Irregular migration and human trafficking business are symptoms and consequences of political and legal failures on the part of the origin and host states. The crisis has been created, sustained and enabled by state-imposed human insecurities and highly restrictive border and asylum policies in the countries of origin, transit and destinations. Therefore, any attempt to solely deal with the symptoms, including border control and implementation of legal measures to punish irregular migrants and traffickers, are more likely to fail and less likely to affect the demand for its service. States’ approach to over-criminalize human smugglers is leading to the transformation of smugglers into human traffickers jeopardizing refugees’ lives in the process.

WHAT’S AT STAKE?

Human trafficking is a growing transnational criminal phenomenon, which has been one of the most challenging consequences of contemporary human insecurity and threats to vulnerable people in the world. Despite the growing awareness creation, however, the phenomenon still remains to be poorly understood, less affected by the poorly developed strategies to tackle it, and complicated by a variety of facilitators and contributing factors that are often overlooked. Without understanding the cause, complex nature and actors of the transnational clandestine crime syndicate, it would be nearly impossible to prevent the crime, protect the victims and prosecute the criminals.

CASE STUDIES: ERITREA AND SUDAN
In recent years, Eastern Sudan has witnessed the emergence of a new trend of human smuggling from Eritrea and human trafficking that involves the abduction of refugees from within and around refugee camps in Eastern Sudan to the Sinai Peninsula. As most literatures and political debates have mainly focused on human trafficking in terms of commercial sex trafficking and forced labor (UNODC, 2016), little is known and written about the nature and victimization patterns surrounding human trafficking that specifically involve abduction, sexual violence, torture, extortion and killing of refugees. Furthermore, scholars have largely failed to recognize the state-imposed human insecurity (lawlessness, oppression, violence, bad governance, corruption, deprivations and violations of fundamental rights) and highly restrictive border and asylum policies in the countries of origin, transit and destinations as the main creating, sustaining and enabling factors.

WHAT’S CAUSING THIS INCREASE IN HUMAN SMUGGLING AND HUMAN TRAFFICKING?

There is strong evidence to suggest that the recent increase in human smuggling and trafficking of asylum seekers and refugees to and from Eastern Sudan is the byproduct of the oppressive government and tightly closed borders in Eritrea. This has further been exacerbated by the intended consequence of hostile and lawless refugee receptions in transit and countries of first asylum, which was aimed at discouraging potential arrivals of asylum seekers by creating an environment of fear, disorder and insecurity. The growing irregular migration to Europe, and their dependency on illegal criminal network to cross the Saharan Desert and Mediterranean Sea to seek protection, on the other hand, is the unintended consequence of the restrictive migration policies in destination countries, which was envisioned to keep refugees out.

While the absence of human security and the growing deprivations of fundamental rights in the country of origin have increased the desperation to leave, the highly restrictive border policies at home and hostile migration practices in the country of transit and asylum have increased the demand for human smugglers/traffickers and created a fertile ground for them to practice with near impunity.

As much as it is the responsibility of the countries of origin, transit and host for the creation of fertile ground for human smuggling and trafficking business to flourish, EU’s faulty policy prescription has sustained the root cause and consequences of the
problem. In their attempt to deter and dry up refugee flows to Europe, the EU governments have been collaborating with oppressive governments and less stable countries in the region, including Eritrea, Sudan and Libya to keep refugees away from their borders. While the countries of origin, hosts and transits are infested with corruption, abuse, exploitation, violence and insecurity, EU has been empowering them to keep refugees within the regions of their origin and far away from European boundaries thereby creating a highly lucrative and intertwined networks of crime enterprise. With the growing insecurity in refugee camps, dwindling prospect for resettlement and the diminishing legal routes to safety, refugees are forced to resort to human smugglers and traffickers with the hopes of reaching Europe.

Therefore, governments’ attempt to impose generic migration control and the growing reluctance to secure refugee rights and protection enshrined in the Geneva Convention ‘have inadvertently created a market where enterprising agents with appropriate social connections and resources have built a profitable business. The demand for their services continues to rise with governments’ efforts to restrict illegal migration’ (Zhang 2007:22).

WHAT ARE THE CONSEQUENCES?

The contemporary human insecurity and punitive emigration practices in Eritrea, and the hostile reception and immigration policies as deterrence mechanisms in the country of asylum, has led asylum seekers from most regions and ethnic backgrounds to routinely rely upon illicit clandestine smuggling networks to flee to safety. As stated earlier, however, not all human smugglers are involved in material and benefit-driven services, as there are many family members, refugees, friends and benevolent individuals helping refugees and asylum seekers reach safety. Therefore, for the most part, a great majority of Eritrean asylum seekers have been seeking exit from Eritrea and entry into Sudan through voluntarily smuggling services, until recent reports of abduction by human traffickers from within Eritrea came to light. Academic researchers from Tilburg University and the UN Monitoring Group on Somalia and Eritrea have presented an investigative report citing the abduction of Eritreans from Eritrea to Sudan and/or to Sinai where they have been exposed to extortion and horrific violence (Van Reisen, et al 2013; UNMGSE, 2013). According to UNMGSE, high-level government officials along with the chain of ‘intermediaries’ have directly been responsible for many of the human trafficking operations from Eritrea.
Several testimonies of survivors collected by researchers indicate that they were either lured out from their farming activities under the pretext of job opportunity and cheaper smuggling services to Sudan and handed over to traffickers from Rashaida tribesmen, or straight out abducted and driven to Sudan for financial extortion (Van Reisen, et al 2013; UNMGSE, 2013). Out of whom, many were released after they had paid thousands of dollars ransom money in Sudan, while others were resold to the Bedouin of Sinai for further extortion with no regards for human lives (Van Reisen, et al 2013; UNMGSE, 2013). But most of the abductions occur from within Shagarab refugee camps and its environs. As Lijnders and Robinson (2013) has illustrated, ‘[w]hile crossing the borders to claim asylum may facilitate some protection from abuses perpetrated by the Eritrean government, it has created a new set of challenges for Eritrean refugees who now must find protection and safety from kidnappers’ (Lijnders and Robinson 2013:137).

Asylum seekers who are released after ransom payment and/or those who managed to escape from the Sinai torture camps often end up either in Egyptian military prisons with no access to the court of law, or in Israel’s detention centers. In Egypt, human trafficking-related crimes have been ignored, and contrary to the country’s Anti-trafficking law, Art (21) that provides criminal immunity for trafficking victims, survivors are often detained on the grounds of unauthorized entry with no access to UNHCR and asylum procedures, medical care and psychosocial assistances (HRW 2014a). Survivors who have been kept imprisoned in Egypt for unlimited periods of time without due process of the law are threatened by deportation as the only way to get out of detention. The former human trafficking captives are expected to raise money for their deportation fees, and once returned to Eritrea, they will potentially face persecution (Esveld, 2008). In Israel, all African asylum seekers, including survivors of human trafficking, are portrayed as a ‘security threat’ and are liable to punishment by mandatory imprisonment upon arrival. Traffickers in the Sinai seem to be operating under general impunity in which the perpetrators are not prosecuted while the hostages are criminalized (Van Reisen, et al 2013: 92). If anyone is punished, it is often the victims of human trafficking, not the perpetrators of the crime.

**WHAT ARE THE IMPLICATIONS FOR MIGRATION POLICY?**

The lack of compassion, rejection of asylum seekers, inaction against human traffickers, and the disregards for the kidnappings, abuse and humiliation of
refugees in broad daylight could be translated into a deliberate policy to make their transit route and destination sufficiently miserable. This in turn serves as a deterrent element to others from coming to their countries and pushes out those who are already in their territories. These cases are examples of a deliberate failure and breach of international human rights and refugee laws, which have maximized human tragedy and created fertile grounds for human traffickers who inherently benefit from the exploitation and victimization of the unprotected and the vulnerable human beings.

The first step to prevent human smuggling and human trafficking is to eliminate the root of the problem at the source country in terms of human insecurity, which are some of the driving forces behind the growing desire to leave and the rise of the organized crime syndicate who benefit from people's socio-economic and political despair. In addition to implementing legislative measures to prosecute traffickers and ensure the security and protection of displaced populations, transit and destination countries should adopt a victim-centered approach in terms of providing survivors with psychosocial, physical and material assistance as well as access to judicial and asylum procedures consistent with the international human rights and refugee laws. The profit-motivated human smugglers can partially be driven out of the market by opening up legal immigration channels, flexible migration policies, reintroduction of a quota system and responsibility-sharing. As an indiscriminate legalization of human smuggling would be as dangerous as over-criminalizing them, governments will have to follow the Canadian lead in decriminalizing altruistic smugglers and providing compassionate conditions to vulnerable asylum seekers who need protection.

**KEY FINDINGS**

- The growing crisis of human smuggling and human trafficking has been created, sustained and enabled by state-imposed human insecurities and highly restrictive border and asylum policies in the countries of origin, transit and destinations.
- States’ approach to over-criminalize human smugglers is leading to the transformation of smugglers into human traffickers jeopardizing refugees’ lives in the process.
- For the most part, a great majority of Eritrean asylum seekers have been seeking exit from Eritrea and entry into Sudan through voluntarily smuggling...
services, until recent reports of abduction by human traffickers from within Eritrea came to light.

- Asylum seekers who are released after ransom payment and/or those who managed to escape from the Sinai torture camps often end up either in Egyptian military prisons with no access to the court of law, or in Israel’s detention centers.
- Traffickers seem to be operating under general impunity in which the perpetrators of the crime are not prosecuted while the hostages are criminalized.

RECOMMENDATIONS

- Human trafficking is a transnational crime and it takes political willingness, commitment and collaboration at national, regional and transnational levels where the needs and fundamental rights of asylum seekers and survivors should be at the center of prevention efforts, protection of victims and prosecution of the perpetrators.
- The first step to prevent human smuggling and human trafficking is to eliminate the root of the problem at the source country in terms of human insecurity, which are some of the driving forces behind the growing desire to leave and the rise of the organized crime syndicate who benefit from people’s socio-economic and political despair.
- The international community should implement legislative measures to prosecute traffickers and colluders and ensure the security and protection of the displaced populations, while adopting a victim-centered approach in terms of providing survivors with psychosocial, physical and material assistance as well as access to judicial and asylum procedures consistent with the international human rights and refugee laws.
- Refugees, asylum seekers and survivors of human trafficking deserve protection, assistance and permission to remain legally in the hosts’ territories, not punishment, rejection, imprisonment and deportation just for the sole reason of entry and asylum seeking.
- The profit-motivated human smugglers can partially be driven out of the market by opening up legal immigration channels, flexible migration policies, reintroduction of quota system, and responsibility-sharing.

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