

Global Compact for Safe, Regular and Orderly Migration

Statement by the Office of the United Nations High Commissioner for Human Rights (OHCHR)

<u>5th informal thematic session:</u>	Smuggling of migrants, trafficking in persons and contemporary forms of slavery, including appropriate identification, protection and assistance to migrants and trafficking victims
<u>Panel 1 (4 September 2017):</u>	Smuggling of migrants

Madame/ Mr. Moderator,

The New York Declaration rejected the destructive and counter-productive “war on smuggling” approach. We must not seek to revive it in the global compact.

We must rather develop responses that are based on evidence and our human rights values, that challenge rather than reinforce the business model of organized and abusive smugglers, and that reject securitization in favour of common sense and humanity.

And we must no longer allow opportunistic politicians and xenophobes to intentionally conflate migrant smuggling with the crime of trafficking in an effort to confuse the public and to build support for anti-migrant policies.

We know that many migrants, and the vast majority of migrants who are moving in a vulnerable and precarious manner, will utilise smuggling interactions at some point along their journey.

This fact can be linked directly to the lack of safe, regular and orderly pathways and channels for migration. As air, sea and land borders are increasingly securitized and the options for regular movement diminished, migrants are left with few other options than to rely on smugglers.

Migrant smuggling, as seen through a human rights lens, does not in itself constitute a violation. Sometimes it can provide the necessary means for migrants to escape desperate situations.

But smuggling can also dramatically heighten the vulnerability of migrants to abuse. Migrants who have turned to smugglers often have little choice in how they move, particularly when they are poor and otherwise marginalized.

They are disproportionately at risk of extortion, violence and exploitation by smugglers as well as by border authorities and other actors, including being forced into situations of trafficking.

Therefore a human rights-based approach to migrant smuggling should start from a fact-based and comprehensive analysis of the situation, including the motivations and rights of the migrant, rather than a narrow focus on the securitization of borders and prevention of movement.

Evidence shows that attempts to shut down smuggling channels without opening and effectively governing regular migration pathways are not conducive to less smuggling nor indeed to less migration. When migration is the only way to escape human rights violations, including chronic poverty and a lack of decent work, as well as environmental degradation and despair, people will continue to move towards safety and opportunity—just as most in this room would do in such circumstances .

In fact, harsh counter-smuggling responses can actually exacerbate the very sense of disorder that they ostensibly wish to tackle, by driving movement further underground and leading to more hazardous, violent and costly journeys.

An approach that relies only on law enforcement addresses the symptoms but not the root causes of smuggling. Such an approach often gives rise to abusive border control measures such as dangerous interception practices, prolonged or unlawful detention, and intrusive surveillance and intelligence-gathering methods.

As the journey becomes more expensive and riskier, the unequal power relationship between smugglers and migrants worsens and makes migrants more vulnerable to kidnapping, extortion, sexual and gender-based violence and other abuses at the hands of smugglers.

An approach that seeks to combat smuggling at any cost has grave implications for the lives and safety of migrants, as well as for the rights of those who assist them.

Migrants' rights defenders who provide migrants with humanitarian – often life-saving - assistance can be penalized through misguided counter-smuggling laws.

While those who exploit and abuse migrants should be sanctioned, including through the proper application of criminal penalties, it is time that we realise that punitive counter-smuggling approaches on their own are an ineffective means through which to improve migration governance.

I thank you.