People Smuggling: Recent Trends and Changing Responses

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Transnational crime is such a broad concept, one which encompasses a great many forms of criminal activity. Rather than attempt to cover the field, what I’d like to do in my presentation today is take a specific example of transnational crime, people smuggling, and use this as a case study through which to explore some emerging trends and responses.

**Case Study: People Smuggling**

Although the facilitated illegal movement of people across international borders isn’t a “new” crime, “people smuggling” is considered to be the fastest-growing form of transnational crime today. It is also one of the top three forms of transnational crime in terms of criminal profits, with an estimated $7 billion annual profit being made by organisers who are moving millions of people every year.

*Context of international events*

Given the nature of any transnational crime, analysis cannot merely focus on the experience in one’s own country in isolation – to have an idea of where these crimes will move next it is necessary to look further, to explore how changes overseas affect Australia’s experience of what is the endproduct of cross-border crime. Significant international events in recent times have influenced the flow of migrants seeking the assistance of people smugglers to move to safer or more prosperous nations worldwide. For instance, ongoing civil war and recent drought in the Middle East have seen large numbers of people displaced, many of who are willing to pay smugglers to ferry them to safer or more liveable destinations. The Asian economic crisis was one factor contributing to a rise in people smuggling from and through South East Asia. China’s ever expanding population of over 1.2 billion means there is an ongoing threat to Australia (as to other nations) from the potentially large number of Chinese economic migrants seeking opportunity abroad. Many of these changes in faraway nations have a direct impact on Australia in terms of the level of illegal immigration to our country.

*Emerging Trends*

Considering Australia’s experience of people smuggling over the last few years, there certainly have been some new trends emerging. Three years ago, the figures for unlawful arrivals (97-98) were 157 by boat and 1,550 by air, ie. illegal air arrivals outnumbered boat arrivals by 10:1. Looking at the most recent figures (99-00) we see that boat arrivals jumped to 4,175: almost 27 times the figure from two years prior. This dramatic rise in boat arrivals reverses the previous trend seen since the mid-90s whereby the majority of illegal entrants came in by air. Last year, boat arrivals outnumbered air arrivals by almost 3:1.

Looking more generally, the absolute numbers of illegal entrants to Australia has jumped significantly over the past 2 years, rising by around 240%. This rise is in line with a global trend which is seeing more and more people being smuggled worldwide.

So what are the reasons for these escalating numbers to Australia, and the shift in preferred smuggling methods from air to boat travel? There are a number of possibilities, and the changes are likely due to a combination of factors. I’ll focus on...
the main trend, namely, the dramatic increase in seaward smuggling over the past two years.

Figures on illegal boat arrivals are now 27 times what they were 3 years ago. Information from Australian Immigration authorities suggests that organised people smuggling rings targeting Australia and bringing people from Iraq, Afghanistan and Iran have accounted for this dramatic increase. To illustrate, in 98-99, only 216 of the boat arrivals (or 23%) were Iraqi or Afghani nationals. A year later, these same figures had jumped to 3,560 (or 85% of all boat arrivals). Although this increase seems large, it is not surprising when you consider that there are reportedly up to half a million displaced persons from Afghanistan alone seeking possible relocation to other parts of the globe, and many Iraqis seeking to flee Saddam Hussein’s regime. This obviously creates a huge demand for smuggling services, and smuggling syndicates have sprung up in the Middle East to meet this demand.

But why the trend towards smuggling by sea? Syndicates are growing increasingly fluid and flexible in their operations and networks, and if they have good reason to change their modus operandi, they will. Some advantages of seaward smuggling include:

- bigger profits in concentrated hits, as they can transport large numbers of migrants at once, say 50-150 per boat – compare this to air smuggling, where organisers typically smuggle only one or two at a time to avoid suspicion and detection by airport authorities;
- Australia’s proximity to Indonesia (the main staging point for boat travel – last year 97% of illegal boats embarked from Indonesia), and low risk of detection given the multitude of departure points from Indonesia’s 13,000 islands;
- that there is no need for payment for false documents, expensive airfares or bribes for officials – smugglers need only pay one Indonesian boat captain and crew for the use of their services;
- syndicates are exploiting the poverty of Indonesian fishermen, who are suffering economically due to depleted fish stocks;
- there is no need for onshore connections in Australia to meet those smuggled – crews just drop their human cargo off at Ashmore Reef and leave it to Customs and Immigration to pick them up;
- illegal boat entry is facilitated by the vastness of Australia’s coastline. Although Customs has a strong surveillance capacity which has recently been boosted, it is impossible to maintain blanket surveillance 24 hours a day, 7 days a week.

So how has Australia responded to these changing trends?

Response issues

People smuggling, and Transnational Crime generally, are high on the current international agenda for governments and law enforcers. This is evidenced by the

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1 Department of Immigration and Multicultural Affairs (DIMA) 2001, Protecting the Border: Immigration Compliance, Department of Immigration and Multicultural Affairs, Canberra.
2 Tailby R 2001, Organised crime and people smuggling/trafficking to Australia, Trends and Issues in Crime and Criminal Justice, no.208, Australian Institute of Criminology, Canberra.
growing number of international conferences, bi/multi-lateral arrangements to deal with specific problems of transnational crime, and the recent drafting and signing of the new Convention Against Transnational Organised Crime.

Australia has witnessed some recent changes in our national response to people smuggling. These include:

- a shift to a “whole-of-government” approach for enforcement action. This has enhanced the level of information-exchange between local agencies, and has seen the formation of a new joint People Smuggling Strike Team between AFP and DIMA;
- an increase in federal funding to tackle the problem of people smuggling;
- increased cooperation with transit and source countries; and
- the strengthening of existing legislation to pump up the penalties against people smugglers, and creation of new offences relating to people trafficking, specifically, the slavery and sexual servitude offences.

These changes were brought about largely as a result of the recent upsurge in seaward people smuggling to Australia, and show the responsiveness of the government to this growing issue.

**How effective are the initiatives?**

It is still too early to comprehensively assess the impact of each of the new initiatives. Nonetheless, there have already been some notable compliance successes. Since formation of the Strike Team in July last year, a number of arrest warrants have been issued for people overseas operating smuggling rackets, and numerous prosecutions have been initiated in Indonesia. This is in addition to convictions which have been made in Australia, over 300 since July 1999\(^3\), for people smuggling offences. Typically these are against boat crews. Transnational information-sharing and cooperation have also increased, thanks in part to some recent high-level Ministerial tours as well as expansion of our overseas liaison and training networks.

**Limitations**

The most difficult task remains the bringing down of the overseas organisers and facilitators. There are practical, operational and political barriers here. For instance, the political situation and hostilities in Iraq and Afghanistan, along with lack of any diplomatic presence by Australia in these countries, make it extremely difficult to act against smugglers operating in that region. At present much of our effort is concentrated in countries where we have greater presence and some degree of cooperation with local authorities – in particular, the transit regions of Southeast Asia.

In addition, it can be difficult for authorities to gather sufficient evidence to mount a legal case against organisers, as witnesses are often unwilling to talk. Finally, where there has been sufficient evidence for the AFP to issue an Australian arrest warrant against organisers overseas, there are still difficulties extraditing these individuals to Australia for prosecution. Part of the difficulty is the extradition requirement of “double criminality”, as some countries are yet to enact laws against people smuggling. These difficulties need to be addressed to ensure that effective action can

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be taken against offshore organisers of transnational crimes affecting Australia. To date, although there have been a number of prosecutions and sentences handed down under the stricter Migration Act provisions against people smuggling, these still largely target the Indonesian boat crews rather than the “Mr Bigs” overseas.

Strategic considerations

Looking to the future, it will be interesting to see whether the increased cooperation we are now seeing with Indonesian authorities to stem the flow of illegal migrants from Indonesia results in fewer boatpeople to Australia over the next few years, and whether these cooperative arrangements will be sustainable in the long run. Recent press reports reveal that between March and May 2000, Indonesian authorities have intercepted more than 1,100 people destined for Australia. They are looked after primarily by UNHCR and bodies such as IOM. As such, increasing numbers of illegal migrants backlogging in Indonesia could result in displacement of the problem. If the number of third country nationals who are intercepted and detained by Indonesian authorities for breaches of Indonesian immigration law continues to rise, this could pose local problems and could prompt a rethink on policy by the Indonesian government. Alternately, or possibly even at the same time, increased monitoring and interception of people being smuggled through Indonesia could simply mean the syndicates will shift their operations and establish new routes to Australia, for instance, via other countries in Southeast Asia or via South Pacific nations. The challenges for law enforcement are thus continual and changing.

Deeper issues: reducing supply and demand

Whilst the initiatives in place are a good start, the “push” and “pull” factors driving people smuggling are many – and so long as these remain, they serve as strong motivators for continued smuggling. Alongside the initiatives already in place, it may be wise to look at deeper ways of responding to the problem: namely, reducing supply and demand.

Supply reduction (ie. focus on the smugglers)

Some potential strategies to reduce the availability of smuggling services include more of the same, in other words:

- maintenance of interdiction efforts: these result in prosecution and imprisonment of some boat crews, and less frequently, organisers. Catching the boat crews is a start, but there are many more waiting to provide the service. Unless local economies in the Asia-Pacific region can provide good employment and wage-earning opportunities, many fishermen may be lured into smuggling;
- harsher penalties for smugglers if caught: this is thought to have a deterrent effect;
- disruption of syndicates on- and off-shore: this is best achieved by targeting the higher-level organisers of the syndicates, yet this is also the most difficult task for law enforcers. The increasing fluidity of networks means that the structure won’t fall down just because law enforcers intercept a key player. Breaking the networks will remain an ongoing task;
- international cooperation is essential to successfully act against offshore criminals.
Demand reduction (ie. focus on the migrants and on those in destination countries seeking cheap labour)

It is necessary first to understand the many factors which drive people to seek to migrate:

- Push factors include poverty and lack of opportunity, persecution or civil unrest, and ecological degradation in source countries;
- Pull factors include greater perceived economic opportunity, lifestyle, and political stability in destination countries.

If people cannot migrate legally, and if they are determined or desperate enough, they will pay a people smuggler to get the outcome they want. The above push and pull factors are strong motivators, and their endemic nature in certain countries/regions of the world means they are difficult to combat. However some initiatives have tried to redress these factors. For instance, there have been numerous programs to provide aid to source countries to address some of the root causes of illegal migration. These have included aid to facilitate economic development, and provision of training and education in local communities to reduce disadvantage. This financial year alone, Australia has contributed $12 million in humanitarian assistance to Afghanistan and Afghan refugees living in Iran and Pakistan.

Within Australia, further initiatives have aimed to reduce our attractiveness as a destination country for illegal entrants by restricting the financial benefits and residency status available to persons who have entered via people smugglers. The government has run overseas information programs to educate migrants about the dangers of using people smugglers. Finally, to reduce the pull factor of employment opportunities for economic migrants, new measures have been introduced to discourage the hiring of illegal workers in Australia. Responsibility is now placed on employers to check work rights of new staff before hiring.

Outlook of trends over the next 2 years

As we have seen, Australia has introduced a number of new initiatives aimed at deterring and penalising people smugglers, and continues to provide aid programs hoping to reduce the number of intending users of these services. However, when considering the push factors behind those coming to Australia illegally, over 90% of those using people smugglers during the last two years have come from Iraq and Afghanistan, troublespots with serious social, political and environmental problems which aren’t going to go away overnight. And there are reportedly tens of thousands more still in the Middle East seeking to migrate to safer more stable countries. Others coming here illegally are coming for economic reasons – again, the lack of opportunity in their home countries, and the growing income differences between rich and poor nations, are realities that will not change without sustained international assistance to developing countries. Despite the best efforts of law enforcement, the demand for people smuggling services will not abate and people will continue to pay their life savings to smugglers, for a chance at a better life in Australia. As such, as well as maintaining our law enforcement efforts, further consideration is needed of ways to reduce the underlying supply and demand factors which are behind the rise of people smuggling activity in the region.
Conclusion: Lessons to learn about tackling Transnational Crime from Australia’s response to people smuggling

Many of the principles and approaches taken in responding to the crime of people smuggling may be applied to other forms of transnational crime. Some lessons include:

1. The value of a whole-of-government approach emphasising cooperation, coordination and formation of strategic partnerships;
2. The value of targeting resources where they are best used, eg. targeting high-risk groups and geographic areas;
3. Exploration of innovative legislative approaches. Existing and new institutions should be supported by legislation that provides the most effective tools, both legally and economically, to combat transnational crime. It is also important to see that legislation reflects how serious the crime is perceived to be – a good example of such recognition is the recent increase in Australia’s penalties for people smuggling;
4. Increasing emphasis on maintaining an overseas presence in source and transit countries. This enhances our capacity for proactive prevention, which lowers the presence of crime here and also lowers the resultant costs of such crime. For instance, interdiction of illegal entrants offshore saves both compliance and welfare costs that would result if those entrants made it to Australia, including up to $50,000 in detention costs for each unauthorised arrival;
5. Law enforcement initiatives should be complemented by socioeconomic initiatives, to address deeper issues of supply and demand which drive transnational crime;
6. Fighting transnational organised crime requires a particular operational and strategic approach by law enforcement agencies. Recent research\(^4\) has shown that the most successful approach in targeting large, transnational crime groups is to target upper-echelon members with the aim of disrupting and dismantling the overall operation. This approach requires long-term investment of resources and gathering of intelligence, coordination between agencies and countries, and the use of sophisticated investigation techniques. This is in contrast with more traditional “quick hit” approaches which involve reactive seizures of illegal commodities and prosecution of low-level members of crime syndicates. Formation of dedicated, intelligence-driven task forces, such as the new People Smuggling Strike Team, is one organisational approach which helps enhance the capacity of law enforcement bodies which are charged with tackling transnational crime, enabling them to mount sophisticated, longer term, strategically-focused investigations.
7. The importance of conducting research into transnational crime. In addition to the law enforcement efforts already described, Australia is actively seeking to improve our understanding of the problems of people smuggling and trafficking through research. The Australian Institute of Criminology is providing research expertise to the United Nations’ *Global Programme*

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Against Trafficking in Human Beings. Through this research, governments will gain a greater understanding of people smuggling and trafficking practices and the criminal actors facilitating these crimes. This knowledge can then be used to promote the development of more effective criminal justice responses to these problems.