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Migrant Smuggling: Background and Selected Issues

Migrant smuggling, also known as human smuggling, refers to the voluntary transportation of an individual across international borders, in violation of one or more countries' laws. Smugglers facilitate migrant travel, typically in exchange for payment, sometimes using fraudulent identity documents and covert transit. While smuggled migrants *agree* to be smuggled—a condition that distinguishes the practice from human trafficking—they may be vulnerable to abuse by their smuggler or later become a trafficking victim. Various United Nations (U.N.) sources cite estimates that globally, migrant smuggling totals \$7-\$10 billion a year or more, but the full extent of the problem is not known. Through oversight hearings and proposed legislation, Congress has sought more information on migrant smuggling and on ways to deter and punish smugglers.

Background and Definitions

In recent years, situations of migrants and other vulnerable groups on the move has elevated congressional concerns about transnational crime, humanitarian protection, human rights, and border security (see **Figure 1**). The movement of these groups, which often travel the same routes and use the same modes of transportation, is referred to as *mixed migration*. Increases in attempted migrant smuggling along many international mixed migration routes, such as in the Mediterranean region, parts of Asia, and particularly along the U.S. Southern border, have heightened U.S. policymakers' attention to the issue.

Motivating Factors

The migrants using smuggler services usually do not have the required documentation, such as passports and visas, needed to legally travel from one country to another. Factors motivating their departure may include violence, conflict, food insecurity, natural disasters and climate-related impacts. Other may choose to migrate due to economic circumstances. Individuals who seek to migrate illegally using a smuggler usually do so when other options are not available or are less feasible.

Treatment of Smuggled Migrants

Smuggled migrants often face mistreatment at the hands of their smugglers. Reports of difficult conditions and abuses of migrants (including extortion, sexual violence, torture, abductions, and deaths) are common along migrant smuggling routes. Crimes against smuggled migrants are often not reported because the migrants lack legal status and may fear deportation.

Humanitarian experts contend that many arrivals, including smuggled migrants, require due process to evaluate whether they may require assistance, international protection, and opportunities to regularize their status through safe and

legal mechanisms. Other experts argue that many smuggled migrants are economic migrants, and have willingly participated in a transnational crime, and should not be thus accommodated.

Figure 1. Origins of Smuggled Migrants



Source: Created by CRS based on information from the United Nations Office on Drugs and Crime (UNODC).

Global and U.S. Prevalence

There is no comprehensive data on the prevalence of human smuggling globally and into the United States, as is generally the case for clandestine or black market activity. In 2018, the first (and to date, only) UNODC Global Study on Smuggling of Migrants identified 30 primary smuggling routes and found that at least 2.5 million migrants had been smuggled along those paths in 2016. Some observers have relied on U.S. apprehensions of unauthorized migrants at U.S. borders to provide insight, but these apprehensions do not always involve instances of smuggling and do not speak to its nuances. For example, they do not reveal the number and profile of individuals who rely on smugglers to enter the United States or the demographics of the smugglers. Nonetheless, experts agree that most migrant smuggling into the United States occurs across the Southwest border and largely involves migrants from Mexico and Central American countries.

Role of Smugglers

Research suggests that smugglers may operate on their own or as part of larger transnational criminal organizations (TCOs). Often, smugglers have local ties that they leverage in order to gain customers. U.S. government and U.N. sources describe smugglers as motivated largely by profit and the low risk of prosecution. In some cases, smugglers abuse and exploit migrants, such as by raising prices mid-journey or abandoning migrants in unsafe conditions. In other cases, smugglers may see themselves or be viewed by migrants and their families as providing a necessary service to vulnerable people who are forced to flee.

Relationship to Trafficking and Other Types of Transnational Crime

According to the U.S. Department of Homeland Security (DHS), “[h]uman trafficking does not require crossing a border. Human trafficking victims have been exploited by their trafficker for commercial sex acts or labor. By contrast, human smugglers engage in the crime of bringing people into the United States, or unlawfully transporting and harboring people already in the United States, in deliberate evasion of immigration law.” An individual may agree to be smuggled and later become a victim of forced labor or sexual exploitation (forms of human trafficking as defined by the Trafficking Victims Protection Act of 2000, P.L. 106-386).

Some research suggests that while certain TCOs, particularly those involved in narcotics trafficking, may not directly smuggle migrants, they may charge fees for the use of routes they control or may coerce or convince migrants to carry illicit drugs. Smugglers may also contribute to environments in which other types of crime proliferate, including corruption and bribery of public officials.

Selected International Responses

Unlike refugees, migrants, including those who are smuggled, are not granted certain rights and protections under international law. However, there are several inter-governmental efforts to address migrant smuggling. The United States ratified the Protocol against the Smuggling of Migrants by Land, Sea and Air, which entered into force in January 2004, and supplements the U.N. Convention against Transnational Organized Crime. UNODC assists countries in implementing the Protocol, including by providing technical expertise for anti-smuggling policies. The International Criminal Police Organization (INTERPOL) coordinates certain global law enforcement operations to disrupt migrant smuggling. The 2018 U.N. Global Compact for Safe, Orderly, and Regular Migration (GCM) is a nonbinding, intergovernmental agreement that aims to cover international migration comprehensively. One of its objectives is to “strengthen the transnational response to smuggling of migrants,” by improving information-sharing, ensuring that migrants are not liable for criminal prosecution for having been smuggled, and developing gender- and child-responsive protocols. In 2018, the U.N. General Assembly adopted the GCM; the United States voted against it. The mandates of the U.N. High Commissioner for Refugees, the International Organization for Migration and other U.N. entities define roles and capacities to respond to the needs of migrants, including those who are smuggled.

Selected U.S. Responses

The United States seeks to address migrant smuggling internationally and into the United States. In 2004, Congress established the Human Smuggling and Trafficking Center (HSTC) through the Intelligence Reform and Terrorism Prevention Act of 2004 (P.L. 108-458) to coordinate responses by DHS, the Department of Justice (DOJ), and the Department of State to human smuggling, human trafficking, and the potential use of smuggling routes by terrorists. The HSTC disseminates intelligence and investigative leads to U.S. law enforcement, prepares

strategic assessments, identifies issues for interagency attention, coordinates initiatives, and serves as an information exchange center with international partners.

Homeland Security Investigations (ICE/HSI), a component of U.S. Immigration and Customs Enforcement within DHS, has a Human Smuggling Unit that works to identify, disrupt, and dismantle criminal travel networks and human smuggling. ICE initiated over 2,400 human smuggling investigations in FY2020. U.S. Customs and Border Protection is also involved in detecting smugglers at and between the ports of entry. DHS, DOJ, and the Department of State also collaborate on Operation Sentinel, which seeks to counter TCOs engaged in migrant smuggling. The Department of the Treasury has sanctioned individuals for smuggling migrants including, for example, from Sub-Saharan Africa through Libya to Europe and from Pakistan through South or Central America to the United States.

The federal government also prosecutes migrant smugglers. Data from the U.S. Sentencing Commission indicate that the number of alien smuggling federal offenders generally increased from FY2015 – FY2019 and declined in FY2020. Alien smuggling was the primary charge for 3,392 sentenced offenders in FY2020; this is compared to 3,487 offenders in FY2019 and 2,296 offenders in FY2015. Of these offenders in FY2020, 71.3% were U.S. citizens; over half of the cases (65.3%) involved smuggling, transporting, or harboring fewer than six people; and 12.8% of alien smuggling offenses involved an unaccompanied minor.

Issues for Congress

Congress addresses migrant smuggling through its funding and oversight responsibilities. Members of Congress may examine or adjust resources available for the HSTC and other U.S. efforts to bolster human smuggling intelligence and investigations. They may also consider changing funding support for the humanitarian response to smuggled migrants.

As part of these and other functions, Congress may also consider the range of approaches to countering migrant smuggling, such as those focused on the “supply” of smugglers as well as the “demand” for smuggling services. Observers suggest that the former may involve increasing the risk of detection and prosecution for smugglers or extending penalties to those who pay for relatives or others to be smuggled. Additionally, others propose addressing root causes of migration such as poverty, conflict, and climate risks; increasing awareness of the risks of migrant smuggling; and increasing opportunities for migrants to regularize their status to reduce the demand for human smugglers.

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