator of any means of transport, to ascertain that all passengers are in possession of the travel documents required for entry into the receiving State.
4. Each State Party shall take the necessary measures, in accordance with its domestic law, to provide for sanctions in cases of violation of the obligation set forth in paragraph 3 of this article.
5. Each State Party shall consider taking measures that permit, in accordance with its domestic law, the denial of entry or revocation of visas of persons implicated in the commission of offences established in accordance with this Protocol.

6. Without prejudice to article 27 of the Convention, States Parties shall consider strengthening cooperation among border control agencies by, inter alia, establishing and maintaining direct channels of communication.

Article 12

Security and control of documents

1. Each State Party shall take such measures as may be necessary, within available means:
 - (a) To ensure that travel or identity documents issued by it are of such quality that they cannot easily be misused and cannot readily be falsified or unlawfully altered, replicated or issued; and
 - (b) To ensure the integrity and security of travel or identity documents issued by or on behalf of the State Party and to prevent their unlawful creation, issuance and use.

Article 13

Legitimacy and validity of documents

At the request of another State Party, a State Party shall, in accordance with its domestic law, verify within a reasonable time the legitimacy and validity of travel or identity documents issued or purported to have been issued in its name and suspected of being used for purposes of conduct set forth in article 6 of this Protocol.

Article 14

Training and technical cooperation

1. States Parties shall provide or strengthen specialized training for immigration and other relevant officials in preventing the conduct set forth in article 6 of this Protocol and in the humane treatment of migrants who have been the object of such conduct, while respecting their rights as set forth in this Protocol.
2. States Parties shall cooperate with each other and with competent international organizations, non-governmental organizations, other relevant organizations and other elements of civil society as appropriate to ensure that there is adequate personnel training in their territories to prevent, combat and eradicate the conduct set forth in article 6 of this Protocol and to protect the rights of migrants who have been the object of such conduct. Such training shall include:
 - (a) Improving the security and quality of travel documents;
 - (b) Recognizing and detecting fraudulent travel or identity documents;
 - (c) Gathering criminal intelligence, relating in particular to the identification of organized criminal groups known to be or suspected of being engaged in conduct set forth in article 6 of this Protocol, the methods used to transport smuggled migrants, the misuse of travel or identity documents for purposes of conduct set forth in article 6 and the means of concealment used in the smuggling of migrants;
 - (d) Improving procedures for detecting smuggled persons at conventional and non-conventional points of entry and exit; and
 - (e) The humane treatment of migrants and the protection of their rights as set forth in this Protocol.

3. States Parties with relevant expertise shall consider providing technical assistance to States that are frequently countries of origin or transit for persons who have been the object of conduct set forth in article 6 of this Protocol. States Parties shall make every effort to provide the necessary resources, such as vehicles, computer systems and document readers, to combat the conduct set forth in article 6.

Article 15

Other prevention measures

1. Each State Party shall take measures to ensure that it provides or strengthens information programmes to increase public awareness of the fact that the conduct set forth in article 6 of this Protocol is a criminal activity frequently perpetrated by organized criminal groups for profit and that it poses serious risks to the migrants concerned.
2. In accordance with article 31 of the Convention, States Parties shall cooperate in the field of public information for the purpose of preventing potential migrants from falling victim to organized criminal groups.
3. Each State Party shall promote or strengthen, as appropriate, development programmes and cooperation at the national, regional and international levels, taking into account the socio-economic realities of migration and paying special attention to economically and socially depressed areas, in order to combat the root socio-economic causes of the smuggling of migrants, such as poverty and underdevelopment.

Article 16

Protection and assistance measures

1. In implementing this Protocol, each State Party shall take, consistent with its obligations under international law, all appropriate measures, including legislation if necessary, to preserve and protect the rights of persons who have been the object of conduct set forth in article 6 of this Protocol as accorded under applicable international law, in particular the right to life and the right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment.
2. Each State Party shall take appropriate measures to afford migrants appropriate protection against violence that may be inflicted upon them, whether by individuals or groups, by reason of being the object of conduct set forth in article 6 of this Protocol.
3. Each State Party shall afford appropriate assistance to migrants whose lives or safety are endangered by reason of being the object of conduct set forth in article 6 of this Protocol.
4. In applying the provisions of this article, States Parties shall take into account the special needs of women and children.
5. In the case of the detention of a person who has been the object of conduct set forth in article 6 of this Protocol, each State Party shall comply with its obligations under the Vienna Convention on Consular Relations, where applicable, including that of informing the person concerned without delay about the provisions concerning notification to and communication with consular officers.

Article 17

Agreements and arrangements

States Parties shall consider the conclusion of bilateral or regional agreements or operational arrangements or understandings aimed at:

- (a) Establishing the most appropriate and effective measures to prevent and combat the conduct set forth in article 6 of this Protocol; or
- (b) Enhancing the provisions of this Protocol among themselves.

Article 18

Return of smuggled migrants

1. Each State Party agrees to facilitate and accept, without undue or unreasonable delay, the return of a person who has been the object of conduct set forth in article 6 of this Protocol and who is its national or who has the right of permanent residence in its territory at the time of return.
2. Each State Party shall consider the possibility of facilitating and accepting the return of a person who has been the object of conduct set forth in article 6 of this Protocol and who had the right of permanent residence in its territory at the time of entry into the receiving State in accordance with its domestic law.
3. At the request of the receiving State Party, a requested State Party shall, without undue or unreasonable delay, verify whether a person who has been the object of conduct set forth in article 6 of this Protocol is its national or has the right of permanent residence in its territory.
4. In order to facilitate the return of a person who has been the object of conduct set forth in article 6 of this Protocol and is without proper documentation, the State Party of which that person is a national or in which he or she has the right of permanent residence shall agree to issue, at the request of the receiving State Party, such travel documents or other authorization as may be necessary to enable the person to travel to and re-enter its territory.
5. Each State Party involved with the return of a person who has been the object of conduct set forth in article 6 of this Protocol shall take all appropriate measures to carry out the return in an orderly manner and with due regard for the safety and dignity of the person.
6. States Parties may cooperate with relevant international organizations in the implementation of this article.
7. This article shall be without prejudice to any right afforded to persons who have been the object of conduct set forth in article 6 of this Protocol by any domestic law of the receiving State Party.
8. This article shall not affect the obligations entered into under any other applicable treaty, bilateral or multilateral, or any other applicable operational agreement or arrangement that governs, in whole or in part, the return of persons who have been the object of conduct set forth in article 6 of this Protocol.

IV. Final provisions

Article 19

Saving clause

1. Nothing in this Protocol shall affect the other rights, obligations and responsibilities of States and individuals under international law, including international humanitarian law and international human rights law and, in particular, where applicable, the 1951 Convention and the 1967 Protocol relating to the Status of Refugees and the principle of non-refoulement as contained therein.
2. The measures set forth in this Protocol shall be interpreted and applied in a way that is not discriminatory to persons on the ground that they are the object of conduct set forth in article 6 of this Protocol. The interpretation and application of those measures shall be consistent with internationally recognized principles of non-discrimination.

Article 20

Settlement of disputes

1. States Parties shall endeavour to settle disputes concerning the interpretation or application of this Protocol through negotiation.
2. Any dispute between two or more States Parties concerning the interpretation or application of this Protocol that cannot be settled through negotiation within a reasonable time shall, at the request of one of those States Parties, be submitted to arbitration. If, six months after the date of the request for arbitration, those States Parties are unable to agree on the organization of the arbitration, any one of those States Parties may refer the dispute to the International Court of Justice by request in accordance with the Statute of the Court.
3. Each State Party may, at the time of signature, ratification, acceptance or approval of or accession to this Protocol, declare that it does not consider itself bound by paragraph 2 of this article. The other States Parties shall not be bound by paragraph 2 of this article with respect to any State Party that has made such a reservation.
4. Any State Party that has made a reservation in accordance with paragraph 3 of this article may at any time withdraw that reservation by notification to the Secretary-General of the United Nations.

Article 21

Signature, ratification, acceptance, approval and accession

1. This Protocol shall be open to all States for signature from 12 to 15 December 2000 in Palermo, Italy, and thereafter at United Nations Headquarters in New York until 12 December 2002.
2. This Protocol shall also be open for signature by regional economic integration organizations provided that at least one member State of such organization has signed this Protocol in accordance with paragraph 1 of this article.
3. This Protocol is subject to ratification, acceptance or approval. Instruments of ratification,

acceptance or approval shall be deposited with the Secretary-General of the United Nations. A regional economic integration organization may deposit its instrument of ratification, acceptance or approval if at least one of its member States has done likewise. In that instrument of ratification, acceptance or approval, such organization shall declare the extent of its competence with respect to the matters governed by this Protocol. Such organization shall also inform the depositary of any relevant modification in the extent of its competence.

4. This Protocol is open for accession by any State or any regional economic integration organization of which at least one member State is a Party to this Protocol. Instruments of accession shall be deposited with the Secretary-General of the United Nations. At the time of its accession, a regional economic integration organization shall declare the extent of its competence with respect to matters governed by this Protocol. Such organization shall also inform the depositary of any relevant modification in the extent of its competence.

Article 22

Entry into force

1. This Protocol shall enter into force on the ninetieth day after the date of deposit of the fortieth instrument of ratification, acceptance, approval or accession, except that it shall not enter into force before the entry into force of the Convention. For the purpose of this paragraph, any instrument deposited by a regional economic integration organization shall not be counted as additional to those deposited by member States of such organization.
2. For each State or regional economic integration organization ratifying, accepting, approving or acceding to this Protocol after the deposit of the fortieth instrument of such action, this Protocol shall enter into force on the thirtieth day after the date of deposit by such State or organization of the relevant instrument or on the date this Protocol enters into force pursuant to paragraph 1 of this article, whichever is the later.

Article 23

Amendment

1. After the expiry of five years from the entry into force of this Protocol, a State Party to the Protocol may propose an amendment and file it with the Secretary-General of the United Nations, who shall thereupon communicate the proposed amendment to the States Parties and to the Conference of the Parties to the Convention for the purpose of considering and deciding on the proposal. The States Parties to this Protocol meeting at the Conference of the Parties shall make every effort to achieve consensus on each amendment. If all efforts at consensus have been exhausted and no agreement has been reached, the amendment shall, as a last resort, require for its adoption a two-thirds majority vote of the States Parties to this Protocol present and voting at the meeting of the Conference of the Parties.
2. Regional economic integration organizations, in matters within their competence, shall exercise their right to vote under this article with a number of votes equal to the number of

their member States that are Parties to this Protocol. Such organizations shall not exercise their right to vote if their member States exercise theirs and vice versa.

3. An amendment adopted in accordance with paragraph 1 of this article is subject to ratification, acceptance or approval by States Parties.
4. An amendment adopted in accordance with paragraph 1 of this article shall enter into force in respect of a State Party ninety days after the date of the deposit with the Secretary-General of the United Nations of an instrument of ratification, acceptance or approval of such amendment.
5. When an amendment enters into force, it shall be binding on those States Parties which have expressed their consent to be bound by it. Other States Parties shall still be bound by the provisions of this Protocol and any earlier amendments that they have ratified, accepted or approved.

Article 24

Denunciation

1. A State Party may denounce this Protocol by written notification to the Secretary-General of the United Nations. Such denunciation shall become effective one year after the date of receipt of the notification by the Secretary-General.
2. A regional economic integration organization shall cease to be a Party to this Protocol when all of its member States have denounced it.

Article 25

Depositary and languages

1. The Secretary-General of the United Nations is designated depositary of this Protocol.
2. The original of this Protocol, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

IN WITNESS WHEREOF, the undersigned plenipotentiaries, being duly authorized thereto by their respective Governments, have signed this Protocol.

B: Semi Structured Interview (SSI) report forms

Interview Report A
Smuggled/trafficked person

To be filled out following interviews of smuggled/trafficked persons

Preliminaries:

Date of interview:	
Interviewed by:	
Location of interview:	
Origin: (country / region/town/village)	
Age: (specific or range by decade)	
Sex:	
Civil status: (married /single)	
Direct dependents: (spouse / children)	
Education level: (none / prim / sec / uni / tech)	
Date of migration: (approximate or specific)	
Name/contact of respondent (optional)	
Alias (for case study / publication, etc.)	

Means:

Specific reason for migration: (unemployment / poverty / lack of opportunities / political / insecurity / natural disaster / joining family or friends / social or cultural persecution / war / better life aspirations)	
Is migration from your home area/ village a common occurrence?	
What sort of people typically migrate from your area (age, sex, skilled or unskilled, etc.)?	
Was there pressure to migrate / to send remittances?	
Was RSA your intended destination? (transit to elsewhere?)	
If not, why did you end up in RSA?	
If yes, why did you choose RSA? (aspirations / stories / promises of employment)	
Who facilitated your migration? (name optional / status necessary: friend / known agent / etc.)	
Did you contact the facilitator or did they contact you? (respondent passive or active)	

Were jobs or services promised to you by the facilitator or only transport to RSA?	
Did another person / agency lead you to believe you would have employment at the destination?	
If yes, was this formalized in a written document / contract?	
Did you have a clear verbal or written agreement of the obligations of each party in the arrangement with the facilitator?	
Did the facilitator or another agent agree to arrange necessary travel documents?	
Who financed the operation?	
Details of any down payments and subsequent payments.	
If you financed the operation, did the arrangement obligate you to work at the destination to complete payment, or were there no obligations of this kind post-arrival?	
Did you therefore expect to continue to be obligated to the facilitator in any way after arrival in RSA?	
Were the route, means of transportation and conditions explained to you prior to departure?	
If yes, were the actual route and conditions as you expected or were they different? If yes, then how?	

Mobilization:

Explain the actual route taken, from your original point of departure to the destination.	
Explain the means of transport used.	
Explain the time taken for the whole journey (break down by time and place).	
Explain the borders crossed and how this was achieved.	
Explain who else was travelling in the group (numbers / sex / age / destinations).	
Did you always travel together, or were you separated at times?	
Who led the group? Was he/she/they different from the initial facilitator in your home area? Describe the different facilitators at different parts of the journey. Profile them if possible.	
Who had control of your personal travel documents during the journey?	
Were you required to make additional payments during the course of the journey?	

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Did the facilitators / leaders arrange all paperwork and visas for border crossings?	
Did you cross any borders by unofficial methods or 'cross-country'?	
Were documents legal or illegal?	
Were immigration officials and/or police unofficially paid or rewarded to allow you to pass? If so, where and how?	
Did you witness this or did you hear about it?	
Explain conditions concerning food / shelter / dress / health during the journey.	
Did you experience any sexual or physical abuse, human rights violations or robbery during your journey? Give details of where and how.	
Did you witness any sexual or physical abuse, human rights violations or robbery of other migrants during your journey? Give details.	
Did you experience or witness any activities by your leaders / facilitators during the journey which led you to suspect or fear for yourself or others in the group? Give details.	
Were there significant differences between the pre-travel explanations of your journey and the actual journey in terms of conditions, use of coercion or illegality, etc.?	
Did you arrive at your destination in the manner expected (location / dates / condition)?	

Exploitation:

On arrival in RSA, were your personal documents given back to you or did you still possess your personal travel documents?	
Did the journey facilitators deliver you in RSA and then leave you, or did they continue to be involved with you after you arrived? Give details.	
Was the initial agreement upheld, or were new additional costs or obligations required from the facilitators or any other party? If yes, explain.	
Were you given complete freedom or were you handed over to another party or in some other way controlled by the facilitator or another party after arrival?	
Were you obliged to work or offer services in any way after arrival?	

If yes, describe the work and conditions of employment in detail.	
Did you suffer coercion, use of force, blackmail, psychological and/or physical violence or threats or any other abuse or forms of control from your facilitators or anyone linked to them after your arrival?	
If yes, for how long did this continue and how was it justified?	
Did you consider yourself having been forced into a situation that you did not choose or desire?	
Do you consider that beyond the money your facilitators made transporting you to RSA people have subsequently used you to make profits?	
If you have since become free of any contact with the facilitators or their associates, how did this happen? How long after your arrival?	
Do you consider yourself at this time to be in a situation of coerced or forced labour and/or to be subject to human rights violation or to be in fear of violence and threats? If yes, why and how?	
Do you know of other migrants who were forced to continue relationships / obligations with those who transported them to RSA or their associates?	
Do you know of any organization or situation where people are being forced to work or being maintained in any servitude, debt bondage or slave-like conditions following migration to RSA?	

Any other comments or information relevant to the study of male trafficking and male smuggling routes from East Africa from this respondent:

Interview Report B Third-party sources

To be filled out following interviews with third-party sources

Preliminaries:

Date of interview	
Interviewed by	
Location of interview	
Name/contact of respondent	
Function / department / agency	

Findings:

Third party's (3P's) formal connection and /or responsibilities to issues relating to trafficking and smuggling in RSA or elsewhere.	
Informal or tangential 3P connection to issues relating to trafficking and smuggling in RSA or elsewhere.	
New information from 3P on specific knowledge of trafficking and smuggling into RSA.	
New information based on the 3P's specific knowledge of trafficking and smuggling from East Africa into RSA.	
Detail information on issues around the means, transportation and final exploitation of illegal migrants in RSA from East Africa (routes used particularly important).	
Typical profile of traffickers.	
Typical profile of those trafficked or smuggled.	
Specific information of trafficked males (boys and men) and what occupations they end up in. Occupation type, location, conditions, etc.	
Comments on trends in migration with regard to trafficking, special events or conditions that could influence trends, legislation and capacity of RSA to address issues.	
Suggested recommendations concerning counter-trafficking.	
Information on clues, contacts, ideas for further investigation.	
Possible contacts with any trafficked males or traffickers/smugglers.	

Interview Report C Smuggler/Trafficker

To be completed following interviews with smugglers/traffickers.

Preliminaries:

Date of interview	
Interviewed by	
Location of interview	
Name/contact of respondent (optional)	
Alias (for case study / publication, etc.)	
Origin (country / region/town/village)	
Age (specific or range by decade)	
Sex	
Civil status (married /single)	
Direct dependents (spouse / children)	
Education level (none / prim / sec / uni / tech)	

Findings:

Any new specific information of trafficking and smuggling into RSA.	
Any new general information of trafficking and smuggling from East Africa into RSA, including information about the means, transportation and final exploitation of illegal migrants in RSA.	
Information on the respondent's connection relating to trafficking and smuggling in RSA or elsewhere (male and female).	
How respondent operates in terms of being part of a network, syndicate, chain or loosely associated teams, etc.? What part of chain is the respondent?	
Respondent's specific involvement with smuggling or trafficking from East Africa.	
If respondent = smuggler, then establish details of whole operations as much as possible. Discuss also trends and difficulties with law enforcement (if any).	
Establish what would make their work more difficult.	
How common is it for trafficked males to be handed over to a new, independent party who then exploits them?	

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What occupations do trafficked men and boys end up in? What are the destination businesses / industries most commonly welcoming or using trafficked males?	
What are the economics of the system, especially information unavailable from trafficking in persons (TIP) such as the profits or sale price to businesses of typical TIP?	
Explore issues of employers' preferences: most preferred type of male, how successful they are as TIP in employment and how long the relationship lasts.	
Explore the means and methods of maintaining TIP in forced conditions (use of force / isolation/ documents / threats, etc.).	
Any new clues, contacts and ideas for further investigation.	
Any specific contacts with any trafficked males or other traffickers/smugglers?	

(Footnotes)

- 1 The (average) lower fee quoted by various irregular migrants was approximately \$1,750.
- 2 The (average) higher fee quoted by various irregular migrants was approximately \$2,000.

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