

Organised Crime and Migrant Smuggling

Australia and the Asia-Pacific

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Andreas Schloenhardt



**Australian Institute of Criminology
Research and Public Policy Series
No. 44**

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ISSN 1326-6004

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National Library of Australia Cataloguing-in-Publication entry

Schloenhardt, Andreas.

Organised crime and migrant smuggling : Australia and the Asia-Pacific.

Bibliography

ISBN 0 642 24281 X

1. Illegal aliens – Australia. 2. Organised crime – Australia. 3. Organised crime – Asia. 4. Organised crime – Pacific Area. 5. Smuggling – Australia. 6. Smuggling – Asia. 7. Smuggling – Pacific Area. 8. Australia – Emigration and immigration. I. Title (Series : Research and public policy series ; 44).

325.94

Published by the Australian Institute of Criminology
GPO Box 2944
Canberra ACT 2601
Tel: (02) 6260 9221
Fax: (02) 9260 9201
Email: aicpress@aic.gov.au
<http://www.aic.gov.au>

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Edited and typeset by Sarah Christensen, Australian Institute of Criminology
Printed by Panther Printnet, Canberra

Foreword

“Organised crime and migrant smuggling can be regarded as transnational business.” These opening words to Chapter 3 of this monograph link two parts of this study. The first two chapters lay out concepts of organised crime and the remainder identify the organisational and operational features of migrant smuggling.

The subject matter of this report is complex, and the Australian Institute of Criminology sees this paper as an important contribution to the knowledge base on an issue of public policy that is of tremendous international and national importance.

Dr Andreas Schloenhardt has conducted extensive research on this topic, and there is no more analytical or rigorous study based on public sources. The material produced here provides data and analysis that relate to the Asia-Pacific region, as well as to Australia. This monograph complements two recent publications on organised crime from the Australian Institute of Criminology (Morrison 2002; Mackenzie 2002).

For many years the Australian Institute of Criminology has had an interest in illegal markets, and the illegal market in people causes enormous trauma and distress. This added dimension, where lines between “criminals” and “victims” are often blurred, makes for difficulty in analysis. This careful piece of work will, it is hoped, add to our knowledge and provide a basis for informed discussion.

Adam Graycar
Director, Australian Institute of Criminology
November 2002

Acknowledgments

Many friends and colleagues have offered support during the writing of this study. The academic, administrative and library staff of the University of Adelaide Law School are thanked, particularly Mr Ian D Leader-Elliott, who has offered invaluable advice and guidance. Special thanks also go to Ms Margaret Priwer and to Mr Stephen Mitchell. The assistance provided by the Council for Security Cooperation in the Asia-Pacific (CSCAP) Working Group on Transnational Crime, the Australian Institute of Criminology, and the Asia-Pacific Center for Security Studies, Honolulu, is acknowledged.

Mr Paul Smith, Asia-Pacific Center for Security Studies, Honolulu; Dr Alexander Gordon, Australian Defence Force Academy; Lt Col James Laki, National Research Institute, Port Moresby; and Mr Tetsuya Yamada, Japan Institute of International Affairs, Tokyo, are thanked for their friendship and inspiration. Advice and guidance was received from Mr John McFarlane, Executive Director, AUS-CSCAP; Brig. General Jeanne Mandagi, National Narcotics Coordinating Board, Jakarta; Dr Adam Graycar, Ms Fiona David and Mr John Myrtle, Australian Institute of Criminology; Rear Admiral Russ Shalders, Director General of Coastwatch (until June 2001); Ms Nelly Siegmund, Department of Immigration and Multicultural and Indigenous Affairs; and Mr Chacrit Situdhiwej, Legal Officer, the Council of State, Bangkok.

Disclaimer

This research report does not necessarily reflect the policy position of the Commonwealth Government.

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Abbreviations

AFP	Australian Federal Police
AIC	Australian Institute of Criminology
CSCAP	Council for Security Cooperation in the Asia-Pacific
CSIS	Center for Strategic and International Studies
DIMA	Department of Immigration and Multicultural Affairs (now DIMIA)
DIMIA	Department of Immigration and Multicultural and Indigenous Affairs (formerly DIMA)
FATF	Financial Action Task Force on Money Laundering
HEUNI	European Institute for Crime Prevention and Control
ICMPD	International Centre for Migration Policy Development
IOM	International Organisation for Migration
ISPAC	International Scientific and Professional Advisory Council of the United Nations Crime Prevention and Criminal Justice Program
NCA	National Crime Authority
OECD	Organisation for Economic Cooperation and Development
Transcrime	Research Centre on Transnational Crime, University of Trento
UN	United Nations
UNAFEI	United Nations Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders
UNDCP	United Nations Drug Control Program
UNHCR	United Nations High Commissioner for Refugees
UNICRI	United Nations Interregional Crime and Justice Research Institute
UNODCCP	United Nations Office for Drug Control and Crime Prevention

Introduction

Growing migration pressures and increasing numbers of people willing or forced to move abroad have caused many destination countries, including Australia, to place restrictions on legal modes of immigration, and to criminalise those who attempt to arrive in irregular or clandestine ways. The lack and limitations of legal migration opportunities has led people to look for other, illegal ways to migrate. Often, and in growing numbers, this way is found through migrant smuggling. Over the past two decades, the smuggling of migrants has become a significant source of income for criminal organisations. Every year, thousands of migrants are smuggled to Australia, throughout the Asia-Pacific region and around the world, by increasingly sophisticated criminal enterprises that earn billions of dollars by exploiting those fleeing poverty and persecution.

The aim of this study is to explain the organised crime aspect of migrant smuggling in the Asia-Pacific region. In order to develop appropriate and effective countermeasures, this study seeks to identify and investigate the structural patterns of migrant smuggling.

Generalisations about migrant smuggling operations, and about the organisations engaged therein, are difficult to make. A large part of the current knowledge on the smuggling of migrants derives from media or law enforcement reports. Very few analytical studies have been undertaken to examine the structure and activities of migrant smuggling organisations. Furthermore, law enforcement action against smuggling operations is relatively new, especially compared to efforts against other forms of organised crime. Consequently, the activities of migrant smuggling organisations are constantly changing and intelligence about the operations is limited.

From an Australian perspective, however, two types of smuggling can be identified: overt and covert arrivals. Especially the final part of the illegal voyage is largely determined by whether the persons smuggled seek to immigrate clandestinely and undetected and then disappear into the community (so-called covert arrivals) or whether they seek to reach the

territory of the destination country and then claim asylum (often referred to as overt arrivals). This distinction has major implications for the way in which migrant smuggling is carried out.

Overt arrivals require little sophistication and are usually done by boat. They predominantly involve asylum seekers from the Middle East who seek refuge in Australia. Particularly the final part of the journey—the boat trip from Indonesia to Australia—is often organised in a very rudimentary way and there is no obvious connection to other organised crime activities. Fees for overt smuggling are usually paid in full prior to arrival, and contact with the smugglers ceases once the migrants reach Australia.

In contrast, covert arrivals require sophisticated means, such as high-quality forged identity documents or hidden compartments in boats, to circumvent border controls and arrive undetected. Most covert arrivals in Australia have been of East Asian origin. Upon arrival at the final destination, contact with the smuggling organisation continues as most of the migrants owe money to the smugglers for the illegal services which were provided.

The impact of this distinction must not be overstated, but the following parts of this report illustrate that the phenomenon of migrant smuggling, particularly the way in which overt arrivals are carried out, differs, at least in part, quite significantly from traditional concepts of organised crime.

For this reason, Chapters 1 and 2 feature a brief discussion of what organised crime is, what it is not, and how it can best be approached, examining why, when and where organised crime and migrant smuggling emerge. This provides the theoretical background for a detailed analysis of the organisational and operational aspects of migrant smuggling in Australia and the Asia-Pacific region in Chapters 3 and 4.

This analysis is based on sources available to the author, after careful inquiry, as at 31 December 2001.

1 Concepts and Characteristics of Organised Crime

1.1 Defining Organised Crime

The question of what organised crime is has been a long-standing problem for criminologists, legislators and law enforcement agencies. Many attempts have been made to develop comprehensive definitions and explanations that recognise the various manifestations of organised crime. The spectrum of approaches to organised crime is very broad because governments, law enforcement agencies and researchers have very different objectives when fighting, penalising and analysing organised crime.

A detailed analysis of the variety of criminal organisations and their activities goes beyond the scope of this study. Recognising the rich and often controversial body of research in the field, the following paragraphs give a synopsis of the different attempts that have been undertaken in the past to approach and define organised crime.

1.1.1 Concepts of Organised Crime

The concepts that have been developed to explain and examine organised crime can be differentiated between six principal types:¹

- milieu studies;
- conspiracy theories;
- defining organised crime by its activities;
- defining organised crime by the perpetrators;
- institutional theories; and

¹ This categorisation of organised crime definitions is based on the study by Bersten (1990, p. 40). Bersten sorts the definitions of organised crime into four types: defining organised crime by description; definition in terms of the criminal act in relation to the criminal actor; definition in terms of the criminal actor; and definition in terms of the criminal act in relation to matters not going to the criminal actor, exploring the context of the crime. See also Abadinsky (2000, pp. 32–48) and Thorne (1996, pp. 285–8).

- the economic theory (this theory—the most recent and probably most successful attempt to examine the activities of criminal organisations—is the subject of Chapter 2).

Milieu Studies

Milieu studies of organised crime are in the tradition of sociological explanations of criminal behaviour and have been an early attempt to explain offences committed by gangs and peer groups of lower socioeconomic classes. The theories link criminality with social factors such as unemployment (see, for example, Box 1987), working-class culture (see, for example, Mays 1975), the urban environment (see, for example, Shaw & McKay 1969; Bottoms 1994, pp. 585–656; Vold 1979, pp. 181–200) or general poverty (see, for example, K. Williams 1994, pp. 282–3, 413). The underlying assumption of these studies is that social conduct is largely determined by a person's milieu. If this milieu is of a criminal nature, or if it shows higher tolerance towards crime, the person is more likely to commit crime.

Milieu studies focus on the environment and nature of organised crime and the position of perpetrators within society. Essentially, organised crime is considered to result from the development of communities or neighbourhoods where criminal offenders fill the position of role models for underprivileged residents (compare Abadinsky 2000, pp. 34–8; Greaves & Pinto 1993, pp. 218–23).

Conspiracy Theories

Until the late 1970s, researchers, the media and the general public often viewed organised crime as a conspiracy of alien crime syndicates. Conspiracy theories first came to prominence in the United States and were based on the belief that organised crime has been imported to America by Italian, Chinese and other immigrants and did not emerge within the white Anglo-American society. Hence, organised crime has been perceived as a foreign, external threat to society, the nation state and to its economy. (Compare Duyne 1997, pp. 201–202: "The perception of organised crime is that 'they' threaten 'us'. In the US 'they' were for a long time conveniently mainly organised criminals from Italian descent." For further examples see Findlay 1999, pp. 147–9; Halstead 1998, pp. 5–7; Mastrofski & Potter 1987, pp. 270–2; Palmer & McGillicuddy 1991, p. 23; Reuter 1995, p. 112; US President's Commission on Law Enforcement and Administration of Justice 1967, p. 1).

Defining Organised Crime by its Activities

This category of theories approaches organised crime by focusing on the offences committed by criminal organisations and on the fields of crime where organised crime appears to be predominant. The starting points of this approach are individual or serial criminal offences or types of offences from which conclusions about perpetrators and organisational structures are made. These explanations argue that specific forms of organised crime, for instance the provision of an illegal service such as smuggling, requires a characteristic form of illegal suppliers.

This approach has frequently been used for organised crime definitions in different criminal laws. For example, the *National Crime Authority Act 1984* (Cwlth), the key legislative instrument to investigate organised crime in Australia, contains a definition of “relevant criminal activity”.² This definition is based on a seriousness/relevance test that specifies certain “relevant offences” and general characteristics of organised crime to ensure that the National Crime Authority’s investigations are limited to significant criminal activities. Similar conceptualisations of organised crime have been discussed during the elaboration of the *Convention against Transnational Organised Crime* (United Nations 2000).

Defining Organised Crime by the Perpetrator

This approach perceives organised crime, and criminality in general, as an individual matter rather than organisational. This approach must be viewed as a mindset which does not require theoretical speculations about organised crime and criminal organisations. Criminal acts are considered and dealt with as a problem of individual maladjustment, not as a consequence of participation in social systems. This viewpoint is particularly common among law enforcement agencies (see the examples in Adamoli et al. 1998, p. 4). Generally, the objective of law enforcement investigations is the prosecution of individual offenders, and conclusions about criminal organisations are made on the basis of intelligence derived from investigative operations in relation to individual cases and circumstances.

² Section 4 of the National Crime Authority Act 1984 (Cwlth) reads: “‘Relevant criminal activity’ means any circumstances implying, or any allegations, that a relevant offence may have been, or may be being, committed against a law of the Commonwealth, of a state or a territory.”

Institutional Theories

The various approaches that can be summarised as institutional theories define organised crime by the association of offenders and the division of labour among them. These theories focus on the structural features of organised crime, the relationships among perpetrators and, only to a lesser degree, on the criminal activities. The institutional understanding of organised crime pays particular attention to formation, size, internal hierarchy, stability, transformations and dissolution of criminal organisations (compare Abadinsky 2000, pp. 4–8; Cohen 1977, p. 98; Cressey 1969, p. 319; Cressey 1972, p. 27; Moore 1987, p. 52).

1.1.2 Problems and Critique

Institutional, ethnic, milieu, perpetrator- and crime-based explanations of organised crime each contain some truth about certain aspects of the phenomenon of organised crime and the organisations engaged therein. Together, these theories make up a large body of literature and have undoubtedly contributed to the knowledge on criminal organisations, their structure and activities. However, considered separately, these approaches are facing the same problem in that they are unable to respond to continuously changing patterns of organised crime.

Milieu studies, for instance, fail to identify any objective of organised crime and the conditions of its emergence and existence. Furthermore, many milieu studies rely on data that link, for example, income and employment levels with crime rates, without recognising the shortcomings of official statistics, thereby failing to prove a causal connection between these factors and organised crime (compare Bersten 1990, p. 41; Duyne 1997, p. 204; K. Williams 1994, pp. 280–1, 290–1).

The conspiracy approach is highly moralistic, as it determines a particular connotation of organised crime and differentiates the world into good and evil. Moreover, this theory lends plausibility to the assumption that organised crime could be successfully eliminated by removing designated persons, in particular foreigners, from society, thus ignoring the integral connection between organised crime and the society in which it exists (compare Dickie & Wilson 1993, p. 216; Duyne 1997, p. 201; Findlay 2000, p. 283; Mastrofski & Potter 1987, p. 274–80).

The major failure of approaches focusing on the activities of organised crime is that they seek to cover such a wide range of criminal activities that the definition is almost meaningless. While the spectrum of some approaches appears to be too broad, in other cases it is too narrow, omitting other activities in which criminal organisations may engage. Especially in cases where definitions of organised crime are statutory provisions, enumerative lists of criminal activity necessarily fail to keep pace with rapidly changing forms of organised crime; the phenomenon of migrant smuggling is one of the most recent examples.

In the context of approaches that concentrate on the perpetrators, it must be noted that much of the information available on organised crime originates from law enforcement investigations that are traditionally designed for the control of individual offenders. As mentioned earlier, this approach indicates a mindset—particularly common among law enforcement agencies—that does not, or not sufficiently, focus on structural patterns or on regional or global networks within which organised crime occurs. The main purpose of the investigations of law enforcement agencies is the prosecution of offenders, and not the accumulation of analytical knowledge, which makes the reliance on material derived from investigations difficult (compare Bessozi 1997, pp. 47, 52–3; Caiden & Alexander 1985, p. 8; Cressey 1995, pp. 4, 10; Martin & Romano 1992, p. 9; McCoy 1986, p. 236).

Institutional theories generally fail to distinguish between organised crime and other crimes committed by organisations such as, for example, corporate and white-collar crime (see the distinction in section 1.2 below).

Furthermore, defining organised crime as being committed by institutions excludes activities by loose-knit and non-hierarchical criminal organisations. Finally, these theories pay too little attention to the social, economic and legal circumstances that determine size, sophistication and operations of criminal organisations.

A clear and universal understanding of organised crime—which has so far proven difficult to agree on—must address the cultural, national and structural differences of organised crime in different parts of the world. It must take into account the critical factors and characteristics of criminal organisations in order to understand their environment, development, structure, and their impact on and position in society (compare Block & Chambliss 1981, p. 13; see also the critique in O’Malley 1985, p. 83; Dickie & Wilson 1993, pp. 218, 224; Greaves & Pinto 1993, pp. 219–20). The case of

migrant smuggling, for instance, illustrates that this offence is characterised by a diverse range of perpetrators, customers, victims and operations. The theories on organised crime listed above fail to recognise that organised crime is a process or method of committing crimes; it neither involves a distinct type of offender, nor a distinct type of crime. Many of the theories focus on particular issues of organised crime in certain locations and circumstances. They largely ignore the increasing globalisation and sophistication of contemporary criminal organisations and the fact that these organisations vary considerably in size, range of activities, geographical scope, and internal and external structures.

1.2 Characteristics of Organised Crime

Much of the criminal behaviour that is commonly regarded and dealt with as organised crime also fits within the context of other categories of crime. For a better understanding of what organised crime is, and what it is not, it is necessary to identify some of the characteristics of organised crime by distinguishing it from other criminal activities (see also UN General Assembly 1999, paras 4–6).

Organised Crime versus Ordinary Crime

The objective of what can be regarded as “ordinary” crime is typically some sort of unlawful distribution of resources (money in particular). The proceeds derived from ordinary crime are usually appropriative; they remain with and are used by the perpetrator(s) of the criminal act. Ordinary crime also includes affective criminal conduct that does not serve economic purposes. Organised crime, in contrast, is planned and responds to a particular demand. The profit of organised crime activities goes to people who stand back and are not directly involved in the commission of the crime (compare Bögel 1994, p. 86; Fiorentini & Peltzman 1995, p. 3; Fitzgerald 1989 cited in Dickie & Wilson 1993, p. 217; Vold 1979, p. 343).

Organised Crime versus Criminals in Organised Groups

People may gather in a group for the purpose of organising a single, planned criminal activity on an ad hoc basis such as, for example, a group planning a bank robbery. Organised crime, however, is not isolated; it operates on a sustained basis, seeks control of an area of business, and strives for goals beyond the individual criminal act (compare Bassiouni & Vetere 1999, p. 883; Hermann 1985, p. 591; Reuter 1995, pp. 95–6; Vold 1979, p. 344).

Organised Crime versus White-collar Crime

White-collar or corporate crime is committed by otherwise legitimate organisations that employ criminal business practices in order to maximise the profitability of a production process within the legal market (for example, planned bankruptcy, tax evasion and industrial espionage). The major source of income for these enterprises, however, remains in the provision of legitimate goods and services. In contrast, the income of criminal organisations primarily derives from activities in the illegal market, which in some circumstances may include legitimate business practices to avoid investigations and prosecutions (compare Bassiouni & Vetere 1999, p. 883; Maltz 1976, pp. 342–4; O’Malley 1985, p. 85; Southerland & Potter 1993, p. 252; Taiwan 1997, p. 1,021).

In many instances, however, organised crime and white-collar crime overlap, particularly when criminal organisations engage in legitimate activities to launder profits of their crimes, or where they use legitimate enterprises to commit offences (for example, when fraudulently documented migrants are placed aboard commercial airlines). The distinction between organised and white-collar crime has major implications on legislation and law enforcement. Generally, regulatory regimes and administrative sanctions are used to prevent abuses of legitimate markets, such as financial institutions and commercial airlines, while the criminal justice system serves to eliminate illegal markets and the activities of criminal organisations therein.

Organised Crime versus Terrorism

Essentially, terrorism can be regarded as ideologically motivated crime designed ultimately to achieve some political goal. Terrorists usually engage in particular criminal activities such as bombing in public places, hijacking, or assassination and kidnapping of public figures to threaten governments for political reasons. In contrast, organised crime, in most cases, tends to be more focused on achieving economic benefits than seeking political change (Bassiouni & Vetere 1999, pp. 883, 894–6; Meagher 1983, pp. 21–2).

2 Economic Analysis of Organised Crime

Organised crime is a phenomenon that has emerged in different cultures and countries around the world. Organised crime is ubiquitous; it is global in scale and not exclusive to certain geographical areas, to singular ethnic groups, or to particular social systems.

Economic analyses are the most recent—and probably most successful—attempt to examine the environment, structure and operations of organised crime, and to explore how criminal organisations respond to changing opportunities and market pressures. Economic analyses explore the legal, social and political conditions which make the existence and emergence of organised crime possible, emphasising the financial, commercial and market choice dimensions of criminal organisations.

2.1 Background

2.1.1 The Economics of Crime

The recognition of economic features in criminal behaviour started in the United States in the late 1960s. Gary Becker's article "Crime and Punishment: An Economic Approach" (Becker 1968) is considered the earliest study of crime from an economic standpoint. In his studies, Becker sought to examine criminal behaviour in the light of purely economic factors, based on the assumption that crime is the result of rational calculations of the offender:

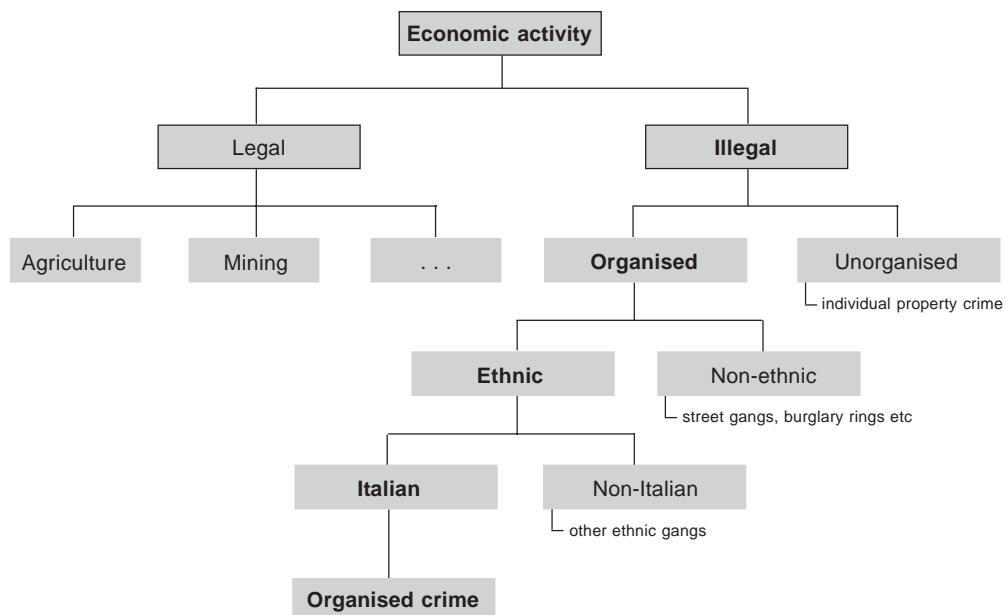
According to the economic explanation of criminality, the individual calculates (1) all his practical opportunities of earning legitimate income, (2) the amounts of income offered by these opportunities, (3) the amounts of income offered by various illegal methods, (4) the probability of being arrested if he acts illegally, and (5) the probable punishment should he be caught. After making these calculations, he chooses the act or occupation with the highest discounted return.

(Becker, cited in Sullivan 1973, p. 141)

The underlying assumption of economic analyses of crime is that crime can be considered as illegal economic activity, and that the perpetrators are “rational and normally calculating people maximising their preferences subject to given constraints...like the rest of us” (Becker, cited in Sullivan 1973, p. 140).

A wide range of economic studies of crime has been undertaken since Becker’s initial work, which significantly changed the understanding of crime in public, law enforcement and academic circles. (For an overview of the early literature on the economics of crime see Sullivan 1973. For more recent studies see, for example, Adreano & Siegfried 1980; Halstead 1998, pp. 8–23; Hellmann 1980; Rottenberg 1973; Vold 1979, pp. 341–58.) The changing attitude towards crime and criminals is best illustrated in the studies on crime and entrepreneurship conducted by Dwight Smith Jr in the late 1970s. After investigating criminal activity in the United States, Smith suggested that crime and its various manifestations could be positioned in the taxonomy shown in Figure 1.

Figure 1: A taxonomy of all economic activity



Source: Smith (1980, p. 369; 1978, p. 169). See also the work by Naylor cited in Halstead (1998, pp. 17–18)

Smith's taxonomy of economic activity classified organised crime as an ethnic organised illegal economic activity conducted by Italians in the United States. Though Smith overstated the relevance of ethnicity, the major novelty of his studies was to be found in the description of organised crime as the illegal expression of economic activity. (For the relevance of ethnicity in organised crime and migrant smuggling see section 3.2.3 later in this report.) According to Smith, the spectrum of economic activity ranges from legal to criminal activities, from legitimate to illegitimate businesses. Crime and economy are no longer viewed as totally distinct, and crime is no longer portrayed as the "evil, irrational conduct of born criminals". Furthermore, Smith suggests that organised crime will be a reality as long as society considers personal gain to be more important than equity, as some groups of people will always take advantage of economic opportunities in pursuit of their own wealth and power, regardless of whether or not these goals are achieved through criminal means (Smith 1980, p. 369).

2.1.2 Early Economic Approaches to Organised Crime

With increasing crime levels and growing concern about organised crime in the United States in the late 1960s, criminologists and government authorities started to look for new explanations of organised crime. On the basis of the economic considerations of crime, assumptions were made about crime as a business.

Following a number of inquiries, the United States government's Task Force on Organised Crime published a report in 1967 which for the first time explicitly stated that "the core of organised crime activity is the supplying of illegal goods and services...to a countless number of citizen customers" (US President's Commission on Law Enforcement and the Administration of Justice 1967, p. 1). Four years later, Harvard economist Thomas Schelling wrote: "It is becoming widely accepted that the business of organised crime is to provide the public with illicit goods and services." He went on to quote a report by Mark Furstenberg stating that "it is well known that organised crime exists and thrives because it provides services the public demands. Organised crime depends not on victims, but on customers" (Schelling 1971, p. 71; 1967, p. 25).

The number of economic studies of organised crime increased rapidly throughout the 1970s (see, for example, Cressey 1972; Cohen 1977, pp. 97–111; Anderson 1979), the 1980s (see, for example, Reuter 1983; Alexander &

Caiden 1985; O’Malley 1985, pp. 81–92; Moore 1987, pp. 51–64), and continues today (see, for example, Martin & Romano 1992; Sieber & Bögel 1993; Bögel 1994; Fiorentini & Peltzman 1995; Savona et al. 1995; Iasco 1996; Bessozi 1997; Arlacchi 1998; Findlay 1999, pp. 138–66; Savona 2001, pp. 5–24). Economic analyses have been very successful in providing an understanding of the objectives and the operational and organisational features of organised crime.

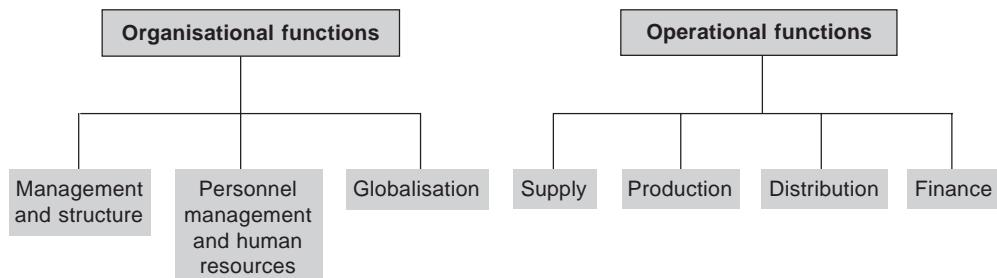
2.2 Principles and Objectives of Economic Activity

The major objective of organised crime is maximum economic gain. Organised crime responds to a particular consumer demand. Profits of the activities often go to financiers who stand back and are not directly involved in committing the crime. In this respect, organised crime does not differ from the activities of commercial organisations. “Crimes are to criminal organisation as legal activities are to legal enterprise” (Savona et al. 1997, p. 2). In trying to understand organised crime, the starting point of economic theories is to view criminal organisations as entrepreneurs in the illegal market and consider in particular the similarities and differences between legal and illegal economic activities (compare Dick 1995, pp. 25–8; Dickie & Wilson 1993, p. 219; Savona et al. 1995, p. 5; Savona 2001, p. 5; Vold 1979, p. 342).

2.2.1 General Principles

The organisational and operational functions of any enterprise follow a rational principle: achieving the maximum output by using the minimum input. All enterprises—legitimate and criminal—share a number of rationally selected attributes (compare Bögel 1994, pp. 79–88; Sieber 1995, p. 76; Southerland & Potter 1993; Vahlenkamp & Hauer 1994, pp. 6–7).

The elements illustrated in Figure 2 govern any enterprise, irrespective of the nature of the products and services provided, the geographical location of the business, and regardless of whether or not the enterprise operates in legal or illegal markets. All businesses incorporate organisational functions including organisation schemes (management and structure), an extensive division of labour, and positions assigned on the basis of skill (personnel management). Furthermore, in response to new economic and business

Figure 2: The concept of the business enterprise

opportunities in foreign markets, businesses modify their structure and operations to adapt to the challenges of globalisation. The operational functions of the business, including supply, production, distribution and finance, seek to maximise the financial return of the business activities and minimise the resources and time spent on the production of goods and provision of services.

2.2.2 Objectives of Economic Activity

Financial gain and the pursuit of profit are the primary objectives of any economic activity, be it legal and conducted by legitimate enterprises, or illegal and conducted by criminal organisations. Power, influence and status can be considered as subsidiary goals, for they serve to protect the wealth already won and allow the accumulation of even greater profit.

In many respects, much of what passes for organised crime can also be considered as small business because it is the most efficient way of exploiting a particular market: as new markets emerge, small operators explore their opportunities and adjust their businesses accordingly. As profit margins grow, businesses enlarge by expanding activities geographically, by employing additional staff and diversifying the labour.

For the purpose of maximising the financial gain of the business, both criminal organisations and legal businesses:

- seek to earn money by selling the goods and services which they provide;
- use their profits to pay their employees and to invest them in new technology, machinery and human resources in order to increase the financial return of their operations;

- diversify the investments among different fields to increase profits; and
- seek to expand into new geographical or product markets (compare Adamoli et al. 1998, pp. 17, 18; Bassiouni & Vetere 1999, p. 883; Bögel 1994, p. 86; Hermann 1985, p. 591; Maltz 1976, p. 342; Meagher 1983, p. 21; Savona et al. 1995, p. 6; Smith 1978, p. 164; Thorne 1996, p. 290).

On the basis of these underlying objectives, it is assumed—and now widely recognised—that the theories and models used for the analysis of legitimate businesses and the legal market can also be applied to criminal organisations and the illegal market (Bögel 1994, p. 17; Dick 1995; Sieber 1995, p. 66; Southerland & Potter 1993).

2.3 Positioning Organised Crime

All organisations, legal and illegal, seek to maximise their profits within their environments. Legal enterprises exist for the purpose of profit-making from the provision of legal goods and services in the legal market.

Conversely, criminal organisations seek to make their profits by providing illegal goods and services in illegal markets, often described as the “underground economy”.

The issues of criminal activity and criminal organisation are defining criteria for economic theories of organised crime. Criminologists such as David Hellmann have described organised crime as “a group of large-scale enterprises operating within the illegal markets to maximise profits” (Hellmann 1980, p. 172). Adamoli et al. (1998, p. 7) considered organised crime “as a form of economic commerce which uses threats, physical force and violence, extortion, intimidation or corruption, as well as supplying illicit goods and services”. Australian criminologist Michael Bersten (1990, p. 53) defined organised crime as:

...the field of transactions materially connected to markets in illegal goods and services, including activities beyond the crimes themselves which wittingly or unwittingly are required to constitute the illegal markets, excluding transactions which are only incidentally or remotely connected to the illegal markets.

The activities of criminal organisations must not be seen in isolation from legitimate economic activity. According to Dwight Smith, organised crime can be regarded as entrepreneurial activity that passes the point of

legitimacy in an area normally proscribed: the spectrum of economic activity goes beyond the “edge of law” into illicit fields (Smith 1978, p. 173; compare Southerland & Potter 1993, p. 251; and see Smith 1980, p. 375). Prohibition may affect the size and scale of activities in the illicit spectrum, but it also provides opportunity for the exploitation of illegal markets.

Criminal organisations can be considered as illegal counterparts to legitimate enterprises. For example, the drug dealer can be regarded as a purveyor for narcotics in the illegal market, the fence as a retailer, and the migrant smugglers as the illegal counterpart of a migration agent (compare Bersten 1990, p. 51; Salt 2001, p. 90; Smith 1978, p. 164). But unlike their legal counterparts, to achieve their goals criminal organisations favour criminal means, which for them are more effective and more lucrative relative to licit opportunities.³

In applying economic theories to analyse and eventually combat organised crime it is essential to focus on the fundamental economic conditions that govern every commercial organisation, be it legal or illegal. These conditions include economic opportunities and regulations that, in the case of criminal organisations, can be summarised as the illegal market.

2.4 The Illegal Market

Illegal markets have been defined as:

...places within which goods and services are exchanged whose production, sale and consumption are forbidden or strictly regulated by the majority of national states and/or by international legislation.
(Arlacchi 1998, p. 203)

Illegal markets constitute the source of income for organised crime. Crime—like any other economic activity—can be supplied through various market structures.

3 This viewpoint brings to mind the so-called Anomie Theory. This theory claims that criminal behaviour is “innovative” if it seeks to reach commonly accepted goals by taking every (legitimate and illegitimate) opportunity. Compare Abadinsky (2000, pp. 32–4). For further reading on Anomie see Durkheim (1933) and Merton (1949).

2.4.1 The Emergence of Illegal Markets

The logic of the market is to locate economic activities where they are most productive and profitable. Products and services that are offered in illegal markets are those that have been singled out as harmful or sinful because they are considered as a threat to individuals or the general public.⁴

The determination of which goods and services are available in illegal markets depends solely on the relevant regulations. A common and early example of the creation of illegal markets through legislative measures is the prohibition of the manufacture and sale of “intoxicating drinks” for common consumption in the United States between 1920 and 1933.⁵ The forbidding of liquor by United States federal law created an illegal market and thereby an economic opportunity for criminal organisations to produce, import and sell alcohol illegally (because the public’s demand for alcohol did not decrease following the introduction of prohibition) (compare Abadinsky 2000, pp. 74–81; Hellmann 1980, p. 168; Reuter 1983, p. 1; Schelling 1971, p. 71). In a similar example, the criminalisation of the trade and smuggling in, and production, use and possession of narcotics did not eliminate or reduce the demand for these substances; it only resulted in the emergence of a global market for illicit drugs beyond the control of law enforcement and drug control authorities.

With this understanding of organised crime, it has been suggested that it is ultimately the decision of legislative authorities—and of the society that appointed them—that prohibits certain economic activities and thereby, directly or indirectly, determines the existence of illegal markets and the

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- 4 Compare the so-called “labelling approach”, especially Becker (1963). Becker points out that no behaviour is deviant or criminal until so defined and thereby labelled by a section or by the whole of society. Deviance “is created by society...Social groups create deviance by making the rules whose infraction constitutes deviance, and by applying those rules to particular people and labelling them as outsiders. From this point of view, deviance is not a quality of the act the person commits, but rather a consequence of the application by others of rules and sanctions to an ‘offender’. The deviant is one to whom that label has successfully been applied; deviant behaviour is behaviour that people so label.” (Becker 1963, pp. 8–9)
- 5 The United States’ *National Prohibition Act*, often referred to as the Volstead Act after its sponsor, Congressman Andrew Volstead of Minnesota. The Act defined all beverages containing more than 0.5 per cent alcohol as intoxicating and prohibited its manufacture, sale and transport.

economic opportunities these markets entail (compare Arlacchi 1998, p. 203; Bögel 1994, p. 35; Schelling 1980, p. 391).⁶

In some instances, the phenomenon of growing organised crime activities in times of prohibition appears to apply conversely to circumstances in which formerly illegal goods and services are legalised. There is some evidence that criminal organisations withdraw from criminal activities if they are no longer illegal. For example, after the prohibition of liquor was repealed in the United States in 1933, criminal organisations suspended their alcohol producing and retailing activities. Also, following the diminution of soliciting and procuring offences in New York City in 1967, criminal organisations widely withdrew from the protection of brothels (Dick 1995, p. 36). But examples of that kind are somewhat limited; in other cases the level of organised crime has remained unaffected by the legalisation of formerly criminal activities.⁷

But not only does prohibition determine the existence of illegal markets, it also has a significant impact on the organisational schemes of illicit enterprises and on the way their operations are carried out. As in the legal market, the regulatory framework is a determining factor for the way goods and services are provided and, especially on the transnational level, for the location of the business (compare Bersten 1990, p. 50; Chappel 1987, p. 274; Dick 1995, p. 25; Reuter 1983, pp. 113, 123).

A further criterion determining the opportunities for criminal organisations is the efficiency of control and law enforcement mechanisms that seek to prevent and combat the activities in illegal markets. If these mechanisms

6 See also Fiorentini & Peltzman (1995, p. 26): "(a) The larger is the area of markets in which the transactions are regarded as illegal by the government, the greater are the incentives for the criminal organisation to compete to establish local monopolies over coercion. (b) The heavier is the fiscal and regulatory pressure on the legal markets, the greater are the incentives for legal firms to shift resources to the illegal market or to undertake transactions which are out of the control of the collective decision-maker. (c) The investment in deterrence activities can have a destabilising effect on criminal organisations, thereby increasing their investment in violence and corruption." For the case of drug offences see, for example, Sullivan (1973, pp. 140-1): "In accordance with this reasoning, a heroin addict is no more abnormal or deviant than a nicotine addict. Through a historical accident, the act of possessing heroin has been declared criminal while the act of possessing the dangerous drug nicotine has not. The nature of the addictions is not so very different, in that, given our present knowledge, the heroin user is no less rational than the nicotine user. The law has simply driven up the price for the heroin addict's article of consumption, and, as a result, has often forced the addict to resort to illegitimate earnings."

7 For instance, the legalisation of brothels and some forms of prostitution in Victoria, Australia (starting in 1985) was followed by a significant rise in organised crime. See, generally, Goode (1991). Also, the legalisation of gambling did not reduce the opportunities for organised crime; it only increased competition. Compare Savona (1992, p. 470).

break down, for example in times of political struggle and internal conflict, organised crime can emerge as a result of non-existent monitoring and law enforcement activity. This explains why especially developing countries and those in transient stages have become the target for criminal organisations. A recent example for the vulnerability of developing societies is Russia.

Following the collapse of the Soviet Union and its government authorities, criminal organisations rapidly took advantage of the country's turmoil and spread into various fields of criminal activity including migrant smuggling, drug trafficking, large-scale corruption and trafficking in arms and nuclear material (for further reading on Russian organised crime see, for example, Adamoli et al. 1998, pp. 49–57; Savona et al. 1995, p. 20; Shelley 1995, pp. 481–5). Similar conditions have emerged in Cambodia and, to some extent, in Vietnam (see “Regional Analysis” section in Chapter 4 of this report). The institutions of these countries are only in the process of formation and their criminal justice systems are not developed enough to adequately respond to the sophisticated methods of transnational organised crime (see generally Bassiouni & Vetere 1999, pp. 896–900; P. Williams 1994, p. 109; for the case of the former socialist countries see Review of Commonwealth Law Enforcement Arrangements 1994, pp. 26–7; Shelley 1995, pp. 466–7).

Finally, in the context of contemporary illegal market conditions, it needs to be noted that with the restrictions of national borders declining and the increasing mobility of goods, money and services, transnational business opportunities (both legal and illegal) have created new global markets. The globalisation of trade facilitated access to foreign markets, and the advantages offered by technological innovations led many enterprises to expand their activities across international borders and seek to develop their activities on a global scale. But these opportunities are not exclusive to legitimate organisations. Although some criminal organisations appear to operate predominantly at the national level, there is growing evidence that these organisations systematically create international structures and violate the legislation of more than one country to benefit from the changes in world markets. Criminal organisations have quickly responded to the emergence of global trading and international financial networks by adapting organisational and operational structures to the challenges of global activities. In order to exploit illegal market opportunities in other countries and in different parts of the world, criminal organisations have learned to use the discrepancies that occur between different legal and financial systems to their best advantage (Adamoli et al. 1998, p. viii;

Bassiouni & Vetere 1999, pp. 888–9; Myers 1996, p. 183; Ruggiero 2000, pp. 190–1; Savona, Iasco, di Nicola & Zoffi 1998, pp. 2–4, 6–9; P. Williams 1994, pp. 97–8).

Organised crime comes into existence and flourishes because of the dynamics of the illegal markets in which it operates. It can be considered as the rational response to substantial economic opportunities in areas that are proscribed by government regulation (compare Savona 2001, pp. 12–13; Smith 1980, p. 383; Southerland & Potter 1993, p. 259).

2.4.2 Special Features of the Illegal Market

Some functional problems arise with the prohibition of goods and services. The illegal status of a product or service has significant organisational and operational consequences for the provider.

For example, government authorities are not available to assist participants in illegal markets. The regulations that cover activities in legal markets do not apply to entrepreneurs in illegal markets. Ownership and contracts in illegal markets are not legally recognised and therefore cannot be legally transferred and enforced. Moreover, access to capital, banking facilities and modes of transportation is not available to criminal organisations in the same way it is to enterprises in the legal market (Cohen 1977, p. 107; Reuter 1983, p. 114).

Consequently, criminal organisations have to develop ways, such as money laundering, to circumvent the regulations of the financial sector. Also, they have to resort to alternative, illegitimate tools to ensure that their contracts with business partners and employees are upheld, and to settle disputes within the organisation and between competing organisations (Anderson 1979, p. 44; Bessozi 1997, pp. 16–17; Block & Chambliss 1981, p. 92; Bögel 1994, pp. 151–2; Halstead 1998, p. 19; Smith 1978, p. 167).

A major issue related to organised crime is the use of threats, intimidation and violence as enforcement tools. The creation of fear is used to maintain order and discipline, to prevent disobedience and also to facilitate the conduct of the organisation's criminal activities. Intimidation and violence are crucial instruments for resolving conflicts, silencing potential witnesses and eliminating business rivals and law enforcement agents who interfere with the criminal organisation's operations (Meagher 1983, p. 26; Martin & Romano 1992, p. 115; Moore 1987, p. 56; Reuter 1983, pp. 132–50; Savona et al. 1995, p. 6).

Unlike legitimate enterprises, participants in organised crime face a permanent risk of detection and arrest. Also, assets related to their criminal activities may be seized at any time by law enforcement agencies or, in some cases, by competing criminal organisations. Because organised crime activities are the subject of law enforcement investigations and prosecution, criminal organisations need to find mechanisms to disguise their offences, their members and the proceeds of their crimes (compare Adamoli et al. 1998, p. 19; Reuter 1985, p. 7; Tobias 1968, p. 249).

Systematic corruption and bribery have become essential features of contemporary organised crime. As organised crime involves activities across international borders, the corruption and bribery of customs, law enforcement and immigration officials are important tools to facilitate criminal activities and to enable the criminal organisation to operate with impunity.

As in the legal economy, crime also depends on market conditions such as competition. Monopolisation and extortion are the most commonly used tools to respond to competition in illegal markets. The question of whether or not criminal organisations seek to obtain monopolistic control over their part of the illegal market has been discussed extensively among economists and criminologists. For the purposes of this study it is sufficient to point out that criminal organisations—like their legal counterparts—attempt to gain maximum control over their environment including their competitors. Especially in the sex industry and among drug traffickers, extortion, intimidation and elimination of business rivals are widespread (Dick 1995, p. 26; Halstead 1998, p. 10; Mastrofski & Potter 1987, pp. 271–2; Schelling 1980, p. 379; Schelling 1971, pp. 73–4).

2.5 Customers of the Criminal Enterprise

Essential to the existence and survival of organised crime is a consumer population that provides a continuous demand for the goods and services that are on offer. Organised crime provides those goods and services that some members of the community desire and which they cannot obtain otherwise. Organised crime activities increase or decrease in response to growing or declining consumer demand for these products and services. Members of the public may be the victims of criminal organisations, but they are also their customers (Cressey 1995, p. 9; Palmer & McGillicuddy 1991 as cited in Thorne 1996, p. 288; Savona 1992, p. 470; Southerland & Potter 1993, p. 252).

The activities of criminal organisations are characterised by a provider-consumer relationship. For example, the drug dealer exists because the legal market does not satisfy the demand for certain narcotics. The money launderer exists because proceeds of crime must be disguised before they can be negotiated without risk. The migrant smuggler exists where legal ways of cross-border migration are denied to people willing or forced to move to another country (compare Hellmann 1980, p. 173; Schelling 1980, p. 393; Schelling 1971, p. 72; Smith 1978, p. 171).⁸

The fact that organised crime emerges in response to growing consumer demand highlights the difference between organised crime and other forms of criminal behaviour. As mentioned earlier, isolated, "ordinary" criminal acts of individual offenders are usually designed to meet the immediate desire of the perpetrator. Organised crime, by contrast, is designed to generate profits by serving potential customers and by satisfying a public demand for illegal goods and services (Meagher 1983, p. 25; compare Smith 1978, p. 167).

2.6 The Market for Migrant Smuggling

By definition, illegal migration depends on laws regulating who may and may not cross international borders. The combination of strict border controls and restrictive immigration systems constitutes the legal conditions that create an illegal market and economic opportunity for criminal organisations. A significant socioeconomic or political differential between countries provides smuggling organisations with a consumer population that seeks to migrate to another country. For example, where there is a significant disparity in income levels between two economies, or significant unemployment in one country, but not the other, economically motivated migration will occur despite immigration laws that outlaw these movements (Beare 1999, p. 263; Beare 1997, pp. 22–3; Vagg 1992, pp. 310–11, 319).

⁸ This approach brings to mind the Anomie Theory by Merton (1949) which holds that society creates organised crime within itself, by extolling certain common success goals while simultaneously preventing a considerable part of society from achieving those goals by legitimate means; compare Greaves & Pinto (1993, p. 223).

Smuggling of migrants has become a growing illegal market and a lucrative source of income for criminal organisations for three principal reasons (compare Salt 2000, pp. 32, 35; Savona, di Nicola & da Col 1998, pp. 68, 70; Smith 1997, p. 9):

- the growing demand for international migration;
- the restrictions on legal immigration imposed by industrialised countries, which have created the demand for alternative, illegal avenues of migration; and
- the relatively low risks of detection and arrest attached to smuggling compared to those in other activities of organised crime.

For many people, migrant smugglers have become the only avenue to escape persecution, poverty and unemployment. It is a sad reality that potential migrants have come to accept offers by criminal migrant smugglers to flee unacceptable living conditions at home. Many migrants are so desperate that a dangerous voyage, long-term debt and loss of freedom have become a price worth paying. This situation is worsened by criminal organisations that, to increase their income, abuse this desperation and delude migrants with promises of a better life abroad.

2.7 Summary

Economic studies of transnational organised crime and illegal markets have contributed substantial knowledge on the organisational and operational features of organised crime. Looking at the methods by which criminal organisations provide illegal goods and services to a potential consumer population brings to light the fact that organised crime follows the same rational and economic principles in the illegal market that govern participants in the legal market (compare Fiorentini & Peltzman 1995, p. 3; UN General Assembly 1996). Economic theories and research techniques that have been developed to study legitimate enterprises also apply to criminal organisations, with some additional features the illegal market requires (Cressey 1995, p. 11; Schelling 1980, p. 377; Smith 1978, p. 164).

Organised crime adapts to the changing demands of potential customers and exploits the loopholes and legislative discrepancies present in some areas of the world. Organised crime moves into sectors where the risk of being arrested and heavily punished is relatively low, especially compared to the attractive economic return.

Apart from being highly profitable, migrant smuggling in the Asia-Pacific region is surprisingly low-risk, as countermeasures in many countries are inappropriate or non-existent (see Chapter 5). Significant economic inequalities and the differences in the political and legislative systems in this part of the world provide organised crime with a lucrative illegal market and—unless efficient countermeasures are taken—secure the smugglers a stable source of income.

The objective of the following two chapters is to apply the economic theory of organised crime to migrant smuggling in order to identify the organisational and operational functions of the emerging business of illegal migration.

3 Organisational Features of Migrant Smuggling

Organised crime and migrant smuggling can be regarded as transnational business. To demonstrate how smuggling organisations are structured and how they operate, Chapters 3 and 4 present migrant smugglers as providers of illegal migration services between origin and destination countries. The object of this economic analysis is to identify the elements and mechanisms of migrant smuggling and assess the scale of the operations in order to provide a working basis for the future elaboration of successful legislation and law enforcement strategies (for other models of smuggling organisations see, for example, Bögel 1994, pp. 86–188; Salt & Stein 1997, p. 490; Salt 2001, pp. 103–5; Savona 1998, p. 10).

This chapter examines the major organisational elements of migrant smuggling groups, such as structural features, human resources and the impact of globalisation on the criminal organisation.

3.1 Structure and Management

Structure and management are the internal functions of a business enterprise to control the business and its operations. In any organisation, sophisticated organisation schemes are developed to ensure that the enterprise, be it legal or criminal, operates in accordance with the objectives and goals set, and that it reaches maximum profitability, stability and growth (compare the definition of “management” in Shim 1998, p. 189).

3.1.1 Control and Organisation Schemes

In the analysis of organised crime, issues about the management, size and structure of criminal organisations have been very controversial. On one side are those writers who consider organised crime groups as large hierarchical organisations that are structured like corporations. On the other side are those who see organised crime groups as loosely structured, flexible and highly adaptable networks (see also the distinction made in Halstead 1998, pp. 2–4 and Zhang & Gaylord 1996, p. 3).

The Hierarchical, Corporate Model

Many studies by criminologists (for example, Ianni 1972 in Abadinsky 2000, p. 2; Meagher in Bersten 1990, p. 45; Moore 1987, pp. 52–3; Vold 1979, p. 347) and law enforcement agencies (for example, Bossard 1990, pp. 110–11; UN General Assembly 1998, art 1; US President's Crime Commission in Smith 1978, p. 161) have described the internal organisation of organised crime groups as a hierarchical, centralised bureaucratic structure similar to that of commercial corporations. According to this model, criminal organisations are characterised by vertical relations between the members and are governed by a set of rules and regulations. It has been argued that criminal organisations use a centralised, pyramid-like structure to engage in comparatively stable illegal markets and simple environments which require little or no sophisticated knowledge of the lower levels of staff. The advantages arising from hierarchy and centralisation are, for example, a better ability to control the members and operations of the organisation, better management of resources, and easier exploitation of monopolies in illegal markets which are less open to competition (compare Fiorentini & Peltzman 1995, p. 5–6; Hellmann 1980, p. 173; Savona et al. 1995, p. 25; this hierarchical model was also used as the background for the United States' *Racketeer Influenced and Corrupt Organization (RICO)* statute; compare Halstead 1998, p. 5).

The Network Model

More recent studies of organised crime tend to describe the structure of criminal organisations as diverse, loosely structured, decentralised associations of criminals. The relations between the core members of the criminal group are designed horizontally rather than vertically. This network model is said to apply primarily to criminal organisations that engage in complex and dynamic illegal markets with multiple competitors, such as prostitution and the sex industry, loan sharking and smuggling of prohibited goods. The advantages that arise from this network model are, for example, independence from the decisions and knowledge of head managers and greater flexibility, thereby allowing immediate reorganisation of criminal activities in response to changing consumer demand and law enforcement activities (Adamoli et al. 1998, pp. viii, 11–12; Fiorentini & Peltzman 1995, pp. 6, 10; Hellmann 1980, p. 174; Mastrofski & Potter 1987, p. 275; Moore 1987, p. 53; Savona et al. 1995, p. 25; P. Williams 1994, p. 105–6; for an Australian perspective see Findlay 2000, p. 277).

In summary, it has to be noted that “the complexity of transnational organised crime does not permit the construction of simple generalisations” (Shelley 1995, p. 464). There is no single model of transnational organised crime; “there is no prototypical crime cartel” (Shelley 1995, p. 464). The structure of criminal organisations depends on multiple factors, such as:

- the accessibility and barriers of illegal markets;
- the number of competitors;
- pricing and marketing strategies of different organisations; and
- their attitude towards the use of threats and violence.

Criminal organisations vary considerably in structure, size, geographical range and diversity of their operations. They range from highly structured corporations to dynamic networks, which change constantly in order to adapt to the environment in which they operate (Fiorentini & Peltzman 1995, p. 6; Southerland & Potter 1993, p. 251; Vold 1979, p. 343).

The very limited knowledge that is available on the structural patterns of criminal organisations engaged in the business of migrant smuggling is also very controversial. The findings of recent studies cover a spectrum ranging from individual operators to large, highly sophisticated enterprises.

Smuggling organisations operate in a dynamic environment that is constantly changing due to altering demand for illegal migration, different law enforcement activities, and unpredictable shifts in border surveillance (compare Ruggiero 2000, p. 193; Salt & Hoghart 2000, pp. 46–9; UN General Assembly 1999, para. 27). The organisations engaged in migrant smuggling can be categorised as amateur migrant smugglers, small groups of criminals, and international networks (first published in Schloenhardt 1999a, pp. 90–1; see also Gunatilleke 1994, p. 594; IOM 1994c, p. 3; Salt 2000, p. 42; Savona 1998, p. 10; Skeldon 2000, p. 12).

- *Amateur migrant smugglers*

This category features people who provide a single, isolated service to migrants, such as transport for crossing a border or locating employers in the destination country. Some of these small operators, especially in border areas, are only occasional migrant smugglers who use their own vessels or vehicles if demand for illegal transport arises. For example, they take migrants on board their vessels against payment, depart from secluded coastal areas in one country and unload the people clandestinely in the territory of another country. It has been found that sometimes the transporters are unaware that their action is an offence in

the destination country (compare the reports in McCarthy 2001). Despite the local and amateur character of these operations, many of the individual migrant smugglers have been found to be hired by large smuggling organisations that operate internationally (Chin 1999, pp. 32–3; Ghosh 1998, p. 23; IOM 1997b; Ruggiero 1997, p. 235; Savona, di Nicola & da Col 1998, p. 73; Siron & Baeveghem 1999, p. 30; see also the recent examples of Indonesian fishermen hired by criminal organisations, *Cita v R* [2001] WASCA 5).

- *Small groups of organised migrant smugglers*

This category features small, organised groups of migrant smugglers that specialise in transporting migrants from one country to another. These groups show a higher level of specialisation and sophistication and operate on a more permanent basis than amateur migrant smugglers, but their structure and organisation are less professional and complex than the internationally operating smuggling networks (for an example see Australian National Audit Office 1998, p. 22).

- *International smuggling networks*

The category of international smuggling networks includes large criminal organisations which have the ability to arrange and supervise the entire smuggling process and which are able to respond to the whole spectrum of needs of illegal migrants, including the provision of fraudulent documents, accommodation and support in transit countries. Given the wide range of source countries of migrants, it is not surprising that complex international organisations have formed which can react quickly to changing legislation, law enforcement activities and unforeseen situations. The smuggling routes these organisations use are often well tested by other transnational criminal activities such as drug smuggling. In many cases it has been found that migrant smuggling is just one of the organisations' versatile criminal activities (Beare 1999, pp. 272–5; Chin 1999, p. 29–32; Ghosh 1998, p. 23; IOM 1997b; Ruggiero 1997, p. 235; Savona, di Nicola & da Col 1998, p. 73; Siron & Baeveghem 1999, p. 34; UN Commission on Crime Prevention and Criminal Justice 1995, para. 2).

3.1.2 Diversification of Smuggling Organisations

The degree of integration and interdependence within and between organisations is a major issue for the structure and operations of legal and illegal enterprises. Diversification of the business includes such factors as the range of clients, products and services, and the geographic areas in which

the organisation operates. Some markets are characterised by large, diversified organisations that cover a wide range of activities, while other markets feature numerous small, specialised organisations (for further reading on the diversification of criminal organisations see, for example, Dickie & Wilson 1993, p. 220; Reuter 1983, p. 109; 1985, p. 11; Southerland & Potter 1993, p. 259).

Criminal organisations generally show a diversified rather than a specialised pattern. In the case of migrant smuggling some connections have been found to drug smuggling activities. Not surprisingly, criminal organisations with well tested smuggling routes and with personnel located in different countries along these routes will use their knowledge and experience to take new market opportunities and engage in new criminal activities (Adamoli et al. 1998, p. viii; Donigan Guymon 2000, p. 65). Although no intercepted boatload of illegal migrants in Australia has ever been found carrying drugs, the Department of Immigration has reported that "there are some indications that in some cases the same criminal syndicates who may be involved in the international movement of illicit drugs are also smuggling people" (DIMA 1999a, p. 14; DIMA 2001a, p. 15).

Overseas research suggests that especially Asian organised crime groups use routes, means and methods of transportation simultaneously for the smuggling of people and narcotics (Adamoli et al. 1998, p. 17; Skeldon 2000, p. 12; see also Chin 1999, pp. 7, 38–42). Furthermore, a number of recent studies have suggested that criminal organisations which engage in migrant smuggling often plan the systematic exploitation of migrants in the destination countries (Adamoli et al. 1998, p. 17; Reuter 1983, pp. 117–8). However, given the ad hoc nature of many smuggling operations, great caution has to be taken when establishing links between migrant smuggling and other forms of organised crime. Without denying the existence of sophisticated and versatile criminal networks, there is little, if any, evidence to support assumptions that individual (amateur) migrant smugglers are simultaneously engaged in other criminal activities (McInerny 2000, p. 7; Secretariat of the Budapest Group 1999, p. 27).

To facilitate their operations, smuggling organisations are involved in a range of legitimate activities. These activities include the operation of travel agencies, language schools and freight companies that are run in association with the smuggling organisation to disguise and enable the transportation of migrants. Furthermore, these businesses serve to collect payments and launder profits (Secretariat of the Budapest Group 1999, pp. 30–1).

The horizontal interdependencies between different criminal activities engaged in by the same criminal organisation must be distinguished from the vertical chains of crimes. The latter include, for instance, corruption and the provision of fraudulent documents, which are intermediary crimes committed in the process of smuggling. These vertical connections are examined further below.

3.1.3 Criminal Organisations in Australia

Organised crime flourished in Australia since the early days of Federation (for the history of organised crime in Australia see, for example, McCoy 1986). Today, organised crime is a widespread phenomenon throughout the country, with many links to overseas organisations and facilities. Conversely, several criminal organisations abroad have been linked to Australian organised crime. Criminal organisations in Australia are involved in a wide range of illegal activities as and when opportunities arise. In Australia, organised crime is committed by people from many different ethnic backgrounds and is not exclusive to any particular group of the population (on organised crime in Australia see generally Review of Commonwealth Law Enforcement Arrangements 1994, pp. 29–30; Adamoli et al. 1998, p. 88; Costigan 1984 in Chappel 1987, p. 286; Meagher 1983, pp. 18–20; Thorne 1996, p. 299; Valentin 1993, p. 93).

Today, the criminal organisations most widely active both domestically and regionally are those of East and South-East Asian origin. Criminal organisations from China and Hong Kong (often referred to as “Triads”),⁹ Japanese organised crime groups (generally referred to as “Yakuza”¹⁰ or “Boryokudan”¹¹), Sino-Vietnamese gangs and Malaysian and Singaporean secret societies pose the most significant organised crime threat in Australia. Asian organised crime first came to notice in Australia with the increasing number of migrants from Asia in the late 1970s, particularly from China and Vietnam. More recently, it was found that the economic crisis in South-East Asia and stricter law enforcement and money laundering control in many

⁹ The term Triad refers to the Chinese societies’ common symbol, an equilateral triangle representing the three basic Chinese concepts of heaven, earth and man.

¹⁰ The term Yakuza represents the Japanese words for eight, nine and three, which total 20. It means “good for nothing” and derives from 20, the worst possible score in the Japanese card game hanafuda; the player automatically loses, thus he is a loser.

¹¹ The term Boryokudan means “the violent ones” and is the term mostly used by the Japanese National Police Agency.

Asian countries has pushed more Asian criminal organisations to Australia (for an example of legislation in Japan against Boryokudan and Yakuza, see Parliamentary Joint Committee on the NCA 1995, p. 47; Savona et al. 1995, p. 11; Valentin 1993, p. 98).

Italian organised crime has also had a sophisticated national network in Australia, including the Calabrian 'Ndrangheta, Sicilian Mafia and diverse Italian-Australian criminal organisations. Furthermore, there is evidence that Colombian cartels and Lebanese, Korean and Russian organised crime groups are active in Australia, though on lower scale than the Asian organisations (Adamoli et al. 1998, pp. 88–9; Parliamentary Joint Committee on the NCA 1995, pp. 6–7; Review of Commonwealth Law Enforcement Arrangements 1994, pp. 29–38; Valentin 1993, pp. 98–100).

With respect to migrant smuggling, for a long time Australian law enforcement authorities ignored the connection between transnational organised crime and illegal migration, suggesting that unauthorised boat arrivals and illegal immigration by air have been arranged by largely independent operators who only provide limited services.¹² More recent studies support the assumption that much of the illegal immigration to Australia by boat is organised only on a very simple and low level. The most common example of operators on the individual level is Indonesian fishermen who transport migrants from ports in southern Indonesia to Ashmore Reef, Christmas Island or Australia's northern coast (Australian National Audit Office 1998, p. 21; DIMA 1999a, pp. 34, 36–7; see also "Boat Arrivals" section in Chapter 4).

But despite the often local and amateur character of these operations, many of the individual migrant smugglers have been found to be hired by large smuggling organisations that operate internationally (ABC TV 1999). With increasing numbers of illegal arrivals in Australia in recent years there is growing evidence that international organised crime groups actively engage in smuggling migrants to Australia, particularly illegal immigration by air

12 The 1994 Report of the Review of Commonwealth Law Enforcement Arrangements and a discussion paper on Asian organised crime in Australia released by the Parliamentary Joint Committee on the NCA in February 1995 left the phenomenon of migrant smuggling completely unmentioned. A 1997 assessment "of the criminal environment relating to people smuggling activities impacting on Australia" by the Australian Federal Police (1998) came to the conclusion that "there has been little evidence found of established organised crime groups engaging in people smuggling into Australia" (p. 9). Interestingly, the same report stated that "[t]here is ample evidence of many...groups engaging in the prolonged, systematic, low-risk and highly profitable activity of smuggling PRC [Chinese] nationals...to numerous destinations, including Australia."

and clandestine arrivals of vessels at the east coast. Chinese and Middle Eastern criminal organisations have been found to be the predominant groups involved in the smuggling of migrants to Australia and throughout the Asia-Pacific region. Many of the internationally operating smuggling organisations simultaneously engage in related offences such as trafficking of women for prostitution and other sexual purposes, and document fraud, sometimes involving unregistered and unlicensed migration agents (Australian Federal Police 1998, p. 3; Parliamentary Joint Committee on the NCA 1995, pp. 8, 10, 56; Thorne 1996, p. 301; Valentin 1993, p. 96).

3.2 Recruitment and Personnel Management

As with their legal counterparts, personnel management in illegal enterprises “involves staffing, training, management development, motivation, performance evaluation, compensation activities and maintenance of employees so as to achieve organisational goals” (“Personnel management” as defined in Shim 1998, p. 147). To improve their operations and seek maximum profit, some organisations, be they legitimate or criminal, attempt to reach a maximum division of labour and specialisation of their employees. Depending on market structures, sophisticated organisations differentiate vertically by implementing different levels of employees and horizontally by separating tasks (Reuter 1983, p. 115; Reuter 1985, pp. 10, 12).

The larger, internationally operating smuggling organisations often have specialised recruitment and management schemes. But, as mentioned before, many illegal migration services are provided on an ad hoc basis by individual operators, who neither have the abilities nor the resources to develop sophisticated management schemes. Also, the information that is available on human resources of migrant smuggling is very limited and too often derives from anecdotal rather than systematic evidence.

3.2.1 Vertical Differentiation

The illegal status of organisations engaged in criminal activities generates particular problems that are also reflected in the management of staff. One significant difference between legitimate and illegitimate enterprises is that the former can rely on commercial bonds between members of the organisation for these are enforceable in the legal process. Criminal

organisations, in contrast, depend far more on shared ideology, loyalty and terror. Employees present a major threat to the criminal organisation, as they possess knowledge about the structure and operations of the enterprise and about the participation of other members, which they could provide to law enforcement agencies or to competing organisations.

Secrecy, money and, as mentioned earlier (section 2.4.2), the creation of fear in the form of threat and intimidation are the major tools to ensure loyal performance of the employees and to prevent detection, arrest and seizure of assets. To protect the core arrangers and investors of organised crime it is essential to differentiate between different levels of staff and keep the information that is given to lower levels of employees at a minimum. It has been found that criminal organisations try to restrict the number of people with detailed knowledge concerning the participation of high-ranking members and future operations (Reuter 1983, pp. 115–6; Reuter 1985, p. 9; Southerland & Potter 1993, p. 257). To prevent treason, criminal organisations may also reward employees by paying higher wages or offering other benefits. Money is an important tool to ensure loyal performance and stop participants from informing against the enterprise as a whole, some sub-unit of it or against individual members. Furthermore, the creation of fear by means of threats and intimidation is used against employees who are suspected of acting disloyally (Mastrofski & Potter 1987, p. 271; Reuter 1983, p. 116; Reuter 1985, pp. 9–10).

3.2.2 Horizontal Differentiation: Division of Labour

A division of labour is essential for the existence of the criminal organisation. Separating tasks and filling functional positions with qualified members protects the organisation as a whole. Should there be an investigation by a law enforcement agency, only small units of the organisation are exposed (Abadinsky 2000, p. 2; Salt & Stein 1997; Salt 2001, p. 105).

From the information that is available on divisions of labour within migrant smuggling organisations, participants can be categorised in several ways (Schloenhardt 1999a, pp. 93–5; and cited in UNICRI & AIC 1999, pp. 10–11; this classification is based on the work of Chin 1999, pp. 33–4; Chin 1998, p. 139; see also Reuter 1985, p. 8; Secretariat of the Budapest Group 1999, pp. 35–6; Sieber 1995, p. 75; other models of the structure of migrant

smuggling organisations can be found in Gordon 2000, pp. 12–13; Kung 2000, p. 1,274). The categorisations are as follows:

- Positioned at the top of the migrant smuggling enterprise is the category of *arrangers/financiers* who are highly competent people who invest money in the smuggling operation and supervise the whole criminal organisation and its activities. Persons in this category are rarely, if ever, known to the lower levels of employees or to the migrants who are smuggled. A hierarchical structure usually insulates the arrangers from being connected with the commission of specific offences (Bersten 1990, p. 53; Chin 1999, p. 29; Cressey 1972, pp. 53–8; Southerland & Potter 1993, p. 253; Thorne 1996, p. 284; UN Commission on Crime Prevention and Criminal Justice 1996, para. 36).
- The category of *recruiters* includes people who work as middlemen between the arrangers and the customers of the criminal enterprise. Recruiters are responsible for finding and mobilising potential migrants, organising them into small groups, collecting their payments and arranging the preparation of travel documents. The recruiters who work in the country of departure are usually not informed about the precise smuggling passage. They are paid for casual jobs only and not on a permanent basis. Investigations have shown that in many cases recruiters come from the same region as the migrants, and frequently they are members of the same culture and are respected people within the local community (Ruggiero 1997, p. 236; Salt & Stein 1997, p. 477; Sieber 1995, p. 75; Spaan 1994, p. 93; Zhang & Gaylord 1996, p. 6).
- *Transporters* are the people in charge of assisting migrants in leaving the country of origin. In destination countries, transporters bring undocumented immigrants from an airport, seaport or coast to a big city. Transporters usually do not obtain inside information on the criminal organisations and their structures. They stay in contact with the organisation through intermediaries who contract them casually (Bögel 1994, pp. 153–8; Salt & Stein 1997, p. 480; Vahlenkamp & Hauer 1994, pp. 15, 17).
- The next category of participants is that of *corrupt public officials*. Migrant smugglers often pay government officials to obtain travel documents for their customers. Immigration and law enforcement officials in many transit countries have been caught accepting bribes to enable migrants to enter and exit countries illegally. The corrupt officials individually or collectively protect the criminal organisation through abuses of their

position, status and privileges. In many departing countries corruption of low-paid government officials is sometimes the only way to obtain travel documentation for migrants (for the example of China see, for example, Houd 1997, pp. 80–1; Smith 1997, p. 14). International smuggling organisations have been found to have a string of corrupt government employees along common smuggling routes featuring customs, immigration and airline staff who in return for the bribes “turn a blind eye” to the operations of the migrant smugglers, for example, by ignoring illegal border crossings or fraudulent travel documents (Beare 1997, pp. 34–6; Bessozi 1997, pp. 9–10; Cressey 1972, pp. 37, 50; Dupont 1997, p. 14; Salt & Stein 1997, p. 482; Savona et al. 1995, p. 6; Williams 1997, p. 4; for more on corruption as a systematic tool of organised crime see section 2.4.2 earlier in this report).

- For the smuggling operations to be successful it is necessary to use *informers* to systematically gather information on:
 - border surveillance;
 - immigration and transit procedures and regulations;
 - asylum systems; and
 - law enforcement activities.

In some cases it has been found that this information-gathering resides with a core group of informers who manage the information flow and have access to sophisticated international communication systems (Salt & Stein 1997, pp. 477–8; Salt 2001, p. 105; see also Vagg 1992, p. 326).

- *Guides* and *crew members* move illegal migrants from one transit point to another or help them to enter countries by sea or air. Crew members are people employed by the migrant smugglers to charter smuggling vessels and accompany migrants throughout the illegal journey.
- *Enforcers*, who are sometimes illegal migrants themselves, are primarily responsible for policing staff and migrants and for maintaining order among them, often involving the use of violence. Enforcers are also in charge of communication, financial transactions and the distribution of food and water as necessary during the illegal passage (Chin 1999, p. 73; Wang 1996, p. 56).
- *Debt-collectors* are the people in charge of collecting the fees from the migrants in transit and destination countries, often using threats, coercion and violence to obtain overdue payments (for details of post-immigration activities and the collection of debts see section 4.3 later in this report).

- *Money-launderers* find ways of legalising the proceeds of their activities which are not reinvested in other operations. This means that money derived from the commission of crime must somehow be made legitimate. The money-launderers are experts at transferring the proceeds of crime through different bank accounts and countries, disguising the origin of money through a string of transactions or investing the proceeds in legitimate businesses (for more on money laundering and the finances of smuggling organisations see section 4.4).
- *Supporting personnel and specialists*: local people at embarkation and transit points support the organisation by harbouring and concealing illegal migrants. It has been found that participants at the lower levels of the organisation possess few, if any, particular skills. Tasks and duties are usually interchangeable and do not require specific knowledge or abilities. Also, by keeping the “street-level” offenders separated from the strategic arrangers, the organisation as a whole is protected. But migrant smugglers also depend on skilled individuals with a high level of knowledge who find and exploit new opportunities for criminal activities. These individuals are often paid for casual duties only and do not share a continuing commitment to the organisation (Bögel 1994, pp. 159–64, 186; Sieber 1995, p. 75; US President’s Commission on Organised Crime in Palmer & McGillicuddy 1991, p. 35).

3.2.3 Human Resources and Recruitment

Little research has been undertaken with respect to the way in which criminal organisations, especially smuggling organisations, recruit their members. The existing literature is highly anecdotal and often focuses on myths of initiation rituals of “secret societies” rather than providing a sound analysis of this aspect of organised crime (for more about initiation of membership in the criminal organisation see Abadinsky 2000, pp. 12–20, 27–30; for an overview of the existing American literature see, for example, Reuter 1995, pp. 100–2).

From the very limited information that is available, it appears that ethnic enclaves in transit and immigration countries provide one source for recruitment by transnational criminal organisations. The fact that many migrants face language difficulties in the host countries limits their opportunities for regular employment and consequently makes them more vulnerable to recruitment by organised crime groups. Moreover, ethnic

networks are more difficult to penetrate for national authorities as the barriers of language and culture provide mechanisms that make investigations more difficult (Parliamentary Joint Committee on the NCA 1995, p. 6; Halstead 1998, p. 20; Valentin 1993, p. 95; Zhang & Gaylord 1996, p. 13).

But the relevance of ethnicity as a criterion must not be overstated. Recent studies have found that many organised crime groups are ethnically diverse. Criminal organisations that cannot rely on cross-border networks of ethnic associates and overseas enclaves spread their activities at the international level by cooperating with other criminal groups abroad (Arlacchi 1998, p. 209; Halstead 1998, p. 4; UN General Assembly 1999, para. 18).

With respect to criminal organisations operating in Australia and the Asia-Pacific region, recent studies have suggested that membership in Chinese Triads is indeed exclusive to Chinese nationals, including Hong Kong and Taiwan. The relationships among the participants engaged in Chinese organised crime is characterised by secretive fraternities with strong ties between different levels of employees. In the case of Vietnamese organised crime, it is unclear whether membership is limited to ethnic Vietnamese or if these groups also employ non-Vietnamese members, especially Chinese and Cambodians (Parliamentary Joint Committee on the NCA 1995, pp. 9–10, 29).

3.3 Globalisation

As mentioned earlier, evidence is increasing that criminal organisations exploit the economic opportunities which have arisen from the globalisation of the world's markets (compare Findlay 2000, pp. 285–6; Martin & Romano 1992, pp. 2–3; Savona et al. 1995, p. 5; Shelley 1995, pp. 465–6). In the case of migrant smuggling, globalisation opened the doors for criminal organisations to easily access other countries and create transnational networks of smuggling routes with multiple modes of transporting illegal migrants. Not surprisingly growing interdependencies between countries have fostered both legal and illegal cross-border migration. The emergence of the economies in East and South-East Asia and the rapid internationalisation of financial markets have given organised crime groups the opportunity to engage in criminal activities at the international level (compare Myers 1996, pp. 182–3; Zhang & Gaylord 1996, p. 2).

As a result of increasing global trade, investment and communication, migrant smuggling now involves criminal elements in many different countries:

- those in which the operations are planned;
- countries from which the migrants originate;
- countries of embarkation;
- transit countries; and
- destination countries.

Smuggling organisations systematically exploit the discrepancies between different jurisdictions and legal systems. Their information schemes quickly find loopholes in law enforcement, border control and legislation. This enables the migrant smugglers to adapt the smuggling routes to changing permeability of borders and migration systems (compare the statement of Senator Partizia Troja, Italian Under-Secretary of State for Foreign Affairs, in Schmid 1998a, p. 15; UN Economic and Social Council 1994). Also, due to the increasing global trade, immigration and customs officers can only control a small proportion of the people and goods crossing international borders which in return makes it easier for criminal organisations to hide illegal transactions.

Moreover, the increasing engagement of criminal organisations in global activities has brought with it a higher degree of sophistication and reduced vulnerability to investigations and prosecution by national law enforcement agencies. While criminal organisations have become increasingly transnational, law enforcement in Australia and the Asia-Pacific region has remained mostly local and national (Schloenhardt 2001, pp. 709–26).

4 Operational Features of Migrant Smuggling

This chapter analyses the operational functions of migrant smuggling such as supply, production (provision of the illegal service), distribution (post-immigration activities) and finances (compare the four stages of the migrant smuggling process identified in Morrison 2000, p. 66: entrance into the process, journey, arrival, interruption). This chapter also investigates the activities of smuggling organisations in a range of locations and circumstances in Australia and the Asia-Pacific region.

4.1 Supply: Mobilisation of Migrants

In the context of migrant smuggling, supply describes the mechanisms of contacting and mobilising potential migrant customers and maximising the demand for migration in sending countries.

4.1.1 Contacting Migrants

The promotion of their services is essential for migrant smugglers. Smuggling organisations advertise their services in the same ways as legitimate businesses do. With huge profits in prospect, these organisations have become expert in shaping the desires and needs of their migrant customers. The ways in which the migrant smugglers find and attract people willing to leave their home countries include newspaper advertising, the use of legitimate travel agencies and contacting people individually or through relatives and friends (for examples see Adamoli et al. 1998, p. 14; Impe 2000, p. 119; Salt & Hoghart 2000, p. 61; Salt & Stein 1997, pp. 477, 479–80, 490; Zhang & Gaylord 1996, p. 6).

To create further incentives, criminal groups often lure potential migrants with false promises of job opportunities abroad and misleading information about immigration procedures and the dangers involved in the clandestine journey. Also, the migrants are told they will easily be able to recover the fare once they have secured work in the destination country. For example,

some boatpeople who landed in Australia in 1998 and 1999 had been told they would work at the Sydney 2000 Olympic Games (MacDonald 1999; Wynhausen 1999a; Kennedy & Metherell 1999; Migration News 1999a). Another method of luring potential migrants is to circulate rumours in departing countries that illegal immigrants would be allowed to stay in Australia under a new amnesty (Tanner & Saunders 1999; for a case study of the Philippines see Avenido 1999, pp. 4-8).

To date, there is no information available on whether or not it is more common for migrant smugglers to contact migrants or vice versa. However, despite the false promises which are made by migrant smugglers, many migrants need not be lured with the prospect of opportunities and wealth in the destination country. For instance, a recent study of Chinese illegal immigrants in the United States suggested that in most cases the migrants take the initiative to contact their smugglers (Chin 1999, p. 36). Similar statements have been made about Afghani refugees who fled to Karachi where they contacted the recruiters of smuggling organisations that brought them to Australia (Carson 2001). In other cases, however, recruiters actively contacted persons in refugee camps in Pakistan (McCarthy 2001).

As indicated earlier, a major difference can be found between the mobilisation, transportation and immigration methods that are used to smuggle persons who flee persecution, starvation and death, and those who fall within the category of opportunity-seeking migrants. The former group of migrants does not need to be persuaded to relocate, as they are generally willing to emigrate at all costs and take any risk to leave poverty, unemployment or persecution. For the latter group, too, criminal organisations offer illegal migration services in response to a demand for them, but at the same time it is noticeable that smuggling organisations also create and stimulate such demand. Furthermore, the existence of overseas communities is another strong incentive to migrate and it has been found that in many cases illegal migrants have contact with relatives and friends in ethnic communities in the destination countries who contact the migrant smugglers from abroad (see, for example, Beare 1997, p. 21; Ulrich 1995, p. 4).

For the majority of the people involved, by definition, there is no element of coercion when the first contact with the recruiters is established. The migrants voluntarily seek the services of the migrant smugglers because that is their only available avenue to escape intolerable conditions in their home countries.

In most cases, the migrant customers sell all their belongings and borrow money wherever they can to pay the price that smuggling organisations charge for their services (see the estimates in section 4.4.2). Sometimes, the migrants' families who sponsor the illegal voyage pay the migrant smugglers. Generally, neither the migrants nor their relatives can offer any security to obtain loans from ordinary banks with reasonable interest rates. This forces them to enter contracts with the migrant smugglers, who allow loans or the payment of deposits on departure (ranging from approximately five per cent to 20 per cent of the fee) and offer to defer payment of the full cost until after the trip is made (see the reports and examples in Bolz 1995, p. 149; Chin 1999, pp. 5, 101–3; DIMA 1999a, p. 15; IOM 2000b; Kung 2000, p. 1,275; Salt & Hoghart 2000, p. 59; Salt & Stein 1997, p. 479; Savona, di Nicola & da Col 1998, p. 75; Wang 1996, p. 53; Zhang & Gaylord 1996, p. 7). Hence, the migrants fall into debt by borrowing money at exorbitant interest rates, or by taking an advance payment from the migrant smugglers.

4.1.2 Sending Countries

To date, no coherent study on the major countries of origin of smuggled migrants in the Asia-Pacific region has been undertaken. However, some evidence exists that illegal migratory movements generally occur between relatively poorer or politically unstable nations and richer, safer ones.

Refugee flows and asylum claims recorded by the United Nations High Commissioner for Refugees (UNHCR) and the immigration statistics of destination countries such as Australia give some indication about the direction of illegal migration flows and about the major sending countries of smuggled migrants. Additionally, some research has been undertaken on individual nations and on the circumstances that make illegally assisted departures from these countries possible and likely.

Table 1 highlights some of the major source countries of refugees in the Asia-Pacific region and sets these figures in comparison to the number of illegal entrants from these countries in Australia. In summary, the data support the suggestion that some connection exists between the nationality of refugees and asylum seekers and those of unauthorised arrivals in Australia. Those nationals who are represented in comparatively high numbers among the refugee populations of the world are also among the major nationalities of illegal immigrants in Australia.

Table 1: Principal refugee nationalities from the Asia-Pacific and illegal entrants in Australia, 1997–2000

Country of origin/nationality	UNHCR			DIMA: unauthorised arrivals		
	Refugee population end of 1999	Refugee population end of 2000	% of all refugees worldwide	1997–98	1998–99	1999–2000
Afghanistan	2,585,900	3,567,200	29.4	60	149	1,312
Cambodia	36,800	36,700	0.3	6	6	n/a
PR China	110,200	107,800	0.9	277	588	208
East Timor	162,500	122,200	1.0	n/a	n/a	n/a
Iraq	617,700	497,400	4.1	148	446	2,454
Lao PDR	21,100	17,200	0.1	n/a	n/a	n/a
Myanmar	130,000	135,600	1.1	n/a	n/a	n/a
Sri Lanka	96,300	101,200	0.8	116	79	78
Tibet	20,300	20,900	0.2	n/a	n/a	n/a
Vietnam	401,000	369,100	3.0	6	13	n/a

Source: UNHCR (2001, Table 5); DIMA (1999b, pp. 5, 6, 18; 1999a, pp. 69, 70, 75; 2001a, p. 93)

n/a = not available

For example, among the countries of the Asia-Pacific region, China is one of the major countries of origin of asylum applicants. Simultaneously, China has been the largest source country for smuggled migrants in the Asia-Pacific region and perhaps in the world. Australia recorded 277 unauthorised arrivals of Chinese nationals in the 1997–98 financial year and 588 in 1998–99. For many years, Chinese nationals have represented the majority of Australia's illegal entrants (19 per cent of all unauthorised arrivals, and 51 per cent of all unauthorised arrivals by sea in 1998–99).

A similar connection between asylum applications and smuggling can be established in the case of Sri Lankan nationals. In Australia, North America and Western Europe, Sri Lankans have been a major group of refugees throughout the 1980s and 1990s. Simultaneously, Sri Lanka is an important source country of illegal entrants to Australia and there is evidence that professional migrant smugglers have facilitated many, if not most, of these arrivals (AFP 1998, p. 5; UNHCR 1997, pp. 210–11).

Not surprisingly, geographically more distant source countries of refugees are represented in smaller numbers among the people smuggled to Australia. However, many illegal migrants from Afghanistan and Iraq, for example, were found entering Australia illegally by air and increasingly on the sea route. Table 1 also illustrates that in Australia, the number of

unauthorised entrants from these countries went up together with growing numbers of Afghan and Iraqi refugees worldwide (AFP 1998, pp. 4–5; DIMA 1999a, pp. 22, 26, 35).

In other cases, however, there is no apparent connection between refugee-producing situations and illegal immigration in Australia. For example, Myanmar nationals only make up for a small number of people smuggled in the Asia-Pacific region although the violation of human rights by the military regime has led to the presence of large numbers of Myanmar refugees in many South-East Asian nations. Some cases were uncovered in which migrants from Myanmar tried to reach the coast of Malaysia by boat illegally, and in other cases workers from Myanmar have been detected paying professional migrant smugglers to be taken into Thailand (IOM 1994b; Migration News 1999g).

Similarly, despite the internal turmoils in East Timor in recent years, the country has never been a significant source of illegal entrants in Australia. Also, there is some information that people from other South Pacific nations have entered Australia illegally (Cuthbertson & Cole 1995, pp. 39–40), but their number is comparatively small and there is yet no information on the causes of these arrivals and whether or not they have been facilitated by smuggling organisations.

Given the data analysed above, it is impossible to establish a clear and unequivocal connection between circumstances that occur in the major sending countries of illegal migrants and the levels of migrant smuggling in the Asia-Pacific region. There are some indications that a connection between refugee flows and smuggling exists. This lends plausibility to the assumption that the most desperate migrants resort to smugglers as a result of non-existing modes of legal migration. In other cases, the major push factors for illegal migrants appear to be socioeconomic and demographic, thereby supporting suggestions that migrant smuggling often falls within the category of opportunity-seeking migration. These assumptions are also reflected in the profile of the migrants. It appears that political refugees and economic migrants who are smuggled are usually members of the middle and higher social classes who have the education to understand the political and economic realities in their countries and also have access to the necessary resources to pay to escape from them.

4.1.3 Profile of the Migrants

Little is known about the locations where recruitment occurs and on the profile of the “smuggling clientele”. While some studies suggest that most migrants originate from remote areas of the sending country, others claim that migrants initially move to the big cities of the departing countries where they contact smuggling agents (Bögel 1994, pp. 153–8; UN Commission on Crime Prevention and Criminal Justice 1995, para. 6; Vahlenkamp & Hauer 1994, p. 17). There is also disagreement about the educational level and social background of smuggled migrants. Some studies assert that migrant smugglers generally recruit young people with above-average education who are given the prospect of high-ranking positions in the destination country. Furthermore, it has been stated that smuggling is not exclusive to poor and unemployed people since the migrants and their families spend considerable amounts of money for the illegal passage and some travel with large sums of cash (Beare 1997, p. 21; Ghosh 1998, p. 19; IOM 2000b; Salt & Stein 1997, p. 479). Other reports, however, have rejected these speculations (Carson & O’Brien 2001; UN Commission on Crime Prevention and Criminal Justice 1995, para. 6).

To date, there is no data available on the social and educational background of smuggled migrants in the Asia-Pacific region. However, some assumptions about the profile of smuggled migrants can be made on the basis of information collected about unauthorised arrivals detected in Australia by the Department of Immigration. Although these figures are not representative, they can give some indication about the kind of people that are smuggled through the region.

Table 2: Total unauthorised arrivals by age on arrival in Australia, 1998–2000

Age on arrival	1998–99		1999–2000	
	Number	%	Number	%
under 20	237	8	465	8
20–34	1,821	60	3,427	59
34–49	869	29	1,722	29
50–64	91	3	181	3
65 and over	14	0.04	30	1

Source: DIMA (1999a, pp. 15, 69; 2001a, pp. 16, 94)

Table 2 shows that most people arriving in Australia illegally are under the age of 34 (68 per cent in 1998–99). This is not surprising, as migration, both legal and illegal, usually involves people who have the physical ability to face the challenges of migration and for whom the advantages of relocating and the opportunities abroad are much more obvious and promising.

According to other data by the Department of Immigration, the majority of unauthorised arrivals are male. For example, 3,209 (or 89 per cent) of the 3,617 unauthorised boat arrivals in 1999 were men. Only 165 (five per cent) were women and 243 (seven per cent) children (no gender specified) (DIMA 2000, p. 29). These figures support the assumption that the majority of smuggled migrants are young males.

4.2 The Illegal Services

The illegal services that smuggling organisations provide can be differentiated into four elements:

- preparation of the migrants;
- provision of travel documents;
- transportation and routing; and
- arrival (immigration) (compare McFarlane 1999, p. 12; Zhang & Gaylord 1996, p. 6).

The services sought and offered change depending on the distance between the country of departure and the destination country, and on the immigration, emigration, asylum and transit systems in force (compare IOM 1996a, p. 5; IOM 1994c, p. 3; Savona, di Nicola & da Col 1998, p. 73).

4.2.1 Preparation of the Migrants

The information that is available on how migrants are prepared by their migrant smugglers before they leave the country of departure is very limited. In some cases it has been found that migrants are given names and phone numbers of people at transit points and in destination countries (Sexton & Stapleton 1999). Furthermore, migrant smugglers sometimes provide coaching to the migrants in how to:

- avoid border controls;
- answer immigration officers or law enforcement agencies if they get questioned or detained; and

- claim asylum in the receiving countries (IOM 1997b; Salt & Stein 1997, p. 483; Secretariat of the Budapest Group 1999, pp. 15–16; Sieber 1995, pp. 75–6; Smith 1997, p. 16; Zhang & Gaylord 1996, p. 9).

The customers of the migrant smugglers represent a major risk of detection and arrest for the criminal organisation. At the same time, the illegal migrants, particularly those who classify as covert arrivals, must fear detection and arrest for illegally entering foreign countries. The fact that illegal migrants are simultaneously customers and victims of the migrant smugglers as well as violators of the law places them in a very complex and dangerous situation. Threats and intimidation are the major tools to control the migrants and prevent them from inhibiting the organisation's activities. Violence is used to control and maintain order among the migrants as well as employees. It is also used to silence potential witnesses to crimes or as a punishment and warning to others (see section 2.4.2).

4.2.2 Travel Documents

General Observations

Migrants, regardless of their country of origin and their legal status, need high-quality travel documentation to move from one country to another. Such documents are required, for example:

- for visa applications;
- for obtaining passports and exit authorisations;
- for transportation by air; and
- for border controls and immigration clearance.

However, the circumstances that cause people to flee their home countries often make it impossible for them to obtain genuine documents.¹³ Consequently, the services of transnational migrant smugglers, particularly in the case of smuggling by air, frequently include the production and/or supply of fraudulent travel or identity documents.¹⁴ This has become a growing criminal activity, as the ability to migrate largely depends on the

¹³ Although many immigration countries have legislated against undocumented arrivals, it is inappropriate to require valid travel documents from genuine refugees. This has been recognised in the Convention Relating to the Status of Refugees, article 27 and Annex Specimen Travel Document. For further reading see, for example, Ghosh (1998, pp. 6–7); Feller (1989, pp. 56–7).

¹⁴ Fraudulent travel or identity documents are defined in article 3(c) of the Protocol Against the Smuggling of Migrants by Land, Sea and Air.

possession of the necessary documentation. Although modern technology has facilitated the apprehension and seizure of forged passports and visas, at the same time the equipment to make more convincing fraudulent documents has improved rapidly.

Smuggling organisations show a high level of sophistication and variety in the ways in which they obtain or produce the necessary documents. The major ways include photo-substitution, visa transposing, and producing forged visas, residence permits and passports. Investigations have also found that blank, unissued passports are stolen from passport-issuing authorities. Other documents are sometimes stolen from travel agencies, and corrupt officials have been found providing passports to smuggling organisations. In order to meet visa requirements migrant smugglers also issue fraudulent business invitations from non-existing companies in the destination countries. (In 1999–2000 three cases were detected in which colleges in Australia advertised for students but were found to have no teaching facilities: *Migration News* 1999a; *Migration News* 2000b; see also Graycar et al. 1999, p. 8; IOM 1996b; McAllen 1999, pp. 253–60; Sieber 1995, p. 75; Ulrich 1995, p. 4; UN General Assembly 1994a, para. 7.)

In preparation for the illegal journey, migrants are also often given return tickets in order to meet entry and transit requirements and to make the migrants appear as tourists or business travellers (see, for example, section 5(4) *Immigration Act* 1971 [Vanuatu] and, for the Philippines, see Ledesma 1999, p. 57). Where applicable, migrants are also given cash, traveller's cheques and credit cards for countries whose immigration laws require evidence of sufficient funds for the duration of the stay in that country (see, for example, section 14 *Immigration Act* 1979 [Thailand]; Sieber 1995, pp. 75–6; Sexton & Stapleton 1999; Vahlenkamp & Hauer 1994, p. 17).

Document Fraud and Misuse in the Asia-Pacific Region

The use of fraudulent and stolen travel documentation is a major characteristic of migrant smuggling in the Asia-Pacific region, particularly of airborne smuggling. This phenomenon is also closely linked with the corruption of local government, law enforcement, border control and customs officials. The following examples illustrate the variety and sophistication of document fraud and misuse in the region.

Chinese criminal organisations, for instance, have been found using counterfeit travel documents to pass illegal migrants through border controls. The increasing decentralisation of China's administration makes it easy for migrant smugglers to obtain passports and travel documents by corrupting local government employees. Officials have been found providing both genuine and fraudulent documents in exchange for money or, in more recent cases, for the migrant smuggler's promise to smuggle a member of the corrupt official's family abroad. In other cases, officials have sold their own government identification to smugglers (AFP 1998, pp. 3, 4; Beare 1997, p. 35; Chin 1999, pp. 42–6; Houd 1997, p. 80; Peck 1998, p. 1,054; Wang 1996, p. 54).

Because Chinese and Taiwanese people are similar in appearance and speak the same language, it is not surprising that migrant smugglers seek to obtain Taiwanese travel documents for their customers from the mainland. Recent investigations have found that smuggling organisations are using Taiwanese identity cards for photo-substitution and then to apply on behalf of their Chinese customers for visas for third countries to which Taiwanese nationals have easier access. Once the visas are granted the travel documents are sent to China for further use (Chin 1999, pp. 142–3; Migration News 1999f). In cases that have been uncovered in Myanmar, citizens were selling the identity papers of their recently deceased relatives to Chinese migrant smugglers who manipulated them by photo-substitution (IOM 1993; Smith 1997, p. 1). The Myanmar documents were then used to obtain refugee status in third countries.

Hong Kong is a major transit point in the region. Many people travelling through Hong Kong's airport have been found using false passports, documents and airline boarding passes. In 1998 the Hong Kong Immigration Department detected 3,594 cases (3,530 in 1999) of forged travel documents (Hong Kong Immigration Department 1998, 1999, 2000; AFP 1998, p. 3; Adamoli et al. 1998, p. 86; Peck 1998, p. 1,046; Smith 1997, p. 7; Vagg 1992, p. 313). Most of the fake documents found in Hong Kong are forged Chinese passports and travel permits (42 per cent in 1998–99), but fake Philippine (three per cent) and Sierra Leone (six per cent) documents have also been apprehended (Hong Kong Immigration Department 2000). Corruption of immigration and law enforcement officials is also an important issue in Hong Kong. For example, in 1997 some foreign consulates were suspected of taking bribes for granting visas to smuggling organisations (Beare 1997, p. 35; Chin 1999, p. 45).

Bangkok is considered a major centre for the production of fraudulent documents, often conducted by highly specialised criminal organisations (Adamoli et al. 1998, p. 87; AFP 1998, pp. 4, 7; DIMA 1999c, p. 2; IOM 1997a). Investigations have found that falsified passports in Bangkok are available for about US\$3,000 and stolen blank Malaysian passports for US\$8,000 (AFP 1998, p. 7).

Malaysia is a major source of unissued passports and fraudulent working permits that have been stolen or obtained from corrupt government officials (AFP 1998, pp. 3–4; DIMA 1999a, p. 22; Ghosh 1998, p. 68; see also Adamoli et al. 1998, p. 86; Smith 1997, p. 8). Malaysian police have also reported that migrant smugglers are buying fraudulent passports from Hong Kong, Indonesia and Myanmar and then use Kuala Lumpur as a transit point for illegal migrants on their way to third countries (IOM 1994a, p. 2; IOM 1994c, p. 9).

Recent studies have reported that government agencies in Nauru and Tonga have sold passports to Chinese nationals who have used them to illegally enter other countries (Migration News 1999c). The Marshall Islands, for instance, a country with a population of only 62,000, has experienced large-scale illegal immigration from China, often including the use of fraudulent documents. Initially, the Marshall Islands Government sold passports to Chinese in return for investment into the country, but as this attracted too few investors, the investment requirement was dropped and almost immediately the passport sales went up. By the time the government stopped selling passports in 1996, about 1,200 registered passports had been issued and another 2,000 unaccounted passports had been found (Jorban 2000, p. 2; Skeldon 1998, pp. 38–9).

4.2.3 Transportation and Routing

General Patterns

Being able to adapt methods of illegally moving people in response to legislative and law enforcement activities is essential for the survival of the smuggling organisation and to disguise their activities. Smuggling organisations exploit loopholes in legislation, coastal surveillance and border controls, or simply cross borders at times when control points are short-staffed. Borders and other gateways may also be temporarily closed or heavily controlled, thus requiring a change of routes via other countries. In the case of smuggling by sea, seasonal weather patterns may prevent the

departure of boats. Consequently, migrant smugglers may use simple and direct routes and at other times complex and circuitous ones. Also, it has been found that migrant smugglers have “sold” their migrants to other smuggling organisations in transit countries (Chin 1999, p. 92). For these reasons the time between departure from the country of origin and arrival at the final destination varies from several weeks to months or even years (Salt & Stein 1997, pp. 477–8; see also the examples of migration from China to the US in Chin 1999, pp. 50–1, 70–2; Kung 2000, p. 1,285; and from China to Hong Kong in Vagg 1992, p. 326).

The information that is available on smuggling routes is highly anecdotal and little is known on how criminal organisations establish their routes. As stated before, several studies suggest that the large transnational networks often use routes that are also used for drug smuggling. The smuggling of migrants seems to follow certain trends depending upon information about transit and entry controls. It has also been found that routes often reflect the local knowledge of migrant smugglers and the locations of members along the route (Graycar et al. 1999, p. 4; Salt & Stein 1997, p. 474; compare Bögel 1994, pp. 91–9, 185; Sieber 1995, pp. 75–6).

Modes of Transportation

Migrant smuggling is carried out by land, air and sea. Often the means of transportation is changed several times en route.

Smuggling by land is the easiest way to move from one country to another. The spectrum ranges from simply walking migrants across “green borders”¹⁵ to sophisticated methods of clandestine smuggling in trains and trucks. Smuggling by land offers the advantage that many people can be moved in a single venture if buses or trucks are used. If people cross borders clandestinely (for example, at night or beyond control points) land smuggling also removes the need for bribery and fraudulent documents.

Smuggling by air is the fastest growing method of organised illegal migration in the Asia-Pacific region due to increasing international air traffic and because of inadequate control of passengers at many transit and immigration points. The number of migrants that can be smuggled at a time is limited and the illegal passengers have to be prepared for deceiving officials at control points. Smuggling by air usually requires sophisticated

¹⁵ An expression frequently used to describe international borders without barriers.

travel documents or, alternatively, the bribery of border and immigration officials or airline personnel. In many cases smuggling organisations facilitate the onward travel of their customers by switching documents, tickets and boarding passes in the transit lounges of international airports to enable them to board flights to destination countries (Beare 1997, p. 31; UN General Assembly 1994a, para. 8).

Smuggling by sea involves much lower risks of detection and arrest than land and air smuggling, especially in countries that have long, archipelagic coastlines that are difficult to patrol. Also, it enables migrant smugglers to transport many people in a single venture, which means higher profits. Beyond that, the logistics of smuggling by sea are much simpler as the need for travel documents is removed. There is also no need to bribe border officials, as the illegal migrants do not pass through immigration control points (UN General Assembly 1994a, para. 9; Wang 1996, p. 49). A common method of smuggling by sea appears to be what has been described as a "two-boat procedure": a boat with the illegal migrants leaves the overseas port, accompanied by an unladen vessel. At a predetermined point in international waters, the migrants are transferred to the smuggling vessel, or the crew on the boat carrying the migrants transfers to the accompanying boat and returns to the port of embarkation, sometimes leaving the migrants stranded. Another method that has been used is to set off the migrants on offshore islands where they await the arrival of another vessel (Chin 1999, pp. 68–70; DIMA 1999d; McInerny 2000, p. 7; Wang 1996, pp. 54–5).

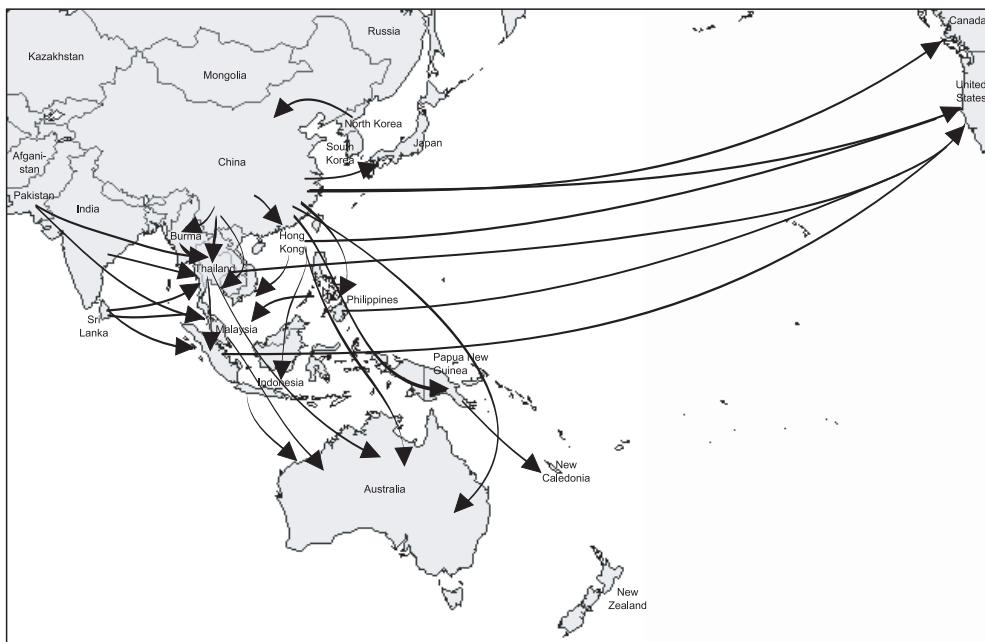
The experience of many destination countries has shown that the means and methods of transportation largely depend on the kind of the people who are smuggled and on the objective of their journey. Especially the final part of the illegal voyage is largely determined by whether the persons smuggled seek to immigrate clandestinely and undetected and then disappear in the community (so-called covert arrivals) or whether they seek to reach the territory of the destination country and then claim asylum (often referred to as overt arrivals). In the former case, sophisticated means of smuggling, such as high-quality forged papers or hidden compartments in boats, trains and trucks, are necessary to circumvent border controls and arrive undetected. In the latter case, migrants can simply be dropped off at the coast of the destination country, or they are told to lodge their asylum claims immediately upon arrival at the destination airport.

Migrant smuggling is sometimes described as a way to circumvent migration regulations and, therefore, a victimless crime. But a major concern in the study of migrant smuggling is the victimisation of migrants, their physical safety and the violation of their dignity and human rights. During the journey, migrants are completely in the hands of the migrant smugglers and often subject to deprivation and indignities. The transportation of illegal migrants, especially in the case of smuggling by sea, mostly takes place under inhumane conditions, causing a great number of accidents, casualties and sometimes fatalities during the dangerous passages. The common methods of seaborne smuggling pose a particularly serious danger for migrants. In some cases they have been found crammed into unseaworthy vessels or locked in freight containers without enough air, water or food (see generally IOM 1994c, p. 4; UN Commission on Crime Prevention and Criminal Justice 1995, para. 6; UN Economic and Social Council 1998; UN General Assembly 1994a, para. 5). In other cases, migrant smugglers have simply abandoned the migrants en route and put them at risk because they feared being caught by the authorities (for case studies see Chin 1999, pp. 72–7; Peck 1998, p. 1,047; Smith 1997, p. 11; UNICRI & AIC 1999, pp. 12–13).

Regional Analysis

The Asia-Pacific region, including East and South-East Asia, Australia and Oceania, is an area in which every form of criminal behaviour associated with smuggling in migrants can be observed. This is mainly due to the political and economic discrepancies between the countries in the region which combine with the presence of well established international criminal organisations that operate throughout the region (for an overview of organised crime in Australia and the Asia-Pacific region see, for example, Adamoli et al. 1998, pp. 73–91; Meagher 1983, pp. 15–17; Savona et al. 1995, pp. 23–4). Many countries in the Asia-Pacific region play more than one role for migrant smuggling: they are simultaneously sending countries and transit countries, or transit countries and receiving countries (for a regional study of migrant smuggling routes see, for example, Talcott & McCardle 1999).

Figure 3 illustrates some of the principal routes used by smuggling organisations in the Asia-Pacific region. The following analysis summarises the findings of national and international police investigations and academic research in the Asia-Pacific region.

Figure 3: Migrant smuggling routes in the Asia-Pacific region

Note: Map not drawn to scale.

People's Republic of China

China is the principal source country of illegal migrants in the Asia-Pacific region and in North America. Recent studies by the International Organisation for Migration (IOM) and the UNHCR estimate that between 100,000 and 500,000 migrants leave or attempt to leave China each year with the help of organised smuggling rings (Migration News 2000c; IOM 2000a). The United States Immigration and Naturalization Service estimated in March 2000 that at least 100,000 Chinese are smuggled abroad each year (Migration News 2000e). But few migrant smugglers and illegal migrants are apprehended. In 1999, for instance, Chinese authorities reportedly detected only 925 "smugglers" and detained 9,129 people who were trying to leave the country illegally (Migration News 2000d). Police in Fujian province reported that they broke up 30 smuggling rings, arresting 300 migrants and 280 smugglers in the first eight months of 2001 (Migration News 2001c).

Chinese smuggling organisations maintain global networks to transport and accommodate people. Members of the organisations are located in overseas communities and strategic transit points such as Bangkok, Hong Kong, Manila and Singapore to facilitate the illegal journey to Australia and other destination countries (AFP 1998, pp. 3, 4; Chin 1999, pp. 50–1, 56–7).

The major smuggling route by land appears to run through the southern provinces of China into Myanmar, where immigration control is almost non-existent due to increasing border trade (Chin 1999, pp. 52, 56). Smuggling by sea usually commences in the ports of the southern Guangzhou and Fujian provinces where the migrants board boats that are registered in Hong Kong or Taiwan and which have legitimate access to Chinese ports (DIMA 1999a, p. 22; McFarlane 1999, p. 13; Wang 1996, pp. 54–5; Migration News 1999e).

Hong Kong and Macau

Illegal migration and organised crime have been long-standing problems for Hong Kong and Macau (see, for example, Meagher 1983, p. 17; Myers 1996, p. 192; Vagg 1993, 1992). The cities' special status as British and Portuguese colonies, and now as Special Administrative Regions of China, combined with their infrastructure and exposure to the sea, make Hong Kong and Macau attractive destinations and transit points for smuggling of illegal migrants from mainland China and many different Asian countries. Hong Kong's international airport is one of the major hubs in the region and is also one of the principal ports of embarkation of people arriving in Australia illegally by air (DIMA 1999a, p. 69; for smuggling through Macau's new airport see Smith 1997, p. 8).

Table 3 illustrates the levels and nature of illegal immigration in Hong Kong. In the late 1990s, Hong Kong authorities apprehended large numbers of illegal arrivals, particularly Chinese nationals who had fled to the British outpost prior to Hong Kong's handover to China in 1997. Although this

Table 3: Illegal immigration, Hong Kong, 1996–2001

	1996	1997	1998	1999	2000	2001
No. of immigration-related investigations	39,879	36,244	n/a	n/a	n/a	n/a
Illegal immigration	6,372	6,711	n/a	n/a	n/a	n/a
Vietnamese illegal immigrants	n/a	1,161	577	474	293	170
No. of prosecutions instituted	n/a	22,577	25,970	26,912	23,632	23,929
Illegal immigrants apprehended and repatriated	n/a	19,584	15,925	13,262	9,592	8,896
Passengers refused permission to land	9,534	9,935	n/a	n/a	n/a	n/a
by land	1,558	2,225	n/a	n/a	n/a	n/a
by sea	1,778	2,578	n/a	n/a	n/a	n/a
by air	6,168	5,132	n/a	n/a	n/a	n/a
Illegal immigrants from mainland China*	23,132	15,010	14,892	n/a	n/a	n/a

* Figures are for 1996–97, 1997–98 and 1998–99 respectively.

n/a = not available

Source: Hong Kong Immigration Department (1998, 1999, 2000, 2002); Migration News (2000f)

number has decreased significantly in recent years, it has remained at comparatively high levels, with approximately 9,000 illegal immigrants apprehended in 2000 and 2001.

Taiwan

As a result of increasing air and sea traffic passing through Taipei's ports, Taiwan has become a major destination and transit point for illegal migrants. It has been estimated that the number of people illegally residing in Taiwan exceeds 200,000, including about 38,000 mainland Chinese, many of whom are young men from nearby Fujian province (Ghosh 1998, p. 16; Peck 1998, p. 1,046; Migration News 1999e). The cultural and historical ties, as well as the political and economic disparities with the People's Republic explain why Chinese criminal organisations are well established in Taiwan and use the "renegade province" as a destination and transit point for illegal migrants from the mainland. It has also been reported that some of Taiwan's major shipping companies and airlines have been engaged in migrant smuggling. Furthermore, cases of corruption of immigration and customs officials in Taiwan's seaports have been reported (Myers 1996, pp. 195, 196, 198, 219; Chin 1999, p. 142).

Myanmar

For many years Myanmar has been a notorious source for illicit drugs and there is increasing evidence that drug smuggling organisations, supported and protected by corrupt government officials, use their experience and smuggling channels to transport illegal migrants in and out of the country (Adamoli et al. 1998, p. 87; Martin & Romano 1992, pp. 131–4; McFarlane 1999, p. 3). Hundreds of thousands of Myanmar nationals have entered Thailand illegally to find protection and, more recently, to seek employment. Myanmar is also an important transit country for Chinese nationals who travel across the border, usually at night and on foot or horseback, and then travel on to Thailand (McFarlane 1999, p. 13; Skeldon 1994, p. 188; Smith 1997, p. 1).

Cambodia

Decades of political and economic turbulence have made Cambodia an easy target for smuggling organisations which benefit from inadequate law enforcement, immigration and border control. Some senior police and immigration officials are believed to be actively involved in smuggling

operations. Despite recent attempts to combat illegal migration and illegal employment, international smuggling rings have been found using Cambodia as a transit zone for illegal migrants. It has been found that the people smuggled through Cambodia are often Middle Eastern nationals who enter via Thailand, or they are Chinese nationals travelling through Laos and Vietnam. From Cambodia they seek to board boats destined for Hong Kong and Australia (Smith 1997, p. 8; IOM 1998, p. 6; Migration News 1999b; Migration News 1999d; Baker 2001).

Thailand

From regional and global perspectives, Thailand appears to be one of the world's major smuggling centres. Since the early 1990s, the country has been used as an important transit point for smuggling to other Asian nations, to Western Europe, the United States and Australia. Bangkok's airport is one of the major embarkation points of people travelling to Australia illegally.¹⁶ Simultaneously, Thailand is a destination for migrants from around the region, and is also a source of Thai migrants who are smuggled abroad.

Studies undertaken by international organisations and the Royal Thai Police in the mid-1990s estimated that migrant smugglers move as many as 1,000 to 2,000 illegal migrants per month through Thailand, and that approximately 50,000 people are waiting in Bangkok to be smuggled to overseas destinations. The majority of illegal migrants travelling through Thailand come from Bangladesh, Cambodia, China, India, Laos, Myanmar, Nepal, Pakistan and Sri Lanka (Hugo 1998, pp. 83–4; Peck 1998, p. 1,046; IOM 1996a, p. 5; Smith 1997, p. 8; IOM 1998, p. 6).

The Philippines

Organised crime and the smuggling of migrants to, through and from the country has been a long-standing problem in the Philippines. The long archipelagic coastline makes border surveillance extremely difficult and makes clandestine arrivals and departures by sea very easy. Manila is a major transit point for migrant smuggling and has also been identified as a regional hub for criminal organisations. The majority of migrants smuggled through the Philippines appear to be Chinese nationals, but Algerians and

¹⁶ In the 1999–2000 financial year, 20.5 per cent of all unauthorised air arrivals in Australia departed from Bangkok Dong Muang airport, up from 10.9 per cent in 1998–99 (DIMA 1999a, p. 69; 2001a, p. 95). Compare the reports in McCarthy (2001).

Iraqis have also passed through the country before they attempted to illegally enter other countries, including Australia (AFP 1998, pp. 4, 6, 7; Salvador 1999, pp. 7–8).

Malaysia

Malaysia is a major economic centre in South-East Asia and large numbers of passengers and cargo pass through the country by air and sea. With its booming economy and growing levels of air traffic through Kuala Lumpur's new airport, Malaysia has become an important staging post for migrant smuggling. Malaysia is primarily a transit point for smuggling from East Asia, Sri Lanka, Pakistan, Afghanistan and Iraq to Australia,¹⁷ the United States and Europe. Among the people who transit through Malaysia are many Muslim migrants from the Middle East who do not need visas to enter Malaysia (Migration News 2001b; Afghan refugees have been found flying to Malaysia from Karachi, compare Carson 2001). But Malaysia is also a destination country for refugees from Myanmar and for large numbers of illegal workers who are brought in from the Philippines and Indonesia by professional smuggling organisations. The Malaysian Government estimates that about 500,000 to 1,000,000 foreigners reside in Malaysia illegally, 70 per cent of whom are Indonesian and 10 per cent from Myanmar (Ghosh 1998, p. 16; IOM 1996a, p. 5; Smith 1997, p. 10; Spaan 1994, p. 98; Migration News 2000a; Migration News 2000g; Migration News 2002).

Singapore

With one of Asia's major airports, Singapore is used as a transit point by many smuggling organisations. Singapore is among the major embarkation points of people arriving in Australia illegally by air.¹⁸ Swapping of airline boarding passes within the transit area of Changi Airport appears to be a common method for many illegal migrants who board Australia-bound flights. The nationalities found to transit through Singapore to reach Australia are primarily Chinese, Sri Lankan, Afghan and Iraqi (AFP 1998, pp. 3–5; External Reference Group on People Smuggling 1999, p. 12).

17 In the 1999–2000 financial year, 30.1 per cent of all unauthorised air arrivals in Australia departed from Kuala Lumpur Kuching airport, up from 16.1 per cent in 1998–99 (DIMA 1999a, p. 69; 2001a, p. 95).

18 Singapore is the major airport of embarkation for passengers arriving in Australia illegally. In the 1999–2000 financial year, 38 per cent all unauthorised air arrivals in Australia departed from Singapore, up from 20.8 per cent in 1998–99 (DIMA 1999a, p. 69; 2001a, p. 95).

Simultaneously, Singapore is an important destination for illegal migrants in the region. In 1999, for instance, the Singapore Immigration and Registration Authority arrested approximately 17,000 illegal immigrants and overstayers. This figure was down from 23,000 in 1998, and up from 14,000 in 1997 (Seng 2000; Singapore Immigration and Registration 1998; compare Adamoli et al. 1998, p. 86; IOM 1996a, p. 5; Smith 1997, p. 8; Spaan 1994, pp. 94, 98). In 2000, the Singapore Police arrested 307 illegal immigrants attempting to enter the country, up from 52 in 1999 (Migration News 2001e).

Indonesia and East Timor

Indonesia's geography poses particular difficulties for law enforcement and border surveillance, and makes the country very vulnerable to and attractive for seaborne smuggling. The recent incidents of unauthorised boat arrivals in Australia have presented Indonesia as a major transit point for illegal migrants by sea. Indonesian authorities report that they stopped over 1,100 people headed for Australia between March 2000 and March 2001 (Migration News 2001g; Greenless 2001a, 2001b). Investigations suggest that most illegal migrants travel from Middle Eastern countries and China to Indonesia where they easily obtain entry. From Indonesia, they proceed to Australia by boat, usually departing from the south-eastern parts of Indonesia such as West Timor and Bali (AFP 1998, pp. 3-5; External Reference Group on People Smuggling 1999, p. 12; DIMA 1999e, p. 3-4; DIMA 1999a, p. 22; Garnida 2001, p. 1; IOM 1995; Tailby 2001, p. 3; Migration News 1999a; Migration News 2000a; Migration News 2001f; ABC TV 1999).

Simultaneously, Indonesia is a major sending country of illegal migrants in the region, as large numbers of Indonesian workers move abroad illegally, particularly to Malaysia and Singapore (Spaan 1994, pp. 93-104; Migration News 2000g).

In response to increased surveillance of Australia's north-west coastline, East Timor (which lacks efficient law enforcement) has also become a transit point for migrant smuggling. In August 2002, a boat carrying 56 Sri Lankan asylum seekers was stopped in East Timor en route to New Zealand (compare Lyall 2002; Greenless 2002; Saunders 2001).

Papua New Guinea and the South Pacific

There is some evidence that Papua New Guinea is used as a transit country for migrant smuggling. Recent investigations have found that illegal migrants heading for Australia, New Zealand and also Canada transit via Papua New Guinea in response to increased surveillance of the Torres Strait and the Tasman Sea. The migrants smuggled through Papua New Guinea are predominantly Chinese, Sri Lankan and Iraqi nationals (AFP 1998, p. 5; Keelty 2000, pp. 78–9; Talcott & McCurdle 1999; Migration News 1999g; personal communication with Mr Tokam Kamene, Director-General, National Intelligence Organisation [Papua New Guinea], 9 August 2000).

Little information is available on the level of migrant smuggling in and between the South Pacific islands. New Caledonia reported the landing of two vessels with 110 undocumented Chinese migrants in 1997 (personal communication with Ms Christine Capron, Chef de la Division Ressources à la Direction de la Police Au Frontières en Nouvelle Caledonie, 14 January 2001; Pacific Islands Report 2001). In March 2001, Fijian authorities confirmed the existence of a smuggling ring that smuggled mostly Asian migrants through South Pacific nations (UNDP Eastern Horizons 2001). Recent reports show that the Marshall Islands are affected by illegal immigration from China by the use of fraudulent documents, and, to a lesser extent, from neighbouring countries such as Kiribati and Tuvalu (Jorban 2000, pp. 2–3). Similar cases have been reported in Manila, where ethnic Chinese arrived with Nauru passports that had been sold to them in official and unofficial ways (personal communication with Mr Angelito Q Tan, Chief of Intelligence Division, Bureau of Immigration, Department of Justice [Philippines], 15 January 2001).

In the late 1990s, United States authorities reported that Guam, along with other Micronesian islands, have served as transit points for Chinese migrants on their way to North America and Australasia. Guam offers the additional advantage of being US territory and having fast and easy access to the US mainland. For example, in 1998–99 the US Coastguard in Guam detected 1,869 unauthorised migrants who had been smuggled by Chinese groups (data provided by the US Coast Guard, Law Enforcement and Intelligence Branch, Honolulu, 15 August 2000 [on file with author]; and see Kung 2000, p. 1,281).

4.2.4 Illegal Immigration in Australia

Australia is among the major destination countries for migrant smuggling in the region. The country's wealth, a relatively stable economy and its geographical proximity to South East Asia and the Pacific are the principal factors that make the country an important destination for migrants from various countries of the region. A coastline of 36,835 kilometres and a landmass of 7,682,300 square-kilometres make border surveillance and the apprehension of illegal arrivals extremely difficult. Australia does not share a land border with any other country. Coastal surveillance and immigration control at Australia's seven international airports are the only ways to prevent and detect illegal immigration. Hence, the remote and less populated north and north-west areas of Australia are particularly vulnerable to undetected arrivals of sea vessels and small aircraft.

After the arrivals of Indochinese boatpeople ceased in the early 1980s, Australia recorded no unauthorised boat arrivals. A boat that was intercepted near the north-west coast in November 1989 carrying 26 asylum seekers was the first unauthorised arrival by sea for a period of eight years. The landing of this vessel marked the beginning of the latest period of unauthorised arrivals. Table 4 shows the number of illegal arrivals by air and sea that have been detected by Australian authorities since 1989.

Table 4: Unauthorised arrivals to Australia by boat and air, 1989–2001

	1989– 90	1990– 91	1991– 92	1992– 93	1993– 94	1994– 95	1995– 96	1996– 97	1997– 98	1998– 99	1999– 2000	2000– 01
Boat arrivals	243	172	81	198	200	1,089	591	365	157	926	4,175	4,141
Air arrivals	n/a	n/a	529	452	409	485	669	1,347	1,550	2,106	1,695	1,508
Total	n/a	n/a	610	650	606	1,574	1,260	1,712	1,707	3,032	5,870	5,649

Source: Prime Minister's Coastal Surveillance Task Force (1999, attachment B-1); DIMA (1999a, p. 69; 2001a, p. 93; 2001b)

n/a = not available

The number of unauthorised arrivals in Australia has significantly increased in recent years. The total number of illegal arrivals increased almost tenfold between 1991–92 (610 unauthorised arrivals) and 1999–2000 (5,870 unauthorised arrivals). Up until 1998–99, this increase was due mainly to growing numbers of unauthorised air arrivals, particularly between 1995–96 and 1998–99. Although most public attention has been drawn to the illegal arrival of boats, between 1991–92 and 1998–99, the majority of illegal immigrants arrived in Australia by air (62 per cent, or 12,242 unauthorised

arrivals). The total number of unauthorised arrivals has increased steadily over the last decade. A decrease in the 1995–96 financial year has been explained as a direct result of the signing of the Memorandum of Understanding between Australia and the People's Republic of China that enabled the immediate return of Sino-Vietnamese people to China (Siegmund 2001).

Boat Arrivals

Broadly speaking, unauthorised boat arrivals to Australia commenced in 1975 with the arrival of Indochinese boatpeople. Most of them travelled via Malaysia, Indonesia, Thailand and China prior to arriving on Australia's shores. Investigations by the Australian Federal Police and the Department of Immigration and Multicultural and Indigenous Affairs (DIMIA, formerly DIMA) show that the majority of the early unauthorised boat arrivals to Australia originated from Cambodia and Vietnam. The people aboard were mainly Vietnamese, Cambodian and Chinese nationals (HREOC 1998, p. 6). These arrivals dried up in 1982 with the establishment of an orderly departure program in Vietnam.

In the 12 years since 1989, most boat arrivals have departed from locations in the southern provinces of China (nine boats, or 11 per cent of all unauthorised boat arrivals in 1999) or Indonesian ports (75 boats, or 87 per cent in 1999) (DIMA 2000, p. 27) with mostly Chinese, Iraqi, Afghan and other Middle Eastern nationals.

As with all form of clandestine activity, the true number of illegal arrivals in Australia is difficult to assess. In response to speculation about undetected boat arrivals in Australia, in June 1999 Australian authorities stated:

...since its establishment in 1988–89, Coastwatch has detected 108 suspected illegal entry vessels and [is] aware of 15 vessels undetected by Coastwatch at sea that have reached Australia.

(Prime Minister's Coastal Surveillance Task Force 1999, p. 5)

According to statements by DIMA and Coastwatch,¹⁹ to date Australia does not share the experience of Canada and the United States where abandoned boats suspected of bringing in unauthorised entrants have been found at

¹⁹ Mr Andrew Metcalfe, Deputy Secretary, DIMA, in ABC TV (1999) and repeated in an interview with the author, Canberra, 3 November 1999. Similar statements have been made by Rear Admiral Russ Shalders, Director-General of Coastwatch in an interview with the author, Canberra, 3 November 1999.

secluded beaches or in other remote locations. Also, interviews with illegal migrants in Australia have found no connection between people caught working illegally and unauthorised boat arrivals (personal communication with Rear Admiral Russ Shalders, Director-General of Coastwatch, Canberra, 18 January 2001).

Table 5 shows that the number of unauthorised arrivals remained at relatively low levels throughout the 1990s, with the highest number recorded in 1994 (21 boats carrying 1,071 passengers). The 1999–2000 financial year witnessed the highest number of unauthorised boat arrivals. The number increased particularly towards the end of 1999 when 2,406 people arrived in October, November and December that year. As mentioned earlier, most of these arrivals were Iraqi, Afghani and other Middle Eastern nationals, who fled after countries such as Iran and Jordan withdrew from offering temporary protection and actively dissuaded Afghans and Iraqis from being within their borders (compare Amnesty International 2001, p. 25).

Table 5: Unauthorised boat arrivals in Australia, 1989–2001

	1989– 90	1990– 91	1991– 92	1992– 93	1993– 94	1994– 95	1995– 96	1996– 97	1997– 98	1998– 99	1999– 2000	2000– 01
No. of boats	3	5	3	4	6	21	14	13	13	42	75	54
No. of people	224	158	78	194	194	1,071	589	365	157	920	4,174	4,141
Max. no. on board	119	77	56	113	58	118	86	139	30	112	353	231

Source: DIMA 2001c

Studies conducted by the AFP and DIMA in 1998 and 1999 suggest that those attempting seaboard entry to Australia mostly arrive in small groups. They usually sail through the Arafura Sea and the Torres Strait to reach Australia's coast. The fact that the vessels arriving this way mostly hold groups of mixed nationalities has led to the assumption that migrant smugglers at the final point of embarkation operate on an ad hoc basis (AFP 1998, p. 5; DIMA 1999e, pp. 3–4; DIMA 1999a, p. 34; Australian National Audit Office 1998, p. 5; compare Graycar et al. 1999, p. 4; Joel 1990, p. 47; Joel 1991, p. 63).

Table 6 shows that Australia's less populated western and northern coasts, including Christmas Island (13 per cent of all boat arrivals in 1999–2000) and Ashmore Reef²⁰ (65 per cent of all boat arrivals in 1999–2000) have been the

²⁰ Until July 1997, Australia did not exercise immigration control over the three islands of Ashmore Reef, which are uninhabited. Following a series of 10 unauthorised boat arrivals, Ashmore Reef is now under surveillance by Coastwatch (Australian National Audit Office 1998, p. 21).

Table 6: Landing sites of unauthorised arrivals by boat, Australia, 1998–2000

Landing site	1998–99	1999–2000
Ashmore Islands	17	49
Western Australia	11	15
Queensland	3	0
Torres Strait	4	0
Christmas Island	3	10
New South Wales	3	0
Darwin	1	1
Total	42	75

Source: DIMA 2001a, p. 100

major detection points of illegal boat arrivals in the past (DIMA 2000, p. 28). These remote islands are the closest Australian territories to Indonesia and only a short boat trip away from Indonesia's southern ports of Kupang, West Timor and Denpasar, Bali (compare DIMA 2001a, p. 100).

The experience of Australia has shown that the means and methods of smuggling by sea are largely determined by the nationality of the people on board and the objective of their journeys. As mentioned earlier, the final part of the illegal voyage is primarily determined by whether the persons smuggled seek to arrive covertly or overtly in Australia.

It has been found that the people arriving on the western sea route are mostly of Middle Eastern, Sri Lankan and Bangladeshi origin. This lends plausibility to the assumption that people arriving this way seek to land anywhere on Australian territory in order to seek protection. They often use old, wooden Indonesian fishing vessels that are simply left for Australian authorities to destroy after arriving in Australia. It has been found that particularly Iraqi and Afghan nationals have migrated from the Middle East all the way to Australia, as Australia is the only country in the region that offers asylum and protection under the United Nations Convention Relating to the Status of Refugees (1951). The major objective of this group of migrants is to reach a safe haven and then apply for asylum. They usually do not attempt to arrive clandestinely and circumvent border and immigration controls (McInerny 2000, p. 4; see also the case example in *Cita v R* [2001] WASCA 5).

The incidents that have occurred in New South Wales and Queensland indicate that migrant smugglers have attempted to arrive directly from the east on routes which, until 1999, were outside Coastwatch's usual area of surveillance. Prior to 1997, most of these boats were comparatively small wooden vessels that only carried small numbers of passengers. It has been stated that the majority of these early arrivals:

...were either village-based or conducted at a fairly primitive level of capitalisation and sophistication, even if they were carried out by organised crime groups.

(Gordon 2000, p. 9)

A Chinese vessel that landed on Thursday Island on 13 June 1997 was the first steel body ship to be involved in an illegal passage to Australia. In recent years, larger and heavier boats with sophisticated navigation equipment and communication technology have been used. There is evidence that these boats have been equipped for use in more than one venture and were sometimes fitted with hidden compartments for the clandestine transportation of migrants (David 2000, p. 8; Gordon 2000, p. 9; Graycar 1999, p. 5; Tailby 2001, p. 4). The sophisticated methods used for unauthorised arrivals via the eastern route indicate that migrant smugglers try to arrive in Australia clandestinely (McInerny 2000, p. 4). This route offers the additional advantage of fast and easy transport links to the big cities on Australia's east coast, which makes it easier for the immigrants to disembark undetected and disappear into the community in cities such as Sydney, Brisbane and Cairns. This explains why the majority of people trying to land on the coast of New South Wales and Queensland are Chinese nationals. Since Chinese have little, if any chance, to be admitted as refugees in Australia, they need to remain undetected and avoid any contact with immigration and law enforcement agencies (Prime Minister's Coastal Surveillance Task Force 1999, p. 1; Australian Customs Service 2000, p. 19; Heggen 1999; Wynhausen 1999b).²¹

21 For a full listing of all unauthorised boat arrivals that have been detected since 1989, see the web site of the Department of Immigration and Multicultural and Indigenous Affairs, available at www.immi.gov.au (updated regularly). Compare McFarlane 1999, p. 13.

Air Arrivals

Public attention and concern about unauthorised arrivals in Australia mostly focuses on illegal boat arrivals. However, up until 1998 the majority of unauthorised arrivals were by air; in 1998 it was ten times the number of boat arrivals (Prime Minister's Coastal Surveillance Task Force 1999, p. i). Of the 1,555 people refused entry at Australia's airports in the 1997–98 financial year, 75 per cent were believed to have been assisted by migrant smugglers (DIMA 1997, p. 1; DIMA 1999c, p. 2; Graycar et al. 1999, p. 4).

Table 7 shows that the number of illegal air arrivals has more than doubled between 1995 and 1998. An all-time high of 2,106 unauthorised air arrivals was recorded in the 1998–99 financial year (statement by Immigration Minister Philip Ruddock in Green 1999a). At the same time, the number of detected cases of illegal immigration that involved document fraud has increased rapidly.

Table 7: Undocumented or improperly documented air arrivals in Australia, 1995–2001

	1995–96	1996–97	1997–98	1998–99	1999–2000	2000–01
People refused entry	663*	1,350**	1,555	2,106	1,695	1,508
No passport or visa	115	516	495	715	361	136
Improper documents	184	308	342	363	106	49
Photo substitution	n/a	n/a	n/a	148	77	n/a
Transposed visas	n/a	n/a	n/a	8	5	n/a
Imposters	n/a	n/a	n/a	26	15	n/a
Bogus passports	n/a	n/a	n/a	54	7	n/a
Counterfeit passports	n/a	n/a	n/a	21	2	n/a

Source: DIMA 2001b, 1999e, 1999g, 2001a

* AFP 1998, p. 7 ** AFP 1998, p. 7

n/a = not available

Approximately 55 per cent of the people arriving illegally by air travelled with bogus or otherwise inadequate documents. The majority of unauthorised arrivals detected at Australian airports arrived with no documentation. Among those who arrived with forged documents, most had been manipulated by photo-substitution.

The number of forged documents detected at Australian airports has decreased significantly in recent years. It can be speculated that this is a direct result of better controls at transit and embarkation points abroad, but there is also reason to believe that more sophisticated documents have been used and have not been detected.

There is a small body of anecdotal evidence that a number of so-called unidentified aircraft movements have occurred in northern Australia. According to information provided by the Australian Customs Service, very few of the alleged illegal movements have been substantiated and, to date, there is no evidence that suggests these movements carried illegal immigrants (Australian Customs Service 2000, p. 71; compare Dore 2001, p. 20).

4.3 Distribution: Post-immigration Activities

At the end of the chain of services that smuggling organisations provide is the introduction of the client to the destination country and, if possible, their insertion into the labour market of that country. In market terms this can be described as distribution.

4.3.1 Arriving in the Destination Country

To make return to their home countries impossible, and to protect the smuggling organisation, all identity documents must be removed from the smuggled migrants prior to arrival in the destination country. Passports, work permits, cash, contact addresses and return tickets that were initially given to the migrants to meet transit and immigration requirements or to make them appear as tourists are usually confiscated by the migrant smugglers after check-in for Australia-bound flights at overseas airports. In other cases these documents are destroyed en route or dumped upon landing in Australia by the people being smuggled. But if possible, both genuine and fraudulent documents are returned to the smuggling organisation for further use or resale (AFP 1998, p. 5; Beare 1999, p. 275; Beare 1997, p. 32; DIMA 1999c, p. 1; Graycar et al. 1999, p. 3; Salt & Stein 1997, p. 483; UN Commission on Crime Prevention and Criminal Justice 1995, para. 5).

4.3.2 Post-immigration Situation

For the migrants, the contact with the smuggling organisation does not necessarily end after entering Australia or other destination countries. Once again, two major groups of migrants can be distinguished: those who seek to claim refugee status upon arrival and those who attempt to immigrate clandestinely.

For the group of overt arrivals, contact with the migrant smugglers ceases once they reach their destination. Since their major objective is to go through official channels of immigration to apply for asylum, migrant smugglers can no longer control them. This implies that asylum seekers pay their debts to the migrant smugglers in full prior to arrival. It may also explain why migrant smugglers frequently abandon boatloads of people before they reach their destination: after full payment has been received, these migrants are no longer of any interest to the smuggling organisation.

For covert arrivals, contact with the smuggling organisation continues. Upon arrival at the final destination, most of the migrants owe large amounts of money to the migrant smugglers for the illegal services which were provided. This implies that migrant smugglers offer credit to covert arrivals (see section 4.4.1). As a result of the accumulation of large debts and the powerless position resulting from their illegal and clandestine status, many of those who have used the services of smuggling organisations find themselves in a “debt-bondage” situation once they reach the destination country. The findings of overseas research suggest that many migrants remain in the hands of the migrant smugglers who often respond to the inability to repay debts by charging exorbitant interest rates or with forced labour, threats and violence (generally, see IOM 1997b; Salt & Stein 1997, p. 483; UN Economic and Social Council 1994; UN General Assembly 1993; UN General Assembly 1994a, para. 5; for the situation in Japan, see Peck 1998, p. 1,048; for the situation of illegal Chinese in the United States see Chin 1999, pp. 5–6, 111–31).

For example, studies conducted in the United States, often focusing on the particular situation of illegal Chinese immigrants, give examples of smuggling organisations “detaining” their customers upon arrival, accommodating them in so-called “safe houses” and controlling and threatening the migrants for several years after the trip is made. It is questionable whether or not the same practises occur in Australia (for US

studies see, for example, Chaiyarakta 1996, pp. 174–7; Chin 1997, pp. 169–89; Chin 1999, pp. 97–131; however Kung 2000, p. 1,275 states that in most cases “relatives or friends of the migrants [their sponsors] will pay their debts as soon as the migrants arrive in the US”).

To date, no in-depth studies have been undertaken about the situation of illegal immigrants in Australia. There is only little evidence that the practices found in the United States also apply to illegal immigrants in Australia. One recent report claimed, however, that illegal immigrants who have fallen behind in their payment to the smuggling organisation have been kidnapped for extortion or murdered (McFarlane 1999, p. 14; compare the view expressed in Ruggiero 2000, pp. 193–4).

The illegal status of the migrants prevents them from entering the legal labour market of the host country. Instead, they have no choice but to work illegally to survive. Hence, many of the migrants find themselves in the black labour market of the big cities or as illegal workers in the agricultural sector.²² Unable to pay their debts, in the more extreme cases they become engaged or are forced to engage in criminal activities such as prostitution and pimping, minor property offences or drug-related crime, often organised by the same criminal group that operated throughout the smuggling passage (Adamoli et al. 1998, p. 79; Graycar et al. 1999, p. 5; Savona et al. 1997, p. 9; P. Williams 1994, p. 104). This lends plausibility to the assumption that migrant smuggling is not just the business of transporting people into another country, but also of exploiting them once they are there (Adamoli et al. 1998, p. 14; Peck 1998, p. 1,048; Skeldon 1994, pp. 189–91).

Not only are illegal migrants unable to obtain legitimate employment, they are also ineligible for social welfare, health insurance and education benefits from the host country. Moreover, a different culture and language often sets the illegal immigrants apart from the rest of society and discourages them from obtaining public services. The migrants find themselves in a position of “social marginality” that in some cases may encourage illegal conduct.

²² In 1999 and 2000 a number of illegal immigrants were found fruit picking in South Australia, Victoria and New South Wales. See, for example, Hughes & Bachelard (1999). See generally DIMA 1999f, pp. 19–23.

As a consequence of their clandestine, illegal status and of continuing exploitation by the migrant smugglers, illegal immigrants, according to crime statistics, commit more crimes in host countries than the rest of the population. For those who remain undetected, it is inevitable that they violate immigration, employment and taxation laws. And organised crime may flourish in communities that have no recourse to the police. In some countries this has led to xenophobia and the call for further immigration restrictions.

However, it must be stated very clearly that although a disproportionate number of illegal immigrants can be found engaged in criminal activities in the host countries, there is no doubt that most undocumented migrants are law-abiding people. For clandestine immigrants the price of breaking the law in the host country—even for a minor offence—is much higher than for the rest of the population. They constantly have to fear detection, arrest and deportation. Also, many have the support of relatives and friends before, during and after their journey. Only a minority engage in illegal activities (compare Ghosh 1998, pp. 81, 93; Schmid 1998b, pp. 29–30; see also the findings of Chin 1999, pp. 126–7).²³

4.4 Finance

Financing its activities and managing the funds deriving from successful operations is an essential feature for any organisation, be it legal or illegal. With the vast amounts of money that can be made in the business of illegal migration, smuggling organisations have accumulated enormous profits.

4.4.1 Financing Organised Crime

Any operation of a business enterprise requires investment in order to buy the necessary equipment, arrange transportation and pay employees. Due to their illicit status, criminal organisations face substantial problems if they try to obtain capital for their operations, as access to legitimate banking and investment facilities is not available to them.

23 Despite the lack of sound evidence, many writers continue to presume a direct link between (illegal) immigration and crime. For example, a recent article by Basham (1999) stated that “people who have entered Australia under false names and pretences provide a ready reservoir of criminal labour and are unlikely ever to cooperate fully with police, taxation and other authorities” and that “[t]he arrival of large numbers of ‘boat people’ during the late 1970s and early 1980s brought violent Asian street gangs to Australia.” (pp. 35, 37).

Criminal organisations have two different ways to finance their illegal activities:

- using the proceeds of crime to finance other criminal activities; or
- inducing investment of legally acquired money.

Investments can be made internally by using the profits of previous activities; that is, reinvesting cash generated from smuggling migrants, or channelling money derived from other criminal activities such as drug smuggling (compare Bryett et al. 1993, p. 66; UN General Assembly 1993; Moore 1987, p. 58). For example, Chinese criminal organisations have been found to maintain international underground banking systems. Money is collected from the customers by members of the organisation in one country and then put together in bank-like institutions abroad (Valentin 1993, p. 95).

Alternatively, criminal organisations can obtain money in the external legitimate capital market. But the fact that these organisations can neither present audited books for borrowing money nor offer any security for the lending institution may prevent criminal organisations from acquiring money legally (Bögel 1994, pp. 128–36; Reuter 1983, pp. 120–1; Reuter 1985, pp. 13–14). However, there is increasing evidence that migrant smugglers utilise the legal banking system for illicit purposes. For instance, it has been found that criminal organisations have been able to borrow money from legitimate banks and open accounts in countries where the monitoring of money and banking regulations are not stringent or are simply non-existent (see, for example, Savona et al. 1995, p. 7; UN General Assembly 1994b, Annex para. 32).

4.4.2 Profit Estimates

Estimates about the money that is achieved in the business of migrant smuggling are difficult to make as the illicit proceeds are usually laundered to become indistinguishable from legitimate profits. Aside from the non-availability of reliable data concerning the true extent of migrant smuggling, attempts to assess and calculate the price and profit of the smuggling business vary widely, depending on factors such as the types and range of activities covered by the payment, the distance travelled, the nature of the related risks and the countries involved.

In general, it appears that the further the distance between departure and destination countries and the more sophisticated the smuggling operation, the higher is the smuggling fee. The fact that the payment, as discussed above, does not always take place in a single transaction adds to the difficulty in calculating fees and profits (Compare Ghosh 1998, pp. 30–1; Savona, di Nicola & da Col 1998, p. 75; UN Commission on Crime Prevention and Criminal Justice 1995, para. 3).

In 1995, studies placed worldwide profits of migrant smuggling organisations at US\$3 billion per year. More recent investigations estimate the profit to be between US\$3.5 billion and US\$7 billion, or even US\$10 billion per annum (for worldwide profit estimations see, for example, Ghosh 1998, p. 32; IOM 1997b; Peck 1998, p. 1,044; Savona, di Nicola & da Col 1998, p. 75; Smith 1997, p. 9; UN Commission on Crime Prevention and Criminal Justice 1995, para. 3). In 2001, Interpol officials stated that migrant smuggling is a “[US]\$30 billion global business”, making it both one of the fastest-growing and most profitable organised crime activities in the Asia-Pacific region and around the world (Migration News 2001d). The financial attractiveness of smuggling migrants will increase if this activity becomes more closely intertwined with narcotrafficking, arms trafficking and other transnational criminal activities.

A study conducted by the University of Bangkok in 1995–96 reported that in Thailand migrant smuggling generates approximately US\$3.2 billion annually (IOM 1996c). The global profits of Chinese smuggling organisations have been estimated to exceed US\$2.4 to 3.5 billion, making smuggling a priority activity of many Chinese criminal organisations (Adamoli et al. 1998, p. 78; Bolz 1995, p. 148; Donigan Guymon 2000, p. 60; Dupont 1997, p. 13; Kung 2000, p. 1,273). Chinese migrants have reportedly paid US\$1,000 for illegal transportation to Taiwan (Migration News 1999e). Filipinos pay between US\$1,500 and US\$3,500 for the illegal passage to Taiwan and up to US\$3,500 to gain illegal entry to Malaysia or Indonesia (UNICRI & AIC 1999, pp. 16–17; Salt & Hoghart 2000, p. 96). Upon questioning, Myanmar migrants said they had paid 100 Kyats (about A\$30) for clandestine transportation to Penang, Malaysia (IOM 1994b), and about 5,000–6,000 Baht (US\$75–\$150) to get across the border to Thailand and on to Bangkok (Migration News 2000h; Migration News 2000i). The average amount paid by Thai migrants travelling illegally to Singapore is approximately 47,000 Baht (US\$1,240) with a large variation between the highest and lowest figures (Skeldon 2000, p. 9).

With respect to people arriving in Australia illegally, Chinese boatpeople have told Australian officials that they paid between A\$3,900 (Green 1999b; Kennedy & Metherell 1999) and A\$40,000 (DIMA 1999a, p. 23; Graycar et al. 1999, p. 11) to board the boat that carried them to Australia. Other Chinese nationals travelling through Hong Kong have paid between A\$10,000 and A\$50,000 each for false documents and coaching on how to evade immigration controls on their way to Australia. For migrants using the sea route via Indonesia, it has been estimated that the fee to travel from Jakarta via Bali or West Timor to Australia is between A\$2,000 and A\$6,000 per person (ABC TV 1999; DIMA 1999a, p. 23; *Cita v R* [2001] WASCA 5). The trip from the southern parts of Indonesia to Ashmore Reef and Christmas Island is said to cost approximately A\$1,600–\$3,800 (Migration News 2001a). In May 1999, a group of 2,000 Somalis was found to have paid around A\$3,000 each for the trip from Mogadishu to Australia, which generated a taking of A\$2.76 million for the smuggling organisation (Graycar et al. 1999, p. 11). Recent reports have stated that people from Afghanistan, Iraq and Iran pay between A\$6,000 and A\$17,000 to fly from Pakistan to Malaysia and between US\$1,500 and US\$5,000 each to be smuggled from Malaysian and Indonesian ports to Australia (McInerny 2000, p. 7; Migration News 2000a; Migration News 2001b; Powell 2001). Illegal migrants recently apprehended in Cambodia are each believed to have paid between US\$5,000 and US\$10,000 for their journey to Australia (Baker 2001).

These examples confirm that some part of the smuggling industry in the Asia-Pacific region is small, amateur business. The illegal passages from Myanmar into Thailand, Indonesia into Malaysia and from Indonesia to Australia do not generate large amounts of money. Most of these operations are carried out overtly by local operators and require little, if any, sophisticated technical equipment. It appears that the “big money” is made by covert operations across the Pacific to North America, from the Middle East to South-East Asia or from China to Australia’s east coast. With approximately 5,000 unauthorised arrivals in Australia in recent years (75 per cent of which are believed to be assisted by migrant smugglers), migrant smuggling to Australia has become a multi-million-dollar business.

4.4.3 Money Laundering

In the last decade organised crime has become more sophisticated and increasingly international in nature. It has also become more profitable. Criminal organisations must find ways of legalising the proceeds of their

crimes not reinvested in other criminal activities. This means that the illegal, "dirty" money derived from crime must somehow be made indistinguishable from licit business profits, hence the term "money laundering".

To disguise the money trail, assets from criminal activities are transferred to countries which have less stringent banking regulations or which completely lack monitoring and control mechanisms for the banking and financial sectors. In many countries of the world the financial market is not supervised by monetary or law enforcement agencies. Consequently, countries that have no or only marginal legislative sanctions against money laundering and related offences are particularly attractive for, and more vulnerable to, the investment and transfer of illegally earned money (compare Bassiouni & Vetere 1999, p. 902; UN Commission on Crime Prevention and Criminal Justice 1996, para. 17ff; and see generally FATF 2001).

To date, very little research exists that pays particular attention to the profits derived from smuggling of migrants. From the very limited information that is available it appears that money is mostly transferred to countries that provide greater banking secrecy, less taxation of financial transactions, and which have privacy laws that protect account-holders from investigations by national and international law enforcement agencies. Moreover, many countries still have few, if any, reporting requirements for large-scale cash transactions. But in countries that do have such provisions, illegal money is processed through a legitimate financial institution at an amount slightly below the legal threshold that would trigger official oversight or reporting (so-called "smurfing"). Money is also physically smuggled into countries where the requirements are less stringent (see McDonnell 1998, p. 5; National Crime Authority 1991, p. 95). In some cases, criminal organisations have also been found transferring money through non-banking financial institutions (for example, bureaux de change) or non-financial businesses that are subject to fewer regulatory requirements than banks (see the examples in McDonnell 1998, pp. 5, 7).

5 Summary and Conclusion

All business organisations, legal or illegal, seek to maximise their profits within their environments. Criminal organisations make profits from activities in illegal markets by providing illegal goods and services. Criminal organisations exist because of a demand for those goods and services.

Criminal organisations—and migrant smuggling organisations in particular—exist in dynamic environments, both as a function of the illegal market and as a result of the changing nature of law enforcement activities and policies. In summary, the market for migrant smuggling has arisen for three main reasons:

- the restrictions on legal immigration imposed by industrialised countries;
- the increasing demand for entry into these countries; and
- the comparatively low risks and high profits involved in migrant smuggling.

In many instances the evidence suggests that migrant smuggling does not always fit in the traditional understanding of criminal organisations.

Migrant smuggling organisations have little in common with the traditional picture of Italian Mafia or Colombian cartels. For example, the fact that migrant smugglers deal with human beings and not with goods such as drugs or firearms has significant consequences for the ways in which migrant smugglers structure their organisations and operations. The application of traditional models of organised crime on migrant smuggling groups has on several occasions resulted in ignorance towards its organisational and operational characteristics, thus hindering successful counteraction. In this context:

It may be comforting to think of people smugglers as the embodiment of evil, but it is probably more useful to regard them as rational calculating business figures who make a sober assessment of ratio between profit and risk in relation to their trade.

(Mares 2001, pp. 17–18)

The analysis in this study shows that the organisational and operational patterns of migrant smuggling are similar to that of a provider of legitimate

services with some additional features the illegal market requires. In order to maximise the economic return of their activities, migrant smugglers adopt the structures of legal businesses through organisation, globalisation, human resources, supply, production, distribution and finance.

Furthermore, it is important to recognise the fact that the migrants involved are simultaneously customers and victims of the smuggling organisations. Any legislative and law enforcement activity dealing with what is often simply described as "human cargo" needs to take into consideration that migrant smuggling, unlike many other organised crime activities, involves human beings and that many illegal migrants are in fact genuine refugees.

The findings suggest that for the purpose of the examination and elaboration of existing and future countermeasures, it is necessary to recognise the economic dimension of organised crime and consider smuggling of migrants as a business conducted by transnational criminal organisations. Certainly, the most effective, if not only, way to combat organised crime is to reduce the demand for illegal goods and services and thereby deprive organised crime of its profits. Legislation and law enforcement should be directed against the profitable market conditions of organised crime.

Law enforcement policy should be aimed at disrupting the organisational environment of the enterprise rather than at jailing mythical corporate masterminds believed to be manipulating a criminal syndicate. The market and its environment are the most appropriate points of intervention to combat and control criminal enterprise.

(Southerland & Potter 1993, pp. 258–9)

It must always be remembered that criminal organisations are as capable of failure as those in the legitimate business community.

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