

Expert Panellist Statement on the Smuggling of Migrants

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Excellencies, ladies and gentlemen, thank you for this opportunity.

The *New York Declaration* calls for vigorously combatting migrant smuggling with a view to its elimination.

Does that mean that our task today is simply to make the combat more effective?

No.

This panel has been asked to examine the actions taken and the gaps in responses to the smuggling of migrants. Many of you probably think of migrant smuggling as one of the least contentious issues of the Global Compact on Migration. But migrant smuggling is actually an issue that goes to the heart of crucial dilemmas, challenges and conflicts of interest in migration management.

So, let us address those issues openly.

When I talk about migrant smuggling, I use the inclusive definition of migrants that the UN has traditionally supported. Every person who changes their usual place of residence is a migrant. This is a crucial point, because it means that a migrant might be fleeing persecution and be entitled to protection under the Refugee Convention.

Every time we talk about refugees and migrants as if they were two separate groups, we imply that migrant smuggling is the smuggling of people who have no right to international protection.

But in fact, a large part of migrant smuggling today ensures that people in danger are brought to safety. People who have a well-founded fear of persecution buy the services of smugglers in order to get out of harm's way and into a country where they can seek asylum. In retrospect, the migrants often feel that purchasing the smuggling services was the right decision.

This aspect of smuggling is well-documented by research, but almost completely silenced in the policy discourse.

When I started doing research on migrant smuggling to Europe ten–fifteen years ago, the main concern of European states was that the population of undocumented immigrants would rise when migrants entered illegally without being detected or were impossible to return to their country of origin after being apprehended.

Today, a major concern of European states is rather that smugglers bring people who will apply for asylum and have the right to remain legally as refugees.

This is because of the fundamental dilemma in European migration policy: Europe wants the Refugee Convention, but not the refugees. Having it both ways is possible by blocking access to European territory for potential asylum seekers. And the services of smugglers upset this balance.

Counter-smuggling measures are primarily based on the idea that migrant smuggling has harmful consequences, and that if we eliminate the smuggling, the world will be a better place.

The smuggling of migrants does have high costs for migrants and states alike, so this reasoning seems intuitive. Still, it underpins a misguided response. Counter-smuggling measures do not simply *reduce* smuggling. They *change the dynamics* of smuggling. Often the result is that the journeys become more expensive, more difficult, and more dangerous, for migrants.

The loss of life and suffering of migrants is typically attributed to the ruthlessness and brutality of smugglers. There are many cynical smugglers, but this explanation is too simple.

First, *our fight* against migrant smuggling has created perverse incentive structures. To put it bluntly, a smuggler knows that bringing his passengers safely to shore in Europe could put him behind bars for ten years. But sending them off on their own and risking that they drown allows him to stay in business.

This illustrates a key point: the protection of migrants who are smuggled, is not simply a matter of *adding* protective measures. It is also about rethinking how the battle against smuggling is fought in the first place.

Also, the danger of being smuggled does not necessarily come from the smugglers. This is mentioned in Issue Brief, but bears repeating. One major study on the US–Mexico border, for instance, found that migrants were more likely to be robbed by opportunistic criminals, and physically abused by border guards, than to be harmed by their smugglers.

What would happen if the fight against migrant smuggling was fought to victory? Fewer people would drown in the Mediterranean, the Red Sea, or the Arizona Desert. But many of the people who would have turned to smugglers would suffer or die in dangerous settings that were impossible to escape.

And the proportion of refugees hosted in The Global South would not be 89% as it is today, but probably much closer to 100%. If that is an aim, it should be an explicit one.

I am not calling for an end to the fight against migrant smuggling. But I am calling for a fresh and honest look at *why* and *how* it is fought, and *what* its consequences are.

The Istanbul Regional Conference on migrant smuggling in July resulted in a series of proposed actionable commitments that I don't have time to account for here, but which I encourage you to consult.

Thank you.